Office of Equity
UNIVERSITY OF COLORADO
DENVER | ANSCHUTZ MEDICAL CAMPUS

University of Colorado
Denver | Anschutz Medical Campus
Office of Equity
Resolution Procedures

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Reporting Form and Options: https://www.ucdenver.edu/offices/equity/resolutions/make-a-report

University of Colorado Denver | Anschutz Medical Campus
Office of Equity Resolution Procedures

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The University of Colorado Denver | Anschutz Medical Campus Office of Equity Resolution Procedures do not constitute a contract, whether express or implied, between the University and any person who is subject to its requirements.

I. Overview and Mission Statement of the Office of Equity

A. Office of Equity Mission Statement

The Office of Equity's ("OE") mission is to foster an inclusive environment for all members of the University of Colorado Denver ("CU Denver") and University of Colorado Anschutz Medical Campus ("CU Anschutz") community, collectively referred to as "the University." Utilizing a comprehensive, integrated approach, the OE facilitates equal access to education and employment by engaging in transparent case resolutions, conducting impartial investigations, offering supportive and safety measures, and providing prevention education.

The OE is committed to preventing discrimination and harassment based on race, color, national origin, pregnancy, sex, age, disability, creed, religion, sexual orientation, gender identity, gender expression, veteran status, marital status, political affiliation, and political philosophy. The OE is also committed to preventing any form of related retaliation as prohibited by University Policies and state and federal laws.

B. Office of Equity Overview

The OE implements and enforces CU Administrative Policy Statement 5014, the University of Colorado Interim Sexual Misconduct, Intimate Partner Abuse, and Stalking Policy ("Sexual Misconduct Policy"), CU Administrative Policy Statement 5065, the University of Colorado Protected Class Nondiscrimination Policy ("Nondiscrimination Policy") and CU Administrative Policy Statement 5015, the University of Colorado Policy on Conflicts in Cases of Amorous Relationships ("Amorous Relationships Policy"), collectively referred to as "the Policies."

This document identifies the Resolution Procedures ("the Procedures") that the OE follows when it receives a report alleging a violation of the Policies, which should be read alongside the Procedures as they provide further definitions. The OE uses the Procedures to investigate and resolve any such allegations and to impose disciplinary sanctions against individuals found responsible for violating the Policies. The University reserves the right to modify these Procedures at its discretion and without notice.

The OE and the Assistant Vice Chancellor of the OE/Title IX Coordinator is responsible for and may delegate responsibility for overseeing complaints of Prohibited Conduct under the Policies and identifying and addressing any patterns or systemic problems that arise during review of those complaints. The Assistant Vice Chancellor of the OE/Title IX Coordinator or designee must also monitor the University's program or activities for barriers to reporting Prohibited Conduct and take steps reasonably calculated to address such barriers.

For all matters within the scope of the Policies, at a minimum, the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee, shall be specifically responsible and have delegated authority from the Chancellor or President for implementing the Policies and to take actions to promptly and effectively end any Prohibited Conduct in the University's programs or activities, prevent its recurrence, and remedy its effects generally and for any persons subjected to Prohibited Conduct. To that end and subject to the Assistant Vice Chancellor of

the OE/Title IX Coordinator's ultimate responsibility and authority, the Assistant Vice Chancellor of the OE/Title IX Coordinator may further delegate responsibility and authority for the following functions:

1) Providing notice of resolution procedures to parties and ensuring that complaints of Prohibited Conduct are handled appropriately and in a timely manner;

2) Initiating and overseeing adequate, reliable, and impartial resolutions of complaints of Prohibited Conduct as appropriate and requested by the parties as applicable and ensuring that parties are treated equitably;

3) Evaluating any request for privacy by a person allegedly subjected to Prohibited Conduct pursuant to overriding factors;

4) Evaluating whether a complaint should be dismissed on jurisdictional bases;

5) Referring matters for further action or discipline for inappropriate or unprofessional conduct under other applicable policies or procedures even if a Prohibited Conduct violation is not found. No provision of these Policies shall be construed as a limitation upon the authority of the disciplinary authority, under applicable policies and procedures, to initiate disciplinary action;

6) Offering and coordinating supportive measures for all parties either before or during the resolution process as applicable;

7) Ensuring broad publication of the campus complaint process and procedures, including posting the process and procedures on an appropriate campus website;

8) Creating an annual report documenting a) the number of reports or complaints of alleged violations of this Policy; b) the categories (e.g. students, faculty, staff) of parties involves; c) the number of Policy violations founds; d) the number of appeals taken and the outcomes of those appeals; and e) examples of sanctions imposed for Policy violations;

9) Reviewing and confirming that the relevant policy statements of the campus Annual Security Report pursuant to the Clery Act are consistent with the Policies and Formal Grievance Procedures;

10) Ensuring there is ongoing training and education regarding reporting and preventing Prohibited Conduct for all students, faculty and staff;

11) Coordinating actions to prevent discrimination and ensure equal access for pregnant students, faculty, and staff.

12) Ensuring that Title IX Coordinators, investigators, and decision-makers are thoroughly trained;

13) Maintaining records and related documentation of compliance with the Policies, including, but not limited to, retaining copies of any training documentation, tracking

student and employee training participation, documenting each step of the campus complaint process and procedures, including supportive measures and resolutions; and

14) Ensuring broad dissemination of the statement that the University shall not discriminate on the basis of sex in employment or in its education programs and activities.

II. Purpose and Scope

A. Legal Compliance

The Procedures are intended to comply with the requirements of the following federal and state laws, their implementing regulations, and related agency guidance, including but not limited to:

- Equal Pay Act of 1963;
- Civil Rights Act of 1964, including Title IV, Title VI, and Title VII;
- Title IX of the Education Amendments of 1972 ("Title IX");
- Rehabilitation Act of 1973 (Sections 503 and 504);
- Vietnam Era Veterans Readjustment Assistance Act of 1974;
- Family Educational Right and Privacy Act ("FERPA") of 1974 (as amended by the Higher Education Amendments of 1998);
- Age Discrimination Act of 1975;
- Age Discrimination in Employment Act of 1976;
- Pregnancy Discrimination Act of 1978 ("PDA");
- Americans with Disabilities act of 1990 and Amendments Act of 2008 ("ADA");
- The Jeanne Clery Disclosure of the Campus Security Policy and Crime Statistics Act of 1991 ("Clery Act");
- Violence Against Women Act of1994 and Violence Against Women Reauthorization Act of 2013 ("VAWA");
- Uniformed Services Employment and Reemployment Act of 1994;
- Pregnant Workers Fairness Act of 2023 ("PWFA");
- Colorado Anti-Discrimination Act of 1979 ("CADA");
- Colorado Creating a Respectful and Open World for Natural Hair Act of 2020;
- Colorado Equal Pay for Equal Work Act of 2021 ("EPEWA");
- Colorado Revised Statutes § 8-5-101, et. seq.;
- Colorado Revised Statutes § 24-34-402, et. seq.;
- Colorado Revised Statutes § 23-5-146 and § 23-5-147; and
- Article 8 of the Laws of the Regents.

B. Policy Administration

The Procedures apply to the following applicable Policies administered by the OE and the Prohibited Conduct defined in each:

1) Interim Sexual Misconduct, Intimate Partner Abuse, and Stalking Policy
   The Interim Sexual Misconduct, Intimate Partner Abuse, and Stalking Policy ("Sexual Misconduct Policy") prohibits harassment on the basis of sex. Prohibited Conduct includes hostile environment harassment on the basis of gender identity, gender expression, pregnancy, sex, and sexual orientation, intimate partner abuse, quid pro quo sexual harassment, sexual assault (including rape, non-consensual sexual contact, statutory rape, and incest), sexual exploitation, and stalking. The Sexual Misconduct

Policy also prohibits retaliation and other related violations.

2) Protected Class Nondiscrimination Policy
The Protected Class Nondiscrimination Policy ("Nondiscrimination Policy") prohibits discrimination on the basis of one or more protected class. Prohibited Conduct includes discrimination on the basis of race, color, national origin, sex, age, disability, creed, religion, sexual orientation, gender identity, gender expression, pregnancy, veteran status, marital status, political affiliation, and political philosophy, as well as hostile environment harassment[1] on the basis of race, color, national origin, age, disability, creed, religion, veteran status, marital status, political affiliation, and political philosophy. The Nondiscrimination Policy also prohibits retaliation and other related violations.

3) Conflict of Interest in Cases of Amorous Relationships Policy
The Conflict of Interest in Cases of Amorous Relationships Policy ("Amorous Relationships Policy") prohibits direct evaluative authority in cases where amorous relationships exist or have existed within the last seven (7) years between two individuals, whether faculty members, students, administrators, or staff.

[1] Hostile environment harassment on the basis of gender identity, gender expression, pregnancy, sex, and sexual orientation is prohibited by the Interim Sexual Misconduct Policy.

III. General Jurisdiction

The Procedures govern all students, faculty, staff, contractors, patients, volunteers, affiliated entities, and other third parties, regardless of sex, gender, sexual orientation, gender expression, or gender identity. Subject to any rights of appeal, any person found responsible for engaging in Prohibited Conduct may be subject to disciplinary action, up to and including expulsion or termination of employment. The University will consider what potential actions should be taken, including contract termination and/or property exclusion, regarding third-party conduct alleged to have violated the applicable Policies, but those options may be limited depending on the circumstances of the arrangement.

The applicable Policies applies to conduct that occurs within an education program or activity of the University, or if the *complainant* or *respondent* are affiliated with the University community. This includes off-campus conduct, including online or electronic conduct. The following provides additional information about the general jurisdiction of the Procedures:

1) The University has an obligation and jurisdiction to conduct at least a Preliminary Inquiry to determine whether the alleged conduct occurred in the context of, or has continuing effects on, employment or an education program or activity.

2) Actions taken under the Procedures are separate and apart from any law enforcement or other court process or proceeding, such as a civil lawsuit or criminal prosecution, that may relate to the same underlying factual incident. OE's jurisdiction does not depend on whether criminal charges are filed. Formal investigations or other case resolutions conducted by the OE are not postponed while criminal or civil proceedings are pending unless there are extenuating circumstances, as determined by the OE. Dismissal of criminal or civil charges or acquittal in a criminal or civil case does not prevent the OE from addressing an incident. There is no time limitation for reporting a concern to the OE or for the OE to address matters described in this document. If the alleged conduct is reported to have occurred prior to the effective date of the current Policy, the OE will apply the Policies that was in effect at the time the alleged conduct reportedly occurred, to the extent that the policies differ in defining Prohibited Conduct. However, regardless of the Policies in force at the time the conduct is alleged to have occurred, the OE's procedural response to the report will be governed by the current Procedures.

3) There is no time limitation for reporting a concern to the OE. However, the OE's ability to address concerns is dependent upon the University's degree of control over a *respondent* at the time that the matter is reported. The OE's response to the report will be governed by the current Resolution Procedures and applicable Policy in effect at the time that the conduct occurred.

4) After proper notice as provided for in this document, the failure of an individual to appear or respond to the OE does not prohibit the OE from proceeding with or completing the applicable Resolution Procedure.

5) For employees, any matters falling outside the scope of the applicable Policies shall be

addressed by the appointing/disciplinary authority. For students at ***CU Denver,*** the Office of Student Conduct and Community Standards has jurisdiction over all other student conduct matters. For students at ***CU Anschutz,*** the *respondent*'s school, college, or program has jurisdiction over all other student conduct matters falling outside the scope of the Policies. In the event that there are multiple potential charges involving the Policies, the Student Code of Conduct, or the school, college, or program policies, the OE and related conduct authority shall have the discretion to jointly determine the most appropriate way to proceed. Options include, but are not limited to, concurrent investigations, joint investigations, deferring to the findings of one office or using the investigation and findings of one office as the basis of further investigation by the other.

6) When the alleged violation of the Policies involve more than one CU campus, the complaint shall be resolved by the campus with the disciplinary authority over the *respondent*. The campus responsible for the investigation may request involvement or cooperation of any other affected campus and should advise appropriate officials of the affected campus of the progress and results of the resolution process.

7) University employees and students may work or study at the worksite or program of another organization affiliated with the University. When a violation is alleged by or against University employees or students in those circumstances, the University may, at its discretion, choose to (1) conduct its own resolution process; (2) conduct a joint resolution process with the affiliated party; (3) defer to the findings of a resolution process with the affiliated entity where the University has reviewed the resolution process and is satisfied that it was fairly conducted; (4) use the resolution process and findings of the affiliated entity as a basis for further investigation or adjudication; or (5) take other action as determined appropriate by the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee.

8) University employees may allege that non-students or non-employees at their worksite or program have engaged in Prohibited Conduct under the Policies. Allegations of Prohibited Conduct against a non-student or non-employee will be referred to the appropriate external entity with jurisdictional control over the non-student or non-employee to take appropriate steps to restore or preserve equal access to the University's education appropriate program or activity for students or employees. The University will defer to the findings of a resolution process with the external entity where the University has reviewed the resolution process and is satisfied that it was fairly conducted. At its discretion, the University may also choose to (1) conduct its own resolution process; (2) conduct a joint resolution process with the affiliated party; (3) use the resolution process and findings of the affiliated entity as a basis for further investigation or adjudication; or (4) take other action as determined appropriate by the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee.

9) Conduct alleged to have occurred before an individual became a student, faculty, staff, contractor, patient, volunteer, or affiliated entity with the University may be addressed through applicable remedial, protective, and/or educational measures, if the alleged conduct interferes with or impedes upon equal access to employment or education

program or activity for any current University community members, as determined by the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee.

IV. Reporting Requirements and Options

Note: Call 911 in an emergency or if you have an immediate safety concern.

A. Reporting Options

1. University/Office of Equity

To notify the University of any Prohibited Conduct under the Sexual Misconduct Policy, Nondiscrimination Policy, or Amorous Relationships Policy, as well as to request supportive measures related to such conduct, or to initiate an OE Resolution Procedures, please contact the OE directly via email at equity@ucdenver.edu or via phone at 303.315.2567.

Elizabeth Schrock, Assistant Vice Chancellor and Title IX Coordinator
CU Denver | CU Anschutz Office of Equity
Mailing Address for *CU Denver*: Lawrence Street Center Campus Box #187
1380 Lawrence Street, 12th Floor, Denver, CO 80204
Mailing Address for *CU Anschutz*: Fitzsimons Building – Suite Q20-NG018
13001 E. 17th Pl., Ground Floor, Aurora, CO 80045
Phone: 303.315.2567
Email: elizabeth.schrock@ucdenver.edu or elizabeth.schrock@cuanschutz.edu

To make a report and for a full list of reporting options, please refer to the OE's website (https://www.ucdenver.edu/offices/equity/resolutions/make-a-report).

a. Amnesty Provisions

To encourage and remove potential barriers to reporting and/or participation in the University's response to Prohibited Conduct, personal consumption of alcohol or other drugs by the *complainant*, *respondent*, or witnesses will not be subject to disciplinary action. Similarly, minor infractions related to a failure to comply with public health and safety provisions in the Student Code of Conduct will not be subject to disciplinary action. However, final jurisdiction and decision-making regarding any conduct not covered by the Policies will be made by the Director of Student Code Conduct and Community Standards or designee for students at ***CU Denver,*** within the professional school for students at ***CU Anschutz***, or by the appointing/disciplinary authority for employees.

Even if a *complainant* chooses not to report formally and/or chooses not to participate in an adjudicative process (through OE or law enforcement), the *complainant* can contact the OE for information and assistance accessing on- or off-campus supportive services as set forth in Section IX and/or accessing available supportive and safety measures as set forth in Section VI.

2. Law Enforcement

*Complainant*s are not required, but do have the right, to file a criminal complaint with law enforcement and the University/OE simultaneously. The OE can assist in reporting to law

enforcement for *complainant*s alleging misconduct that is also a criminal offense.

In some instances, the OE is obligated to report the alleged conduct to the appropriate law enforcement agency. These instances may include, but are not limited to:

- If there is an imminent threat to self or others,
- If a minor is involved in an incident,
- If a weapon is involved, or
- If a Clery Report is required and/or law enforcement needs to send an emergency notification to campus (identifying information may be omitted).

In those instances, the OE will make reasonable effort to notify potential *complainant*s prior to reporting to law enforcement.

- 911 (for emergencies)
- Auraria Police for ***CU Denver*** (for non-emergencies): 303.556.5000
- ***CU Anschutz*** Campus Police (for non-emergencies): 303.724.4444
- City of Denver Police (for non-emergencies): 720.913.2000
- City of Aurora Police (for non-emergencies): 303.739.6000

Reporting to the University Police will constitute notice to the University and the OE, and may result in an OE resolution process subject to applicable state law.

a. Preservation of Evidence of an Alleged Sexual Assault

Regardless of whether a *complainant* wants to report an incident(s), it is important to preserve any evidence of the sexual assault, so that if a *complainant* decides at any point in time to report the incident, that evidence is still available. Examples of evidence to preserve include, but are not limited to: the clothing the individual was wearing, bedding, text message correspondence discussing the incident (either with the *respondent* or with friends or family), photographs, screenshots, emails, social media correspondence/posts (Facebook, Tinder, Snapchat, Instagram, Grindr, etc.), correspondence via other messaging applications (Whatsapp, Kik, GroupMe, WeChat, etc.).

Regardless of whether an individual wants to report the incident to the police, a medical exam can be requested to preserve evidence. Medical Forensic Exams (MFEs) conducted by a Forensic Nurse Examiner, which include a Sexual Assault Nurse Exam are available in the Emergency Department at Denver Health Medical Center, University of Colorado Hospital, Children's Hospital, Porter Adventist Hospital, Medical Center of Aurora – South Campus, Saint Anthony North Hospital, Saint Anthony Hospital 84th Avenue Location, Littleton Adventist Hospital, are available to conduct a Medical Forensic Exam ("MFE," previously called a Sexual Assault Nurse Exam), ideally within five (5) days of the sexual assault. It is best if an individual does not bathe, shower, eat, drink, douche, or change clothes. However, evidence can be collected if an individual has done any or all of these things. Contact information and addresses for available SANE program/exam sites within the state of Colorado can be found on the OE website under Sexual Misconduct Resources.

Please note that if some or all evidence is unavailable or does not exist, making a report of sexual assault is still encouraged. The lack of evidence does not preclude an investigation from taking place.

b. Orders of Protection, Restraining Orders, or Similar Lawful Orders

*Complainant*s who are interested in obtaining an Order of Protection, or any other court order, must pursue those options on their own behalf. Restraining orders are obtained through the court with applicable jurisdiction.[2] More information on obtaining a restraining order in Colorado is located in the State of Colorado County Court Restraining Order Brochure.

The Phoenix Center at Auraria (PCA) and Blue Bench (in collaboration with the Phoenix Center at ***CU Anschutz***) can assist individuals free of charge with the process of obtaining a Restraining Order. ***CU Denver*** and ***CU Anschutz*** complies with Colorado law in recognizing Orders of Protection. Any person who obtains an Order of Protection from Colorado, or any other state, should provide a copy to the Auraria Police Department (for those on the ***CU Denver*** campus) and/or the Anschutz Police Department (for those on the ***CU Anschutz*** campus), in addition to the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee.

B. Reporting Requirements

1. All Employees

All employees must provide the following information to any person who discloses to them information about Prohibited Conduct: (1) the contact information of the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee; and (2) information about how to make a complaint of Prohibited Conduct.

Additionally, when a student informs any University employee of the student's pregnancy or related conditions, all employees are required to promptly inform the student of: (1) the contact information of the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee; and (2) inform the student of the Assistant Vice Chancellor of the OE/Title IX Coordinator's ability to coordinate specific actions to prevent discrimination and ensure the student's equal access to the University's education program or activity.

Those persons who are Campus Security Authorities for purposes of crime reporting under the Clery Act may find a summary of their obligations at the following links for ***CU Denver*** or ***CU Anschutz***.

2. Responsible Employees

Responsible employees must report Prohibited Conduct to the Assistant Vice Chancellor of the OE/Title IX Coordinator. Many members of the University community, generally including

[2] For additional assistance you may contact Project Safeguard: https://psghelps.org/

faculty and members of the administration with supervisory responsibilities, are *responsible employees*, who must promptly report Prohibited Conduct as set forth in the Sexual Misconduct and Nondiscrimination Policies and these Procedures to the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee.

Responsible employees are defined as any employee who: (1) has the authority to hire, promote, discipline, evaluate, grade, formally advise or direct faculty, staff, or students; (2) has the authority to take action to redress Prohibited Conduct; or (3) has been given the duty or reporting incidents of sexual violence or any other misconduct by students to the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee.

Any *responsible employee* who witnesses or receives a written or oral report alleging that a member of the University community has been subjected to or has committed an act of Prohibited Conduct must promptly report the allegations to the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee. Members of the University community include students, faculty, staff, contractors, patients, visitors to campus, volunteers, and employees of affiliated entities. Because the University may have the ability to address or prevent future Prohibited Conduct, the obligation to report exists independently of whether the individual who was subjected to or committed an act of Prohibited Conduct is currently enrolled or employed at the University.

The *responsible employee* is required to promptly report to the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee all known details about the alleged Prohibited Conduct, including:

- Name(s) of the *complainant*(s);
- Name(s) of the *respondent*(s);
- Name(s) of any alleged witnesses; and
- Any other relevant facts, including the date, time, and specific location of the alleged incident.
- If the *responsible employee* does not know all of the above details, the *responsible employee* must still make a report with the available information. If the *responsible employee* is unable to provide this information at the time of making an initial report, but later becomes aware of additional information, the *responsible employee* must supplement the prior report.

Responsible employees employed by University law enforcement are required to report pursuant to this section unless the information is otherwise excluded by state or federal law (for example, identifying information for the *complainant* and/or information related to juveniles).

In many instances, it may not be immediately apparent whether a person is a member of the University community or whether the alleged Prohibited Conduct occurred in the course of an educational program or activity of the University. Rather than conduct their own inquiries to determine whether these conditions exist, *responsible employees* must report potential Prohibited Conduct to the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee to allow a Preliminary Inquiry to occur.

Responsible employees are not required to report information disclosed during an individual's participation as a subject in an Institutional Review Board-approved human subjects research protocol. Institutional Review Boards (IRB) may, in appropriate cases, require researchers to provide reporting information to all subjects of IRB research.

Responsible employees who receive information related to Prohibited Conduct in the course of serving in the capacity as Ombuds, as designated by the University, are not required to report to the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee. These *responsible employees* must report Prohibited Conduct disclosed to them when they are not serving in the capacity as Ombuds.

A *responsible employee* does not satisfy the reporting obligation by reporting Prohibited Conduct to a supervisor or University personnel other than the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee.

Responsible employees are not required to report Prohibited Conduct to which they have been personally subjected to the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee, but are nonetheless encouraged to report.

Communications of Prohibited Conduct to a *responsible employee* are not confidential, and these employees must report Prohibited Conduct to the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee when it is disclosed to them.

3. Confidential Employees

Confidential employees are not required to report Prohibited Conduct under the Policies to the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee. Further, *responsible employees* who receive information related to Prohibited Conduct in the course of providing professional services within a privileged relationship, such as health care providers or counselors, are not required to report to the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee. However, confidential employees and *responsible employees* who receive information related to Prohibited Conduct in the course of providing professional services within a privileged relationship must explain to an individual alleging Prohibited Conduct: (1) their status as a confidential employee for purposes of the Policies and that they are not responsible employees who report to the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee; (2) how an individual may contact the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee and make a complaint under this Policy; and (3) that the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee may be able to offer and coordinate supportive measures, as well as initiate an informal or formal resolution process.

Responsible employees must report Prohibited Conduct disclosed to them when they are not providing professional services within a privileged relationship. These *responsible employees* may also have independent professional obligations to report some forms of criminal conduct to law enforcement officials. Any *responsible employee* may consult with campus legal counsel to determine whether an independent reporting obligation exists.

V. Privacy, Confidentiality, and Overriding Factors

Note: Privacy and Confidentiality have distinct meanings.

A. Privacy

"Private" generally means that information related to a report of Prohibited Conduct will be shared with a limited number of individuals on a "need to know" basis in order to assist in the active review, investigation, resolution of the report, and related issues. All University employees who are involved in potential response to a report receive specific training and guidance about safeguarding private information in accordance with applicable laws. Access to personnel records is restricted in accordance with University policy and applicable laws.

Family Educational Rights and Privacy Act (FERPA): The privacy of student education records will be protected in accordance with FERPA, University policy, and applicable state laws.

The Family Educational Rights and Privacy Act of 1974 (FERPA), as amended by the Higher Education Amendments of 1998, governs access to records, and information from within those records, pertaining to students that are maintained by the University, including OE. Pursuant to FERPA, the University may disclose records and information pertaining to a student with the student's written consent.

Even in absence of student consent, FERPA authorizes University officials who demonstrate a legitimate educational need to have access to relevant OE records and information pertaining to students that are necessary to perform their duties for the University.

Even in absence of written consent or a request otherwise from a student, FERPA authorizes the University to provide student records and information to parent(s) if proof is provided that their child student is a dependent as defined under the Internal Revenue Code. A copy of the last federal income tax return listing the student as a dependent may serve as proof of dependency and allow the University to provide parent(s) with access to such records maintained by OE, to the extent determined appropriate by the OE's Assistant Vice Chancellor of the OE/Title IX Coordinator or designee.

Except as otherwise specified in this document or a pending health or safety emergency as defined under FERPA, student records and information are private and the OE will not disclose student records or information to any entity or person outside the University without proper written authorization from the student, a court order, subpoena, or as otherwise required by law or authorized government agency.

Under FERPA, students have a right to review and inspect records that directly pertain to them. Students who would like to review such records maintained by the OE must complete and submit the OE's records inspection form. The OE will comply with a properly submitted student request within a reasonable time period not to exceed 45 days, as provided by FERPA, unless otherwise authorized by law. Additional requests to inspect a file may be limited to only allow the inspection of records once every 45 days.

Disclosure of Policy Violations or Pending Investigations: The University recognizes that third parties may have a legitimate interest in knowing whether a University employee or student has been found responsible for engaging in a violation of University Policies. In the event that, after a Formal Grievance Process and any rights of appeal have been completed, an employee or student has been found responsible for engaging in a violation of the Sexual Misconduct Policy, the University may confirm upon inquiry from a third party, including but not limited to a potential employer, licensing or credentialing agency, or institution that the employee or student has been found responsible for violating the Sexual Misconduct Policy, subject to applicable state and federal laws (e.g. FERPA) regarding such disclosures.

Similarly, the University recognizes that third parties may have a legitimate interest in knowing whether a University employee has been found responsible for engaging in protected-class discrimination or harassment, or a related violation. In the event that, after a Formal Grievance Process including any rights of appeal has been completed, an employee has been found responsible for engaging in protected class discrimination or harassment, or related violations, the University may confirm upon inquiry from a third party, including but not limited to a potential employer or licensing or credentialing agency that the employee has been found responsible for a violation of the University Nondiscrimination Policy. The University may also confirm that an investigation under the Nondiscrimination Policy is pending against an employee or that an employee resigned employment while an investigation under the Nondiscrimination Policy was pending.

Colorado Open Records Act: The University is subject to the Colorado Open Records Act (CORA), C.R.S. § 24-72-201, et seq. CORA may require, depending on the specific request and whether a CORA exception applies, withholding or producing OE records.[3]

B. Confidentiality

"Confidential" generally means that information shared by an individual with designated campus or community professionals cannot be revealed to any other person without the expressed permission of the individual, or as otherwise permitted or required by law. Those campus and community professionals who have the ability to maintain confidential relationships include health care providers, mental health professionals, the sexual assault or domestic violence *complainant* advocate, attorneys, and ordained clergy, all of whom normally have legally privileged confidentiality that is recognized by Colorado state law. The Assistant Vice Chancellor of the OE/Title IX Coordinator has also designated the Ombuds staff serving in their capacity as a confidential resource for ***CU Denver*** and ***CU Anschutz***.[4] These individuals are prohibited from breaking confidentiality unless (i) given permission to do so by the person who disclosed the information; (ii) there is an imminent threat of harm to self or others; (iii) the conduct involves suspected abuse of a minor under the age of 18; or (iv) as otherwise required or permitted by law or court order. An employee's confidential status is only with respect to

[3] As stated in the Procedures, the *complainant* and *respondent* have a right to access all records associated with the investigation.
[4] Ombuds staff do not have legally privileged confidentiality recognized by Colorado state law.

information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies.

The University supports the use of confidential resources for all parties, for any reason, including support for medical assistance, counseling, crisis intervention, advocacy, and assistance with legal, housing, and financial matters. Information shared with confidential resources is not disclosed to any party outside of the resource(s) with limited exceptions as defined by law or policy of the resource.

Employees who are confidential resources are not required to report Prohibited Conduct under the Policies, but must provide information to anyone who informs them of conduct that reasonably may constitute sex discrimination, including: information about their status as confidential for purposes of Title IX, how to contact the Assistant Vice Chancellor of the OE/Title IX Coordinator, how to make a complaint, and that they may be able to offer and coordinate supportive measures, an informal resolution process, or an investigation under the grievance procedures. A person who is a confidential resource under the applicable Policies may have an independent obligation to report some forms of criminal conduct to law enforcement officials.

See Section IX for a list of confidential resources at ***CU Denver*** and ***CU Anschutz***.

C. Overriding Factors

If an individual has disclosed an incident of misconduct, but wishes to maintain privacy or requests that no investigation or grievance process be conducted or disciplinary action taken, the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee will discuss the availability of supportive measures, describe the process for filing a complaint, discuss resolution options, explain that the University prohibits retaliation, and explain the steps the University will take to prevent retaliation if the individual participates in a resolution process and that the University will take responsive action if it occurs.

If, having been informed of the University's prohibition of retaliation and its obligations to prevent and respond to retaliation, the individual would still like to maintain privacy or requests that no investigation or grievance process be conducted or no disciplinary action be taken, the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee will weigh that request against the University's obligation to provide a safe, non-discriminatory environment for all students, faculty, and staff.

In making that determination, the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee will consider a range of potentially overriding factors that would cause the campus to commence an investigation or grievance process, or take disciplinary action after an investigation of misconduct occurred, including the following:

- The individual's request not to proceed with initiation of a complaint;
- The individual's reasonable safety concerns regarding initiation of a complaint;
- The risk that additional acts of Prohibited Conduct would occur if the complaint is not

initiated;

- The severity of the alleged Prohibited Conduct, including whether the Prohibited Conduct, if established, would require the removal of the person alleged to have committed the Prohibited Conduct or imposition of another disciplinary sanction to end the Prohibited Conduct and prevent its reoccurrence;
- The age and relationship of the parties, including whether the person alleged to have committed the Prohibited Conduct is an employee of the University;
- The scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing Prohibited Conduct, or Prohibited Conduct alleged to have impacted multiple individuals;
- The availability of evidence to assist a decision maker in determining whether the alleged Prohibited Conduct occurred;
- Whether the University could end the alleged Prohibited Conduct and prevent its reoccurrence without initiating grievance procedures;
- Whether the alleged Prohibited Conduct includes threats of further Prohibited Conduct;
- Whether the alleged Prohibited Conduct was facilitated by the incapacitation of the person subjected to the alleged Prohibited Conduct;
- Whether the person accused of Prohibited Conduct has been found responsible in legal or other disciplinary proceedings for acts of Prohibited Conduct;
- Whether the alleged Prohibited Conduct was perpetrated with a weapon; or
- Whether the person allegedly subjected to Prohibited Conduct is a minor.

If after considering relevant factors, the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee determines that the conduct as alleged presents an imminent and serious threat to the health of safety of the individual alleging Prohibited Conduct or the safety of another person, or that the Prohibited Conduct as alleged prevents the University from ensuring equal access on the basis of sex, the Title IX Coordinator or designee may initiate a complaint under the Formal Grievance Process. The decision to file a complaint and initiate a Formal Grievance Process pursuant to the Sexual Misconduct Policy, Nondiscrimination Policy, or Amorous Relationships Policy by the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee will be conducted on a case-by-case basis after an individualized and thoughtful review. If initiating a complaint under this Section, the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee shall document this decision in writing and notify the *complainant* prior to doing so and appropriately address any reasonable concerns about the *complainant's* safety and the safety of others, including by providing supportive measures.

Nothing in this section limits the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee from responding to the alleged conduct in a manner other than through a Formal Grievance Process that the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee may determine is appropriate under the circumstances. Other options include, but are not limited to, providing supportive measures, conducting an Informal Resolution, referral to other offices, providing targeted or broad-based educational programming or training, or consulting with other University officials as appropriate. Additionally, nothing in the override analysis limits the ability of a disciplinary authority to initiate or impose disciplinary action as necessary.

If the University honors the individual's request for privacy, the University's ability to meaningfully investigate the incident may be limited and disciplinary action may not be possible.

The Assistant Vice Chancellor of the OE/Title IX Coordinator or designee may also determine that a report to the campus or community Police Department may be warranted given the overriding factors above despite an individual's request for privacy. The OE will consider the range of factors listed above in making the determination to report to law enforcement. In those instances, the OE will make a reasonable effort to notify potential *complainant*s prior to reporting to law enforcement.

VI. Supportive and Safety Measures

Supportive and safety measures are non-disciplinary, non-punitive individualized services offered, as reasonably available, and without fee or charge to the *complainant* or the *respondent* that are designed to restore or preserve equal access to the University's education appropriate program or activity without unreasonably burdening the *complainant* or *respondent*, including measures designed to protect the safety of all parties or the University's educational or work environment, or deter Prohibited Conduct. Supportive and safety measures should be individualized and appropriate based on the information available to the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee.

Some safety measures involve restricting a *respondent*'s access to University programs and activities and may not become available until after the completion of Formal Grievance Process unless emergency removal action is determined appropriate. See Section VI(C) below.

Whether supportive and safety measures are appropriate is determined after an individualized assessment by the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee and every effort should be made to avoid depriving any student of educational access. Supportive or safety measures may be kept in place, lifted, or modified as additional information is obtained, or may be extended permanently, as appropriate.

*Complainant*s and *respondent*s may request supportive and safety measures from the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee. Supportive measures may be provided to *complainant*s or *respondent*s whether or not the *complainant* engages in the Formal Grievance Process. Witnesses or other participants in the Formal Grievance Process may also request supportive and safety measures. The Assistant Vice Chancellor of the OE/Title IX Coordinator or designee will maintain oversight of these requests and the provision of any such measures.

Complainants and *respondents* may seek a modification or reversal of supportive measures in writing to the Deputy Title IX Coordinator or designee within ***seven (7) calendar days*** of when the supportive measures were provided. Appeals may seek to provide, deny, modify, or terminate supportive measures applicable to them. Appeals will be reviewed by someone other than the person that provided the supportive measures and has the authority to provide, deny, modify, or terminate them. The parties may also seek additional modification or termination of a supportive measure applicable to them if circumstances change materially.

The University will keep private any supportive measures provided to the *complainant* or *respondent*, to the extent that maintaining such privacy will not impair the University's ability to provide the supportive measures.

B. Types of Supportive and Safety Measures

- Academic support measures (arranging for a party to retake a course, excusing related absences, requesting extensions on assignments or exams, changing sections when available, or withdrawing from a class without penalty);

- Assistance accessing medical services;
- Assistance accessing counseling services;
- Employment modifications;
- Transportation/parking changes;
- Campus safety escort services and/or increasing security and monitoring of certain areas of campus;
- No Contact Orders enforced by the University;
- Discussing options for obtaining criminal or civil Orders of Protection or Restraining Orders;
- Residential relocations in CU Denver Housing and Dining and/or offering resources for off-campus housing; or
- Emergency removals (see Section VI(C) below).

C. Emergency Removals

The University may remove a *respondent* from an education program or activity on an emergency basis after 1) the University undertakes an individualized safety and risk analysis; 2) determines that an imminent and serious threat to the physical or mental health or safety of any students, employees, or other individuals arising from the allegations of misconduct under an Applicable Policy justifies removal; and 3) provides the *respondent* with notice and an opportunity to appeal the decision immediately following the removal.

The OE will initiate the Formal Grievance Procedures before or within a reasonable timeframe after an emergency removal is initiated by the Assistant Vice Chancellor of the OE/Title IX Coordinator, unless a *respondent* is no longer affiliated with the University. If a *respondent* is no longer affiliated with the University, the OE will consider whether to initiate the Formal Grievance Procedures.

1. Types of Emergency Removals

- Interim student suspension;
- Interim exclusion order for parts of or entire campus; for example, residence halls, classes, or buildings. At ***CU Denver,*** OE may exclude a *respondent* and inform the Auraria Police Department of this removal. At ***CU Anschutz***, the OE may recommend an exclusion of a *respondent* to the CU Anschutz Chief of Police;
- Administrative Leave (decisions to place a non-student employee on administrative leave during the pendency of a Formal Grievance Process are made in consultation with Assistant Vice Chancellor of the OE/Title IX Coordinator or designee and Chief Human Resource Officer or designee and appointing/disciplinary authority); and/or
- Temporary suspension of supervisory or evaluative authority for employees in consultation with Associate Vice Chancellor and Chief Human Resource Officer or designee and appointing/disciplinary authority.

2. Individualized Safety and Risk Analysis

When considering an emergency removal, the OE will conduct an individualized safety and risk analysis and may consult with other University offices or officials, such as the ***CU Denver*** and ***CU Anschutz*** Campus Assessment, Response, and Evaluation ("CARE") Teams and Faculty and Staff Threat Assessment and Response Teams ("FaST"), when conducting the individualized safety and risk analysis. The factors considered in an emergency removal decision include:

- Seriousness of the alleged conduct;
- Location of alleged incident(s);
- The risk that the alleged *respondent* will commit additional acts of sexual or other violence;
- Whether the alleged *respondent* threatened further sexual or other violence against the alleged *complainant* or others;
- Whether there have been other misconduct complaints about the same alleged *respondent*
- or whether the *respondent* has a known history of sexual or other violence;
- The existence of multiple alleged *complainant*s and/or *respondent*s;
- Whether the conduct was facilitated by the incapacitation of the *complainant* (through alcohol, drugs, disability, unconsciousness, or other means);
- Whether the alleged conduct was perpetrated with force, violence, or weapons;
- Whether the alleged *complainant* is a minor;
- Whether the alleged conduct reveals a pattern of perpetration (by the alleged *respondent* or group or organization, around a particular recurring event or activity, and/or a particular location); and/or
- Whether any other aggravating circumstances or signs of predatory behavior are present.

If the OE performs an individualized safety and risk analysis and determines that the individual will not be removed under these procedures, the OE may refer the case to the CARE Team, FAST Team, or Department for further consideration.

3. Opportunity to Challenge an Emergency Removal Decision

At ***CU Denver***, in the case of an emergency removal, the *respondent* will be provided written notice of the alleged Prohibited Conduct and the opportunity to meet, if the *respondent* chooses, with the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee. The Assistant Vice Chancellor of the OE/Title IX Coordinator of the OE or designee will ensure that the student is afforded the opportunity to meet within ***seven (7) calendar days*** of the notice of emergency removal. This does not preclude additional meetings after the ***seven (7) calendar days*** has passed to review the emergency removal.

It is the responsibility of the *respondent* to schedule the meeting if requested. After providing the *respondent* with notice of the allegations and an opportunity to be heard, the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee may decide to lift or continue the emergency removal, potentially until the completion of the Formal Investigation. The Assistant Vice Chancellor of the OE/Title IX Coordinator or designee may also determine whether any exceptions may be appropriate. The emergency removal may be re-evaluated during the course of the Formal Grievance Process if new information is presented that mitigates the threat to health and physical safety of the *complainant* or campus safety.

At ***CU Anschutz***, in the case of a recommendation for an emergency exclusion, the Assistant Vice Chancellor of the OE/Title IX Coordinator will provide the CU Anschutz Chief of Police with a written individualized safety and risk analysis and notice of the alleged Prohibited Conduct, which will then be provided to the *respondent.* The CU Anschutz Chief of Police will ensure that the student or employee is afforded the opportunity to meet, and follow their outlined procedures.

In the case of an emergency removal that includes campus exclusion, Procedures outlined in the CU Denver | Anschutz Medical Campus Exclusion of Persons from University Property[5] will be concurrently followed, including the right to a hearing by the Chief of Police or designee withing ***five (5) business days*** and the right to a written Appeal within ***30 calendar days***. Please see the Exclusion of Persons from University Property policy for more details.

[5] See CU Denver | Anschutz Medical Campus Exclusion of Persons from University Property policy.

VII. Formal Grievance Procedures

The University does not tolerate and will be responsive to any report or complaint of Prohibited Conduct as outlined in the Sexual Misconduct and Nondiscrimination Policies. The primary concern is the safety of all University community members. The University, through the OE, will take steps to prevent the recurrence of any Prohibited Conduct and remedy any discriminatory effects on the *complainant* and others if appropriate. The following Procedures will apply to resolution of all complaints of Prohibited Conduct contained within the Sexual Misconduct and Nondiscrimination Policies.

A. Prohibited Conduct

As outlined in Section II(A) of the Sexual Misconduct Policy, Prohibited Conduct refers to sex-based discrimination and sexual harassment including but not limited to sexual assault (rape, nonconsensual sexual contact, statutory rape, and incest), intimate partner abuse, stalking, sexual exploitation, hostile environment sexual harassment, and quid pro quo sexual harassment. The Policy also prohibits retaliation and other related violations.

As outlined in Section II(A) of the Nondiscrimination Policy, Prohibited Conduct also refers to discrimination and harassment on the basis of one or more protected classes of race, color, national origin, sex, age, disability, creed, religion, sexual orientation, gender identity, gender expression, pregnancy, veteran status, marital status, political affiliation, and political philosophy. The Policy also prohibits retaliation and other related violations.

See Section X for full definitions of Prohibited Conduct contained within the policies.

B. Rights and Responsibilities of the Parties

During the Formal Grievance Process, the *complainant* and the *respondent* shall each be afforded the following rights as applicable:

- Make a complaint to the OE verbally or in writing;
- Be treated equitably;
- A presumption that the *respondent* is not responsible for the alleged misconduct until a determination is made at the conclusion of any applicable grievance process;
- Have the University take reasonable steps to protect their privacy, provided the steps do not restrict the parties' ability to obtain and present evidence, including speaking to witnesses, consulting with their family members, confidential resources, or advisors, or otherwise preparing for or participating in the grievance procedures;
- A Formal Grievance Process conducted by trained officials (any person designated as a Title IX Coordinator, investigator, or decision maker) who do not have a conflict of

interest or bias for or against the individual *complainant* or *respondent* or against *complainants* or *respondents* generally. The decision maker may be the same person as the Title IX Coordinator or investigator. An official shall recuse themselves from participating in a grievance process in those instances where the official believes that their impartiality might reasonably be questioned by an independent, neutral observer due to the official's personal bias or prejudice against the *complainant* or *respondent* or where the official has a personal or professional relationship with one of the parties that would adversely affect the official's ability to serve as an impartial finder of fact;

- Supportive measures to be provided before the Formal Grievance Process begins or while the Formal Grievance Process is underway;

- Receive notice before they participate in an interview with sufficient time to prepare for meaningful participation;

- A process with reasonably prompt timeframes, with reasonable extensions of timeframes on a case-by-case basis for good cause with notice to the parties that includes the reasons for the delay;

- Present relevant information to the investigator(s), including inculpatory or exculpatory evidence, and identifying witnesses;

- Have an advisor of their choosing, including an attorney, advocate, or other support person throughout the Formal Grievance Process, including but not limited to being present for any meetings with OE personnel. In order to protect the integrity of the investigation, an advisor may not be a potential witness in the investigation, or individual who could otherwise compromise the investigation. During a meeting with the OE, a party's advisor may not speak on behalf of the party. The advisor, advocate, or other support person may not engage in any conduct that would constitute harassment, threats, or retaliation against any person who has participated in an investigation, including University Officials, and may be denied further participation for harassing or retaliatory conduct;

- Timely and equal access to review and respond to the Investigative Summary, which will include any relevant information gathered during the investigation, including information provided by *complainant, respondent*, witnesses, documentation, and relevant evidence, unless the University is legally prohibited from disclosing the information to a party;

- Inspect the full investigative file, which contains all information or evidence, unless prohibited or confidential under law, gathered as part of the investigation, including information the OE does not intend to rely on in reaching a determination, prior to any investigative findings or conclusions;

- An objective evaluation of all evidence that is relevant and not otherwise impermissible (which will be excluded), including both inculpatory and exculpatory evidence, and provide that credibility determinations must not be based on a person's status as a

complainant, respondent, or witness;

- Receive written, concurrent notice of the investigation outcome and a copy of the written Determination Regarding Responsibility at the conclusion of the Investigation;

- Provide information about aggravating or mitigating factors prior to any sanction being imposed, if applicable;

- Receive notice of any sanction, if applicable, in writing, including a statement of the basis upon which any sanction was imposed; and

- Appeal the investigative findings.

C. Overview of Resolution Procedures and Options

The University has authority to and will conduct at least a Preliminary Inquiry upon receiving a report or complaint alleging Prohibited Conduct. A Preliminary Inquiry may include, but is not limited to, evaluating whether the report or complaint implicates a policy enforced by the OE, whether the complaint and parties are within the jurisdiction of the OE, and whether the report or complaint presents a safety threat such that the OE must report the concern to law enforcement. After a Preliminary Inquiry is conducted, the OE shall then determine the most appropriate means for addressing the report or complaint. Options include, but are not limited to:

1) **Preliminary Inquiries, Dismissals, and Referrals:** See Section VII(C)(1) below.
2) **Educational Policy Compliance Remedies:** See VII(C)(2) below.
3) **Informal Resolution Process:** See VII(C)(3) below.
4) **Investigation Process:** See VII(C)(4) below.

1. Preliminary Inquiries, Dismissals, and Referrals

The Assistant Vice Chancellor of the OE/Title IX Coordinator or designee has the authority to conduct a preliminary inquiry upon receiving a report or complaint alleging prohibited conduct that would fall under OE's jurisdiction. A preliminary inquiry is an assessment that may include, but is not limited to, evaluating whether the conduct alleged implicates the Prohibited Conduct contained in the Sexual Misconduct or Nondiscrimination Policy, whether the complaint and parties are within the jurisdiction of the OE, whether the *respondent* is able to be identified and is currently affiliated with the University, and whether the complaint, if proved, describes conduct that would constitute a violation of the Prohibited Conduct defined in the Sexual Misconduct and Nondiscrimination Policies

A preliminary inquiry may also include the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee taking additional steps, such as meeting with individuals and reviewing documents, to evaluate whether the facts of the complaint appear to be based in fact and would be a violation of the Sexual Misconduct or Nondiscrimination Policies such that it could proceed to an investigation. After an individualized and thoughtful review, the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee may determine that there is insufficient jurisdiction

or cause to proceed with resolving the complaint through the Investigation Process, be dismissed, or be referred to another University Official or office.

A preliminary inquiry will typically occur within ***30 calendar days.*** Reasonable extensions will occur on a case-by-case basis for good cause with notice to the *complainant* that includes the reasons for the delay.

In cases of preliminary inquiries of complaints implicating the Sexual Misconduct Policy, such determinations will be made in writing and provided to the *complainant*. *Complainants* may appeal this decision in writing within ***seven (7) calendar days*** explaining the basis for jurisdiction or good cause to proceed. A separate decision maker will evaluate the appeal and issue a determination in writing.

2. Educational Policy Compliance Remedies

The OE may determine that the most prompt and effective way to address a concern is through an Educational Policy Compliance Meeting. For example, the OE may resolve a report or complaint through an Educational Policy Compliance Meeting if the alleged conduct, even if true, would not be considered Prohibited Conduct under the Policies.

The primary focus during an Educational Policy Compliance Meeting remains the welfare of the parties and the safety of the campus community, but this process does not involve a written report or a determination as to whether the Policies have been violated. This type of approach provides the University with a "remedies-based" resolution option that allows the University to tailor responses to the unique facts and circumstances of an incident, particularly in cases where there is not a broader threat to individual or campus safety. In these cases, the OE may do one or more of the following:

- Provide interim or long-term supportive measures to the *complainant* and the *respondent*;
- Provide a referral to other campus-based resolution processes as appropriate based on the specific facts of the complaint;
- Provide targeted or broad-based educational programming or training; and/or
- Conduct an Educational Policy Compliance Meeting with the *respondent* to (1) discuss the behavior as alleged and provide an opportunity to respond; (2) review Prohibited Conduct under the Sexual Misconduct, Intimate Partner Violence, and Stalking Policy; (3) identify and discuss appropriate future conduct and behavior as well as how to avoid behavior that could be interpreted as retaliatory; (4) inform the *complainant* of the *respondent*'s responses if appropriate; and (5) notify Student Conduct and Community Standards or the *respondent*'s appointing or disciplinary authority of the allegations and responses if necessary, who will determine whether any other disciplinary action is appropriate.

The OE retains discretion to conduct an Educational Policy Compliance Meeting. Additionally, the OE retains discretion to proceed with an Investigation Process for allegations that, if proven true, would violate the Sexual Misconduct or Nondiscrimination Policy. OE will notify the

complainant of the need to end the Educational Policy Compliance Meeting process at any time and to commence or resume the Investigation Process.

3. Informal Resolution Process

The Informal Resolution Process is designed to resolve complaints while meeting the needs and interests of the parties. The Informal Resolution Process is entirely voluntary and will not occur unless *complainant* and *respondent* agree in writing to participate.

The Informal Resolution Process may not be facilitated by the investigator or decision maker within the grievance process and new information provided by the parties during the Informal Resolution Process will not be used if the complaint is referred back to the grievance process. The Assistant Vice Chancellor of the OE/Title IX Coordinator or designee will oversee the Informal Resolution process, conduct an initial and on-going assessment as to whether the Informal Resolution Process should continue, and make the final determination on all Informal Resolutions facilitated by the OE regarding whether the terms agreed to by the *complainant* and *respondent* are appropriate in light of all of the circumstances of the complaint.

In some circumstances, depending on the nature and/or severity of the allegations, an Informal Resolution may not be appropriate, and the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee will not approve an Informal Resolution.

a. Notice of Agreement to Engage in Informal Resolution

Prior to engaging in an Informal Resolution Process, the campus will obtain the *complainant*'s and *respondent*'s voluntary, written consent. For employee *respondents,* the Assistant Vice Chancellor of the OE/Title IX Coordinator will determine if their appointing/disciplinary authority must also provide their voluntary, written consent.

Parties who choose to participate in the voluntary Informal Resolution Process will be sent a Notice of Agreement to Engage in Informal Resolution. The Notice will include the following:

- The general allegations;
- The requirements of the Informal Process including the circumstances under which the University precludes the parties from resuming a grievance process arising from the same allegations, provided however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the Informal Resolution Process and resume the grievance process;
- Any consequences resulting from participating in the Informal Resolution Process, including the records that will be maintained or could be shared;
- The parties' right to consult with an advisor;
- That any resolution must be in writing and signed by both parties and the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee; and
- That once the Informal Resolution process is finalized, neither party is permitted to file another complaint arising from the same allegations.

b. Timeframe

The Informal Resolution Process may take place at any time before a Determination Regarding Responsibility is made, but typically within ***90 calendar days*** after both parties provide voluntary, written consent to participate in the Informal Resolution Process, unless the parties and the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee agree to an extension.

c. Informal Resolution Options

The Informal Resolution Process may include:

- Mediation (where available);
- Restorative Justice (where available);
- Shuttle diplomacy;
- Referral to Office of Adaptable Resolution (available only for ***CU Anschutz***);
- Safety and supportive measures;
- Referring the parties to counseling;
- Disciplinary sanctions;
- Conducting targeted preventive educational and training programs; or
- Conducting a follow-up review to ensure that the resolution has been implemented effectively.

d. Effect of Informal Resolution

Any agreed-upon remedies and disciplinary sanctions agreed to in an Informal Resolution have the same effect as Remedies given and sanctions imposed following an investigation or hearing.

e. Final Written Agreement

The terms of any Informal Resolution must be in writing and signed by the parties, any appropriate appointing/disciplinary authorities, and the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee. Use of electronic signatures is permitted. A signed agreement to an Informal Resolution is enforceable, final, and is not appealable by either Party.

4. Investigation Process

An individual (referred to as the *complainant*) or Assistant Vice Chancellor of the OE/Title IX Coordinator or designee must make an oral or written complaint alleging a violation of Prohibited Conduct under the applicable Policies against an individual (referred to as the *respondent*) for the University to initiate the Investigation. *Complainants* may be students, employees, parents/guardians, the Assistant Vice Chancellor of the OE/Title IX Coordinator, or any person other than a student or employee who was participating or attempting to participate in University's education programs or activities at the time of the alleged discrimination.

The Investigation Process includes: (1) An investigation that commences with a Notice of

Allegations, (2) A review and response to the Investigative Summary and full investigative file, (3) A determination regarding responsibility, including a hearing, if required) and sanctions, if applicable, and (4) appeal, if applicable. The University will provide an equitable resolution within reasonably prompt timeframes, including: ***90 calendar days*** for the investigation; ***90 calendar days*** for the hearing (if required), determination, and any associated sanctions (if applicable); and ***30 calendar days*** for the appeals process. Such time frame may be extended for good cause[6] with prior written notice to the *complainant* and *respondent* of the delay and reason for the delay. The OE will also provide the *complainant* and *respondent* with regular written updates on the status of the case throughout the process until conclusion.

A *complainant* or *respondent* may request to informally resolve the complaint using the Informal Resolution process at any time during the grievance process. However, both parties, the Assistant Vice Chancellor of the OE/Title IX Coordinator, and the appointing/disciplinary authority, as appropriate, must agree to engage in the process and follow the procedures outlined in Section VII(C)(3)(a).

a. Notice of Allegations

If the Investigation Process is commenced, the *respondent* and *complainant* shall receive a Notice of Allegations. The written Notice may be sent to the *respondent* and *complainant* by email or via U.S. mail to the permanent address appearing in the University's information system or the address appearing in a police report, or may be physically delivered. Notice will be considered furnished on the date of physical delivery or on the date emailed. For employee *respondent*s, the employee's supervisory upline will receive a copy of the written Notice of Allegations. This may include the Chancellor and the employee's appointing/disciplinary authority, as well as Human Resources.[7]

A *respondent* must contact the investigator(s) within ***seven (7) calendar days*** of the issuance of the notice to schedule a meeting.[8]

If, in the course of an investigation, a *complainant* alleges additional violations or the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee decides to investigate additional allegations about the *complainant* or *respondent* that are not included in the initial Notice of Allegations, the OE will issue an Amended Notice of Allegations to both parties.

The Notice of Allegations (and any Amended Notices of Allegations) will include:

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[6] Good cause may exist for a variety of reasons, including the complexity of the circumstances of each allegation, the integrity and completeness of the investigation, compliance with a request by law enforcement, the availability of witnesses, the necessity to provide translation services, University breaks or vacations, the necessity to access relevant and probative documentation that is not immediately available, or other legitimate reasons.

[7] If the *respondent* is a student employee and the alleged misconduct occurs outside the employment capacity, the OE may determine that the *respondent*'s supervisory upline has a legitimate need to know information related to the case resolution.

[8] All parties will be provided with written notice of the date, time, location, and purpose of their own investigative interviews, or other meetings, with sufficient time to prepare in order to participate.

1) The identity of the parties involved in the incident;
2) The specific section(s) of the Policy allegedly violated;
3) The conduct allegedly constituting Prohibited Conduct;
4) The date(s) and location(s) of the alleged incident(s), to the extent known and available;
5) Information about the grievance process, including both formal and informal processes;
6) A statement that the *respondent* is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process and that prior to that determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decision maker;
7) A statement that retaliation is prohibited;
8) Information about the provisions that prohibit knowingly making false statements or knowingly submitting false information during the grievance process;
9) Information that the parties have equal opportunity to inspect and review the relevant and not otherwise impermissible evidence;
10) Information that the *complainant* and *respondent* may have an advisor of their choice, including an attorney. The advisor may not engage in any conduct that would constitute harassment or retaliation against any person who has participated in an investigation and may be denied further participation for harassing or retaliatory conduct;
11) Information about the availability of supportive measures; and
12) Information about any supportive measures that impact their participation in any University program or activity pending the outcome of the Formal Grievance Process.

The Notice of Allegations may also include information concerning any interim safety measures, which may include no-contact orders or campus exclusions, as well as other supportive measures. The OE will provide a written amended notice of allegations if, in the course of an investigation, the OE decides to investigate additional allegations of Prohibited Conduct by the respondent toward the *complainant* that are not included in the original notice of allegations. The OE may also consolidate complaints of Prohibited Conduct when the allegations of Prohibited Conduct arise out of the same facts or circumstances. If one of the complaints to be consolidate involves a complaint by or against a student for sexual misconduct, the [] will procedures apply.

b. Dismissal after a Notice of Allegations is Issued

After a Notice of Allegations is issued, the University may, but is not required to, dismiss a complaint at any time if:

- The *complainant* voluntarily withdraws any or all of the allegations in the complaint in writing, the Assistant Vice Chancellor of the OE/Title IX Coordinator declines to initiate a complaint, and the OE determines that without the *complainant's* withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute Prohibited Conduct even if proven;
- The *respondent* is not participating in the University's education program or activity or employed at the University;
- Specific circumstances prevent the OE from gathering evidence sufficient to reach a

determination as to the allegations therein; or

Prior to dismissing, the OE must make reasonable efforts to clarify the allegations with the *complainant.* If the University dismisses a complaint, the OE will consider whether the conduct alleged may constitute a violation of any other University or campus policies, procedures, or conduct codes and refer the matter to other appropriate offices.

The dismissal of a complaint does not preclude a *complainant* or the Assistant Vice Chancellor of the OE/Title IX Coordinator from re-initiating the Investigation Process at a later time.

If the OE dismisses an investigation after a Notice of Allegations is issued, both parties will be notified in writing of the dismissal, the basis for the dismissal, information about the appeal process, and provided supportive measures as applicable.

Each party may appeal a dismissal in writing. The decision maker for the appeal will be trained and not the investigator of the allegations or the decision maker for the dismissal. To file an appeal of the dismissal, a party must submit a written appeal to the Deputy Title IX Coordinator or designee in the OE within ***seven (7) calendar days*** of the notice of dismissal.

An appeal of a dismissal must articulate the basis of the appeal, including why the investigation should continue. Parties may appeal on the following bases only:

- Procedural irregularities that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available at the time of the dismissal; or
- The Assistant Vice Chancellor of the OE/Title IX Coordinator, investigator(s), or other decision-maker(s) for the dismissal of the complaint had a conflict of interest or bias for or against *complainants* or *respondents* generally or the individual *complainant(s*) or *respondent(s)* that would change the outcome.

After the submission of all documentation or the seven-day deadline for response has passed, the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee will appoint a decision maker who has been trained and who did not take part in an investigation of the allegations or dismissal of the complaint/Investigation.

Upon review of the appeal, the decision maker may:

- Uphold the initial decision in its entirety; or
- Overturn the dismissal and direct that the investigation continues.

The decision maker will issue a written decision describing the result of the appeal within ***14 calendar days*** and the rationale for the result. The appeal decision must be provided simultaneously to both parties.

c. Investigators

Investigations will be conducted by staff who are appropriately trained and have qualifications and experience that will facilitate a prompt, fair, equitable and impartial resolution. The Assistant Vice Chancellor of the OE/Title IX Coordinator or designee shall ensure that OE Investigators and other members involved in the Investigation Process will receive annual training on issues related to the Prohibited Conduct, including but not limited to sexual assault, intimate partner abuse, stalking, sexual harassment, and retaliation. The Assistant Vice Chancellor of the OE/Title IX Coordinator or designee shall determine if one or more Investigators shall be assigned to each case depending on the specific circumstances and as warranted.

i. Outside Investigators

The Assistant Vice Chancellor of the OE/Title IX Coordinator or designee may also designate other individuals (either from within the University, including an administrator, or from outside the University) to conduct or assist with an investigation. Circumstances which may warrant such outside resolutions include, but are not limited to, conflict of interest, allegations of bias, or workload. The Assistant Vice Chancellor of the OE/Title IX Coordinator or designee retains the discretion to determine whether the use of outside investigator(s) is warranted and reasonable given the circumstances and information known at the time.

Outside investigator(s) shall have adequate training, qualifications, and experience that will, in the judgment of the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee, facilitate a prompt, fair, and impartial resolution. Any outside investigator(s) designated to address an allegation must adhere to the requirements of these Procedures and confer with the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee on a regular basis about the progress of the investigation.

d. Information Gathering During Investigation

After the Notice of Allegations has been issued to the parties, the OE's investigator(s) will seek to obtain all available evidence directly related to the allegations at issue. The investigators will determine what evidence is relevant and what evidence is impermissible regardless of relevance.

Relevant evidence is related to the allegations of Prohibited Conduct under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged Prohibited Conduct occurred, and evidence is relevant when it may aid a decision maker in determining whether the alleged prohibited occurred.

Impermissible evidence that must be excluded (not be accessed or considered, except to determine if it is impermissible) includes:

- Evidence that is protected under privilege or evidence provided to a confidential employee, unless the person to whom the privilege of confidentiality has waived the privileged or confidentiality; party or witness's record;
- Records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and

maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so for a grievance process; and

- Evidence that relates to the *complainant's* sexual interests or prior sexual conduct, unless evidence about the *complainant's* prior sexual conduct is offered to prove that someone other than the *respondent* committed the alleged conduct or is evidence about specific incidents of the *complainant's* prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the *complainant* and *respondent* does not by itself demonstrate or imply the *complainant's* consent to the alleged Prohibited Conduct or preclude determination that Prohibited Conduct occurred.

During the course of the investigation, the investigator(s) will interview the *complainant*(s), *respondent*(s), and witnesses separately.

The parties and witnesses may have an advisor of their choosing, including an attorney, advocate, or other person, to provide support and advice throughout the grievance process, including but not limited to, being present for any meetings with the OE personnel. The advisor is not authorized to participate instead of the *complainant* or *respondent*. The advisor may not engage in any conduct that is disruptive to the meeting or interview, or that would constitute harassment or retaliation against any person who has participated in an investigation. Advisors may be denied further participation for harassing or retaliatory conduct.

The *complainant*, *respondent*, and witnesses are expected to respond to the investigator(s) request to schedule an interview or to provide other evidentiary materials within a timely manner, generally within ***seven (7) calendar days*** of the investigator's request. If a party or witness fails to respond within a reasonable time, the investigator may continue the investigation without the benefit of information the party or witness might have provided.

The OE will provide, to a *complainant*, *respondent*, or witness whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of their own investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

Parties may suggest questions to be posed by the investigator(s) during interviews to other parties and/or witnesses during the course of the investigation. The investigator(s) may decline to ask a question when the question is not reasonably calculated to lead to the discovery of probative evidence, when the probative value is outweighed by the danger of unfair prejudice, or in consideration of undue delay or needless presentation of cumulative evidence.

The University, and not the parties, holds both the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility for Prohibited Conduct. Both parties may present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Neither party is restricted from discussing the allegation under investigation or from gathering or presenting relevant evidence. The OE will also contact

individuals who may have potentially relevant information related to allegations under investigation even if these individuals are not proposed by the parties.

e. Review of the Investigative Summary and Full Investigative File

When the investigator determines that the investigation is reasonably complete, the investigator will prepare an Investigative Summary that provides a list of the directly related evidence. The evidence subject to inspection and review in an electronic format or a hard copy will be available for review by the *complainant*(s), the *respondent*(s), and each party's advisor. The Investigative Summary will include:

- A description of the complaint;
- The Notices of Allegations;
- Procedural history and jurisdiction;
- A list of the interviews conducted, including date, time, location, and whether a transcript, audio, or video recording is included;
- A witness name key including witness identities and brief description of their role at the University and within the investigation; and
- A list and description of all relevant Exhibits.

The full investigative file will include:

- Witness interview audio or video files;
- Witness transcripts;
- Documentary evidence; and
- Email communication relevant to the investigation.

The *complainant*(s) and *respondent*(s) will have the opportunity to respond to the Investigative Summary and full investigative file with further information, but only as it pertains to factual disputes or clarifying information they provided. Parties are unable to change the information provided by other parties or witnesses; rather, they may respond to the information. If either the *complainant*(s) or *respondent*(s) are reminded of further evidence they have, they may provide this to the investigator(s). Additionally, the parties may:

- Provide any additional information that they believe is relevant to the investigation or to seek clarification from the investigator;
- Identify any new witnesses who should be interviewed (including a description of what topics/issues the witness should be asked to address and why this is necessary for the investigation);
- Identify any additional evidentiary materials that should be collected and reviewed to the extent that such items are reasonably available (e.g., text messages, social media postings, etc.), understanding that the investigator lacks the power to subpoena evidence; and,
- Identify any information that they believe was inappropriately included or excluded.

While the University will not restrict the ability of the parties to discuss the allegations or gather evidence, the University will seek to ensure that the parties and their respective advisors, advocates or support persons as applicable maintain the privacy of disclosed information, particularly in electronic and/or hard copy format. Parties receiving such private information should only distribute it to those individuals with a legitimate need to know. The University will continue to enforce prohibitions against harassment and retaliation.

The parties will have at least ***fourteen (14) calendar days*** to submit a written response to the Investigative Summary and full investigative file to the investigator(s). The investigator(s) will consider the parties' responses, if any, prior to completing the final investigative report.

Where the investigator(s) receive information that warrants further investigation or review, the investigator(s) may extend the investigation in order to collect additional information. If an investigation is extended for this purpose, the parties will be notified in writing. Following such an extended investigation, the investigator(s) will issue an amended Investigative Summary to include newly gathered information being considered.

The decision to extend the investigation shall be at the discretion of the investigator(s) and made in consultation with the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee.

f. Extension Request – Response to Investigative Summary and full investigative file

Should a *complainant* or *respondent*, intending to provide a response to the Investigative Summary, believe they do not have adequate time to prepare their written response, a written request for extension of time may be submitted to the investigator(s). The request must be submitted within the ***fourteen (14) calendar day*** deadline for responding to the Investigative Summary, and should include the rationale for requesting the extension along with the proposed date by which all response documents will be submitted. Requests for extension of time will be considered on their merits and will not automatically be granted. When an extension is granted, other parties will be notified and provided the same extension, if granted.

g. Requests to Inspect the Investigative File

Requests to inspect directly related information gathered by the investigator(s) can be made at any time during the investigative process and will be considered by the investigator(s) in consultation with the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee. The opportunity to inspect the investigative file will be provided within ***45 calendar days*** and will be provided equally to both parties. Requests must be made in advance and in writing (via email) to the investigator(s).

h. Final Investigative Report and Determination Regarding Responsibility – Non-Hearing Procedures

At the conclusion of the evidence gathering phase ***in an investigation not going to a hearing (see Section VII(D) below)*** including any relevant information or questions submitted in

response to the Investigative Summary and full investigative file subsequent follow-up investigation, as appropriate, the investigator(s) shall prepare a written Final Investigative Report including an analysis of the facts and a determination as to whether or not there was a violation of the Sexual Misconduct or Nondiscrimination Policies based on the application of the factual findings to the Sexual Misconduct or Nondiscrimination Policies.

Regardless of the whether the *respondent* is a student or employee, consistent with the standard of proof in other conduct proceedings, the OE applies the "preponderance of the evidence" standard when making findings of fact and conclusions as to whether violations of Sexual Misconduct or Nondiscrimination Policies occurred. A preponderance of the evidence exists when the totality of the evidence demonstrates that an allegation of misconduct is more probably true than not. If the evidence weighs so evenly that the investigator(s) is unable to say there is a preponderance on either side, the investigator(s) must determine that there is insufficient evidence to conclude that a violation of the Sexual Misconduct or Nondiscrimination Policies occurred.

In applying the preponderance of the evidence standard, the investigator(s) may consider both direct and circumstantial evidence. The investigator(s) may determine the credibility of parties and witnesses and the weight to be given their statements, taking into consideration their means of knowledge, strength of memory and opportunities for observation, the reasonableness or unreasonableness of their statements, the consistency or lack of consistency of their statements, their motives, whether their statements are contradicted or supported by other evidence, any evidence of bias, prejudice or interest, and the person's manner and demeanor when providing statements.

It is the responsibility of the investigator, not the parties, to make a determination based on the totality of the available information whether or not the preponderance of the evidence has been met. Neither party bears a burden of proof.

For investigations involving student *respondent*s, the Final Investigative Report will include a determination of whether the *respondent* is found responsible for violating the Sexual Misconduct or Nondiscrimination Policies or not.

For investigations involving employee *respondent*s, the written Final Investigative Report will include a determination of whether the *respondent* is found responsible for violating the Sexual Misconduct or Nondiscrimination Policies or not. If an employee *respondent* is found not to be responsible for violating the Sexual Misconduct or Nondiscrimination Policies, the written Final Investigative Report may, if applicable, include a determination that the employee *respondent* engaged in conduct that was inappropriate or unprofessional. In such cases, the OE will refer such matters to the appointing/disciplinary authority, who will make the final determination on appropriate action or response.

The written Final Investigative Report may be submitted to the Office of University Counsel to review for legal sufficiency.

i. Notice of Determination Regarding Responsibility

The OE will issue a copy of the written Final Investigative Report and Notice of Determination Regarding Responsibility to the *complainant* and *respondent* simultaneously. The Notice will also notify the parties about the sanctions (as applicable), right to appeal, and next step in the process. For investigations involving employee *respondents*, the *respondent's* appointing/disciplinary authority will also receive the Notice and may receive the Final Investigative Report.

D. Hearing Procedures

A hearing will be conducted for investigations of complaints of Prohibited Conduct under the Sexual Misconduct policy, including sexual assault, intimate partner abuse, stalking, hostile environment sexual harassment (including harassment due to sex, gender, gender identity, gender expression, pregnancy, sexual orientation), and quid pro quo sexual harassment that involve students as either a *complainant* or a *respondent*.[9]

A trained hearing officer will preside over a live hearing. Nothing precludes the OE from utilizing a single decision-maker (hearing officer) or a panel of decision-makers (including the hearing officer) for the hearing and determining responsibility.

Each party may bring one advisor of their choosing to the live hearing to conduct cross-examination, with prior notice to the OE that the advisor will attend and the advisor's name. The OE will inform both parties of the identity of the other party's advisor. If a party does not have an advisor present at the live hearing, the OE will provide that party an advisor, without fee or cost.

Though a party may utilize an advisor of their own choosing throughout the hearing process, the role of the University-appointed advisor is limited to conducting cross-examination of parties and witnesses during the live hearing. A party may not personally conduct cross-examination during the hearing. Even if a party declines to work with an advisor, the party will have a University advisor appointed, and the University-provided advisor will be present to conduct cross-examination of the other party and witnesses.

Upon notice that a party needs an advisor for the hearing, the University will endeavor to assign an advisor at least ***14 calendar days*** prior to the scheduled pre-hearing conference so the advisor may prepare. The advisor provided by the University to conduct cross-examination on behalf of that party may be, but is not required to be, an attorney.

[9] Investigations of Complaints of discrimination or harassment due to age, color, creed, disability, marital status, national origin, political affiliation, political philosophy, race, religion, or veteran status involving students, employees, or third-parties, as well as investigations of Complaints of sexual assault, intimate partner abuse, stalking, hostile environment sexual harassment (including hostile environment harassment due to sex, gender, gender identity, gender expression, pregnancy, sexual orientation), and quid pro quo sexual harassment that do not involve students as *complainants* or *respondents*, will not move to a Hearing.

Live hearings will be conducted virtually, with parties (and their respective advisors) located in separate locations. Technology will enable the hearing officer or panel of decision-makers and parties to simultaneously see and hear the party or witnesses answering questions. Hearings are closed to the public.

The hearing officer must create an audio or audiovisual recording, or transcript, of any live hearing and the University must make it available to the parties for inspection and review.

1. Pre-Hearing Conference

To effectuate an orderly, fair, and respectful hearing, the hearing officer will convene a pre-hearing conference with each party and party's advisor to plan for the hearing. Attendance is required, at minimum, by each party's advisor. The parties will be provided the name(s) of the hearing officer and panelists, if applicable, prior to the pre-hearing conference.

Prior to the pre-hearing conference, the parties will provide the hearing officer with a list of witnesses they may call and evidence they may use during the hearing.

At the pre-hearing conference, the hearing officer and the advisors will discuss, at minimum, the following topics:

- Identification of each party's advisor who will be attending the live hearing;
- The Procedures to be followed at the hearing;
- Identification of witnesses who will appear at the hearing;
- Identification of exhibits that will be presented for the cross-examination process; and
- Discussion of evidentiary guidelines.

2. Cross-Examination Procedure

A live hearing will be conducted before a hearing officer (not the investigator) for the purpose of proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging. The process will allow the hearing officer to ask such questions and allow each party's advisor to ask any party or witness such questions. Such questioning must never be conducted by a party personally. If a party does not have an advisor to ask questions on their behalf, the University will provide a party with an advisor of the University's choice, without charge, for the purpose of advisor-conducted questioning. The University appointed advisor must not be a confidential employee and may be an attorney.

The hearing officer must determine whether a proposed question is relevant and not otherwise impermissible prior to the question being posed and must explain any decision to exclude a question as not relevant or otherwise permissible. The hearing officer must not permit questions that are unclear or harassing of the party or witness being questioned. The decision maker must give a party an opportunity to clarify or revise a question that the hearing officer has determined is unclear or harassing and, if the party sufficiently clarifies or revised a question, the question must be asked. All rules of decorum must apply equally to

all parties.

The hearing officer may place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The hearing officer must not draw an inference about whether Prohibited Conduct occurred based solely on a party's or witness's refusal to respond to such questions.

Live hearings will be conducted virtually, with parties located in separate locations. Technology will enable the hearing officer and parties to simultaneously see and hear the party or the witness answering questions. Hearings are closed to the public.

The creation of an audio or audiovisual recording, or transcript, of any live hearing and the University must make it available to the parties for inspection and review.

3. Submission to Cross-Examination

Any individual (*complainant*, *respondent* or witnesses) may choose to not participate in the live cross-examination hearing. If a *complainant* or *respondent* declines to submit to cross-examination, the party's advisor may still ask questions on their behalf.

4. Determination Regarding Responsibility

Consistent with the standard of proof in other conduct proceedings, the hearing officer must apply the preponderance of the evidence standard when making findings and conclusions as to whether a Sexual Misconduct Policy violation has occurred. A preponderance of the evidence exists when the totality of the evidence demonstrates that an allegation of Prohibited Conduct is more probably true than not. If the hearing officer is not persuaded under the preponderance of evidence standard that Prohibited Conduct occurred, whatever the quantity of the evidence is, the hearing officer will not determine that Prohibited Conduct occurred.

In applying the preponderance of the evidence standard, the hearing officer may consider both direct and circumstantial evidence. The hearing may determine the credibility of parties and witnesses and the weight to be given their statements, taking into consideration their means of knowledge, strength of memory and opportunities for observation, the reasonableness or unreasonableness of their statements, the consistency or lack of consistency of their statements, their motives, whether their statements are contradicted or supported by other evidence, any evidence of bias, prejudice or conflict of interest, and the person's manner and demeanor when providing statements.

It is the responsibility of the hearing officer, not the parties or the investigators, to make a determination based on the totality of the available information to determine whether or not the preponderance of the evidence has been met. Neither party bears a burden of proof. The ultimate determination of factual findings and responsibility rests with the hearing officer after full consideration of all available evidence.

The hearing officer must issue a written determination regarding responsibility that will be sent to the OE. The written determination regarding responsibility may be submitted to the Office of University Counsel to review for legal sufficiency prior to being issued to the parties.

The written determination must include:

- Identification of the allegations potentially constituting Prohibited Conduct;
- A description of the procedural steps taken from the receipt of a complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Information about the policies and procedures that the University used to evaluate the allegations;
- A statement of, and rationale for, the result as to each allegation, including a Determination Regarding Responsibility;
- Findings of fact based on an evaluation of the relevant and not otherwise impermissible evidence supporting the determination; and
- Conclusions regarding the application of the Policy to the facts.

The determination regarding responsibility becomes final either on the date that the University provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The OE will also provide any applicable notices to the *complainant* following the conclusion of any subsequent corrective or disciplinary action pursuant to the State Personnel Board Rules for *respondent*s who are classified employees and the Professional Rights and Duties procedure and Privilege and Tenure process for *respondents* who are faculty.

In the event that no Policy violation is found, there is no preclusion of discipline for other student or employee misconduct under applicable University Policies, Procedures, or codes of conduct.

5. Notice of Finding[10]

The OE shall advise the *complainant* and *respondent* simultaneously in writing of the result or outcome of the grievance process. A copy of the written Determination Regarding Responsibility shall be provided to the *complainant* and the *respondent*. In addition, for investigations involving employee *respondents*, the *respondent'*s supervisory upline, including the

[10] Findings under the OE Resolution Procedures are not findings pursuant to applicable state and federal legal standards, i.e. a policy violation does not equate to a violation of equal opportunity law.

appointing/disciplinary authority, also receives the written Determination Regarding Responsibility after the conclusion of the appeal stage of the process.[11]

The Notice of Finding will also notify the parties as to the next step in the process, as applicable.

E. Sanctioning and Appeals for Student Respondents

In cases where the grievance process results in a policy violation,[12] the matter will be referred by the Assistant Vice Chancellor of the OE/Title IX Coordinator of the OE or designee to the Sanctioning Board. In the event that no policy violation was found, there is no preclusion of discipline for other misconduct.

In cases in which a policy violation is found, both parties may submit an optional written statement to the OE detailing any aggravating or mitigating circumstances that may impact sanctioning. These optional statements will only be shared with the sanctioning authority. The statement should only contain information about the factors considered in sanctioning. This step is not intended to supersede any other rights or processes employees may have under other University policies or applicable law. The parties will have ***seven (7) calendar days*** of the issuance of the Determination Regarding Responsibility to submit a statement.

1. Sanctioning Board for Cases with Student Respondents

The Sanctioning Board is composed of three (3) members who are collectively authorized to impose sanctions for student *respondents* and to remedy the effects of discrimination and/or harassment. The Board shall decide sanctions and/or remedies by unanimous decision and simultaneously notify the *complainant* and the *respondent* of any sanctions and/or remedies.

A representative from the OE is a member and the Chair of the Sanctioning Board for student *respondents* and will appoint two additional University employees who are not affiliated with the OE and do not have a conflict of interest to serve on the Sanctioning Board. For cases involving ***CU Anschutz*** student *respondents***,** one member will be appointed by the Dean or designee from the ***CU Anschutz*** school or college that the *respondent* attends and the other member will be a ***CU Anschutz*** employee. University employees who serve on the Sanctioning Board will have received appropriate training regarding the Applicable Policies and factors pertinent to the sanctioning decision.

2. Factors Considered in Sanctioning for Cases with Student Respondents

The Board members conduct an individualized review of the final written Determination Regarding Responsibility and may review the entire investigative file and consult with OE staff or any other University staff, as needed, in making a sanctioning determination.

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[11] If the *respondent* is a student employee and the alleged misconduct occurs outside the employment capacity, the OE may determine that the *respondent*'s supervisory upline has a legitimate need to know information related to the case resolution.

[12] For cases in which no policy violation is found, both parties will be notified of their right to appeal, as articulated in Section VII(E)(4) below.

Factors pertinent to a sanctioning decision may include, but are not limited to:

- Severity and/or pervasiveness of conduct;
- The impact of separating a student from their education;
- Relationship between the parties, including degree of control of one party over another;
- Whether the *complainant* was incapacitated at the time of the conduct;
- Whether there was force/violence, weapons, or threats of force/violence;
- Any prior history of related criminal, conduct, or policy violations including but not limited to the University of Colorado Code of Conduct and any applicable Student or Professional Code of Conduct and any active disciplinary sanctions in place at time of the conduct;
- Impact of incident on *complainant*, if applicable;
- Acceptance of responsibility by *respondent*; and
- On-going safety risk to *complainant* or community.

3. Possible Sanctions for Student Respondents

Sanctions may include one or more of the following:

- **Warning/Written Reprimand:** A warning/written reprimand is a written statement from the Board or designee that the behavior was inappropriate and that more serious action will be taken should subsequent infractions occur.

- **Educational Sanctions:** The student may be required to attend a class, evaluation, or program (e.g., alcohol or anger management classes or training on Sexual Misconduct or protected-class discrimination and harassment). This is not an exhaustive list but should serve as a reference for the types of educational sanctions that may be imposed.

- **Meeting with the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee:** The student may be required to meet with a University official to review the terms of the sanction and ensure compliance prior to eligibility to apply for readmission, as applicable.

- **Residence Hall Reassignment:** A student who resides in a residence hall is assigned to a different residence hall room or floor.

- **Residence Hall Termination:** A student's residence hall agreement is terminated through the OE process, and the student is prohibited from residing in any University residence on either a permanent or temporary basis. Specific exclusion from the residence halls may also be imposed.

- **Probation:** A student is placed on probation. Probation lasts for a specific period of time, and is implemented by semesters. Any violation of University policies or the conditions of probation committed during the probationary period will result in further disciplinary action.

- **Restriction or Denial of University Services:** The student is restricted from using or is denied specified University services, including participation in University activities.

- **Suspension:** The student is required to leave the University for a specific period of time. A suspension notation appears on the student's transcript until the period of suspension has expired and all other sanctions are complete. The student is required to apply for readmission through the Office of Admissions after their suspension period. Suspension from the University includes an exclusion from University property during the period of suspension. A suspension decision results in the student being suspended from all campuses of the University of Colorado system.

- **Exclusion:** The student is denied access to all or a portion of University property. When a student is excluded from University property, that student may be permitted on University property for limited periods and specific activities with the permission of the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee. Should the student enter University property without permission, the police may charge the student with trespass and the student may be charged with additional policy violations. For Student Sanctioning Boards making recommendations for ***CU Anschutz*** *respondents*, recommendations for exclusions will be made to the Chief of Police, who makes the final determination regarding exclusions.

- **Expulsion:** The student is required to permanently leave the University. A notation of expulsion remains permanently on the student's transcript. Expulsion from the University typically include an automatic exclusion from University of Colorado property. However, for Student Sanctioning Boards making recommendations for ***CU Anschutz*** *respondents*, an exclusion recommendation shall be made to the Chief of Police, who makes the final determination regarding exclusions. An expulsion decision at ***CU Denver*** results in the student being expelled from all campuses in the University of Colorado.

- **Disciplinary Hold:** A disciplinary hold shall be placed on a student's record if they are suspended as the outcome of the OE proceedings. A disciplinary hold is honored by all University of Colorado campuses and prohibits a student from being admitted to any of the campuses and from registering for classes until the suspension period is over and the student has reapplied and has been re-admitted. A disciplinary hold may also be placed if a student fails to complete assigned sanctions, which has the same impact on a student's records and registration as described above. The disciplinary hold will not be removed until all sanctions are completed.

- **Additional Sanctions:** The Board has the discretion to impose any additional sanctions that may be warranted and appropriate given the circumstances of the case.

4. Appeals for Cases with Student Respondents

In the event that no policy violation is found, either party may appeal the Determination Regarding Responsibility within ***seven (7) calendar days of*** its issuance. In the event that a

policy violation is found, either party may appeal the Determination Regarding Responsibility within ***seven (7) calendar days*** of the issuance of the Notice of Sanction.

Appeals must be submitted in writing to the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee. The appeal should indicate the specific basis for the appeal (see below), supporting arguments, and any applicable documentation.

All appeals are documentary reviews, and no interviews are conducted. The appealing party may not present any new evidence unless the party can demonstrate that it could not, with reasonable diligence, have been discovered or produced during the course of the investigation. Generally, appeals are determined solely on the merits of the claims, arguments, and documents submitted. Appeal documents therefore should be as complete and succinct as possible.

5. Basis for Appeals for Cases with Student Respondents

Appeals must state one or more of the following criteria as the reason for the appeal:

- To determine whether there were procedural irregularities that affected the outcome of the matter;
- There is new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; or
- The Assistant Vice Chancellor of the OE/Title IX Coordinator, investigators, and/or decision-maker had a conflict of interest or bias for or against *complainants* or *respondents* generally or the individual *complainant* or *respondent* that affected the outcome of the matter.

6. Student Appeal Process and Appeal Advisory Board

If an appeal is received, the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee will notify the other party to the original complaint (*complainant* or *respondent*) in writing, and the party will be provided ***seven (7) calendar days*** to respond in writing to the appeal. The response should be sent to the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee. Neither party is required to respond to an appeal. Not responding to an appeal does not imply agreement with the appeal.

After the submission of all documentation or the seven-day deadline for response has passed, the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee will appoint two additional CU employees (who may include staff from any CU campus) who are not otherwise affiliated with the OE to serve on the three-person Appeal Advisory Board. The Appeal Advisory Board appointees will have received appropriate training on the Applicable Policy and appeal procedures. The Assistant Vice Chancellor of the OE/Title IX Coordinator or designee is the Chair of the Appeal Advisory Board.

Upon review of the appeal, the Appeal Advisory Board will:

- Uphold the initial decision in its entirety; or
- Send the case back for reconsideration and potentially re-investigation (by the same or different investigator(s)).

The Appeal Board shall not make new findings of fact. The Board shall review all documentation submitted, make the final decision upon appeal, and concurrently provide the parties with a written Notice of Appeal Decision within 21 calendar days of receipt of the appeal.

F. Sanctioning and Appeals for Employee Respondents

For employee *respondents*, sanctioning occurs after the conclusion of the appeal stage of the process. The disciplinary authority is notified if an employee *respondent* was found to have violated a policy or acted inappropriately or unprofessionally and is provided the Determination Regarding Responsibility. Neither this notification, nor the OE Formal Grievance Process, replaces any additional process or meetings that may be required under other applicable personnel processes (*e.g.*, State Personnel Board Rules for classified employees; Professional Rights and Responsibilities procedure and Privilege and Tenure process for faculty).

In cases in which a policy violation is found, both parties may submit an optional written statement to the OE detailing any aggravating or mitigating circumstances that may impact sanctioning. These optional statements will only be shared with the sanctioning authority. The statement should only contain information about the factors considered in sanctioning. This step is not intended to supersede any other rights or processes employees may have under other University policies or applicable law. The parties will have ***seven (7) calendar days*** from the conclusion of the appeal stage of the process to submit a statement.

1. Employee Sanction Required and Potential Sanctions

In order to remediate the effects of misconduct, the disciplinary authority will impose sanctions. The disciplinary authority will determine the type of sanction(s) in consultation with the Associate Vice Chancellor/Chief Human Resources Office or designee and with a written recommendation from the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee, and any other administrative staff with a need to know pursuant to any other process applicable to the employee.

The disciplinary authority may have access to the investigative records in order to determine action. Additionally, the OE can provide redacted information to the disciplinary authority related to similarly situated investigations and sanctioning outcomes to ensure consistency and equity in sanctioning.

Potential sanctions may include:

- **Letter of Expectation/Reprimand:** A warning/written letter of expectation or reprimand is a statement from the disciplinary authority that the behavior was inappropriate and that more serious disciplinary action will be taken should subsequent infractions occur.

- **Mandatory Training:** The employee may be required to attend a training, class, or program as relevant to the misconduct.

- **Demotion:** The employee is demoted from their current position.

- **Job Duty Modifications:** The disciplinary authority may modify the employment responsibilities of the employee.

- **Reduction in Salary/Ineligibility for Merit Increases:** The employee's salary is reduced either permanently or temporarily, or the employee is not eligible for merit increases either permanently or temporarily.

- **Ineligibility for Rehire:** The employee is no longer eligible for employment at the University.

- **Exclusion:** The employee is denied access to all or a portion of University property. When an employee is excluded from University property, that employee may be permitted on University property for limited periods and specific activities with the permission of the University official or designee who imposed the exclusion. Should the employee enter University property without permission, police may charge the employee with trespass and the employee may be charged with additional policy violations. For ***CU Anschutz*** *respondents*, an exclusion recommendation shall be made to the Chief of Police, who makes the final determination regarding exclusions.

- **Termination of Employment Contract or Termination of Employment:** Pursuant to applicable laws and policies specific to the employee's status, the disciplinary authority recommends or terminates employment.

- **Additional Sanctions:** The disciplinary authority has the discretion to impose any additional sanctions that may be warranted and appropriate given the circumstances of the case.

2. Appeals for Cases with Employee Respondents

Either party may appeal the Determination Regarding Responsibility within ***seven (7) calendar days*** of its issuance. This occurs prior to the sanctioning phase for employee *respondents* consistent with comparable University proceedings as required for employee *respondents*, including as applicable State Personnel Board Rules or Regent Law, Article 5.D.

Appeals must be submitted in writing to the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee. The appeal should indicate the specific basis for the appeal (see below), supporting arguments, and any applicable documentation.

All appeals are documentary reviews, and no interviews are conducted. The appealing party may not present any new evidence unless the party can demonstrate that it could not, with reasonable diligence, have been discovered or produced during the course of the investigation. Generally,

appeals are determined solely on the merits of the claims, arguments, and documents submitted. Appeal documents therefore should be as complete and succinct as possible.

3. Basis for Appeals for Cases with Employee Respondents

Appeals must state one or more of the following criteria as the reason for the appeal:

- To determine whether there were procedural irregularities that affected the outcome of the matter;
- There is new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; or
- The Assistant Vice Chancellor of the OE/Title IX Coordinator, investigators, and/or decision-maker had a conflict of interest or bias for or against *complainants* or *respondents* generally or the individual *complainant* or *respondent* that affected the outcome of the matter.

4. Appeal Process and Appeal Advisory Board for Cases with Employee Respondents

If an appeal is received, the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee will notify the other party to the original complaint (*complainant* or *respondent*) in writing, and the party will be provided ***seven (7) calendar days*** to respond in writing to the appeal. The response should be sent to the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee. Neither party is required to respond to an appeal. Not responding to an appeal does not imply agreement with the appeal.

After the submission of all documentation or the seven-day deadline for response has passed, the Assistant Vice Chancellor of the OE/Title IX Coordinator or designee will appoint two additional University employees (who may include staff from the CU Anschutz, CU Denver, CU Boulder and Colorado Springs campuses) who are not otherwise affiliated with the OE to serve on the three-person Appeal Advisory Board. The Appeal Advisory Board appointees will have received appropriate training on the Applicable Policy and appeal procedures. The Assistant Vice Chancellor of the OE/Title IX Coordinator or designee is the Chair of the Appeal Advisory Board.

Upon review of the appeal, the Appeal Advisory Board will:

- Uphold the initial decision in its entirety; or
- Send the case back for reconsideration and potentially re-investigation (by the same or different investigator(s)).

The Appeal Board shall not make new findings of fact. The Board shall review all documentation submitted, make the final decision upon appeal, and concurrently provide the parties with a written Notice of Appeal Decision within 21 days of receipt of the appeal.

5. Notice of Sanction for Cases with Employee Respondents

The Assistant Vice Chancellor of the OE/Title IX Coordinator or designee will ensure to the extent possible that both parties simultaneously receive notice of any sanctions imposed and any other steps taken by the campus to remedy the discrimination and/or harassment to the extent permitted by law. Regardless of the OE findings, there is no preclusion of discipline by the disciplinary authority for other misconduct or for inappropriate or unprofessional conduct.

The OE will also provide notice of the final outcome to the *complainant* following the conclusion of any subsequent corrective or disciplinary action pursuant to the State Personnel Board Rules for *respondents* who are classified employees and the Professional Rights and Responsibilities procedure and Privilege and Tenure process for *respondents* who are faculty.

VIII. Conflict of Interest in Cases of Amorous Relationships Policy Resolution Procedures

The CU Amorous Relationships Policy requires that direct evaluative authority not be exercised in cases where amorous relationships exist or existed within the last seven years between two individuals. Problems often arise with amorous relationships in situations where one party is the supervisor and the other the supervisee. In such situations the integrity of academic or employment decisions may either be compromised or appear to be compromised. Further, amorous relationships between parties of unequal power greatly increase the possibility that the individual with the evaluative responsibility, typically a supervisor or a faculty member, will abuse their power and sexually exploit the student or employee. A relationship which began as consensual, may in retrospect be seen as something else by one or both of the parties. Moreover, others may be adversely affected by such behavior because it places the faculty member or supervisor in a position to favor or advance one student's or employee's interest at the expense of others and implicitly makes obtaining preferences contingent upon romantic or sexual favors. The Amorous Relationships Policy, consequently, is intended to:

- Establish a reporting structure to protect participants in these relationships from violations of University conflict of interest guidelines; and
- Provide direction concerning how to terminate evaluative responsibilities between the two parties in the reported relationship.

A. Removing Direct Evaluative or Supervisory Responsibilities

There is a conflict of interest when a direct evaluative relationship exists between two employees or between an employee and a student, either during the time that the amorous relationship is occurring or within seven years after it has occurred. In such circumstances the following Procedures will be used to resolve the conflict of interest.

If the amorous relationship exists in a faculty member/student direct evaluative relationship, a faculty member/faculty member direct evaluative relationship, or a faculty member/staff direct evaluative relationship, the relationship must be disclosed to the faculty member's unit head(s) (department chair, dean, or head of the primary unit) with all parties present (the parties in the relationship and the unit head). The individual in the evaluative position shall recuse themself from all future evaluative actions involving the other person. The parties involved may choose to have this disclosure in written form placed in their own personnel files.

If the amorous relationship exists in a form of supervisor/supervisee direct evaluative relationship other than those enumerated above, it must be disclosed to the supervisor's unit head, typically the appointing authority/disciplinary authority, with all parties present. The parties involved may choose to have this disclosure in written form placed in their own personnel files. In either of these sets of circumstances, the responsibility to disclose rests with the person in the evaluative position. The individual to whom the disclosure is made is responsible for requiring that actions be taken to resolve the conflict by terminating the evaluative relationship.

If such actions are outside that individual's authority, the matter shall be referred to the individual with the authority to take such actions.

In any of the circumstances described above, the individual to whom disclosure is made bears responsibility for keeping this information confidential to the fullest extent possible.

The OE is the designated office to report compliance with the Policies for ***CU Denver*** and ***CU Anschutz***.

B. Recusal and Disclosure in the Direct Line of Report

When an amorous relationship, either current or within the last seven years, exists between an individual and an employee who, although not their direct supervisor, is in the direct line of report (e.g., a dean who is involved with a faculty member in their college, or a second or higher level supervisor who has a relationship with a staff member in their unit), the higher level employee may not act in an evaluative capacity in relation to the other individual. Specifically, when the individual at the higher level of evaluative authority and the other individual in the relationship are parties to a personnel action as defined in the Amorous Relationships Policy, the evaluative authority must recuse themself from participating in that action. In this circumstance, either the individual at the higher level or their supervisor must report the action taken to resolve the conflict to the Chancellor or the Chancellor's designee, the OE. If the action taken is not reported to the Chancellor or the OE, or the amorous relationship is not reported, the OE will report this to the employees' disciplinary or appointing authorities for further actions, as appropriate.

If the Chancellor or the OE should find that the actions do not adequately resolve the conflict, the Chancellor or the OE may require other action, which may include further investigation. If further investigation is required, the OE will follow the Resolution Procedures described in Section VII.

IX. Resources

Note: Confidential resources are identified by an asterisk.*
Resources in this list are organized by location (CU Denver, CU Anschutz, and Off-Campus) and by the community that the resource serves (Students and Employees, Students only, and Employees only).

CU Denver Student and Employee Resources:

The Phoenix Center at Auraria*
https://www.thepca.org/
The Phoenix Center at Auraria (PCA) provides free and confidential advocacy to survivors of interpersonal violence and their families and friends.
24/7 Helpline: 303.556.2255
Office Phone: 303.315.7250
Location: Tivoli Student Union, Room 227

The Ombuds Office (CU Denver and CU Anschutz)*
https://www.ucdenver.edu/offices/ombudsoffice
The Ombuds Office is an independent resource, which will provide informal, confidential, and neutral services to members of the University community in resolving conflicts, complaints, and disputes.
Phone: 303.315.0046
Location: Lawrence Street Center, Room 1003

Auraria Police Department
https://www.ahec.edu/services-departments/police
24/7 Emergency Line: 9-1-1 or 303-556-5000
Text-a-Tip: 720-593-TIPS (8477)
Campus Information Hotline: 1-877-556-EMER (3637)
Location: Administration Building, 1201 5th Street, Suite 110, Denver, CO 80217

CU Denver Student Resources:

Student and Community Counseling Center*
https://www.ucdenver.edu/counseling-center
The CU Denver Student and Community Counseling Center provides mental health counseling services to CU Denver students
Phone: 303.315.7270
Location: Tivoli Student Union, Room 454

CARE (Campus Assessment, Response, and Evaluation) Team
https://www.ucdenver.edu/student/wellness/care-team (submit a concern at this site)
The CU Denver CARE Team provides a preventative approach to risk assessment by offering resources, referrals, and support to both concerning individuals and those impacted by their behavior.

Phone: 303.315.7306

Office of Case Management
https://www.ucdenver.edu/student/wellness/case-management
The CU Denver Office of Case Management services include providing intervention, advocacy, resources and referrals for CU Denver Students.
Phone: 303.315.7306
Location: Tivoli Student Union, Room 309

Student Conduct and Community Standards
https://www.ucdenver.edu/student/wellness/student-conduct (report an incident at this site)
The CU Denver Office of Student Conduct and Community Standards serves as a resource to the entire University community through its efforts to meet the developmental and educational needs of students related to community expectations, civility and respect for self and others. They function to support community members with conflict management and resolution, and responding to inappropriate and threatening behaviors.
Phone: 303.315.7311
Location: Tivoli Student Union, Room 309

CU Denver Affinity Services and Centers

- Center for Identity and Inclusion: https://www.ucdenver.edu/offices/diversity-and-inclusion/our-offices/center-for-identity-inclusion; 303.315.1877
- American Indian Student Services: 303.315.1882
- Asian American Student Services: 303.315.1879
- Black Student Services: 303.315.1881
- Latinx Student Services: 303.315.1878
- Undocumented Student Services: 303.315.1883
- Women and Gender Center: 303.315.7262
- Disability Resources and Services: https://www.ucdenver.edu/offices/disability-resources-and-services; 303-315-3510
- LGBTQ Student Resource Center of Auraria: https://www.msudenver.edu/lgbtq/; 303.615.0515
- International Student & Scholar Services: https://www.ucdenver.edu/services/international-student-and-scholar-services; 303.315.2230

CU Denver Employee Resources:

Employee Real Help Hotline*
The Real Help Hotline gives you access to professional counselors who can offer assistance finding local resources or provide immediate crisis counseling.
24/7 Hotline: 833-493-8255

State Employee Assistance Program CSEAP*
24/7 Emergency Line: 303-866-4314
Request an Appointment: https://cseap.colorado.gov/contact-us

CU Denver Faculty and Staff Threat Assessment and Response Team (FaST)
https://www.ucdenver.edu/offices/human-resources
Provides safety and support for employees who are referred.
Phone: 303-315-0182
Email: FacultyStaff.Assessment@ucdenver.edu

CU Anschutz Student and Employee Resources:

Blue Bench in collaboration with the Phoenix Center at Anschutz*
24/7 Helpline: 303.322.7273 (English) or 303.329.0031 (Spanish)
Phone: 303.329.9922 ext. 302

The Ombuds Office (CU Anschutz and CU Denver)*
https://www.ucdenver.edu/offices/ombudsoffice
The Ombuds Office is an independent resource, which will provide informal, confidential and neutral services to members of the University community in resolving conflicts, complaints, and disputes.
Phone: 303.724.2950
Location: Fitzsimons Building, Room 7005C

Anschutz Police Department
https://www.cuanschutz.edu/police
24/7 Emergency Line: 9-1-1 or 303.724.4444
Location: Building 407, 12454 E. 19th Place

CU Anschutz Student Resources:

Student and Resident Mental Health Service*
https://medschool.cuanschutz.edu/psychiatry/programs/student-resident-mental-health
CU Anschutz provides comprehensive and confidential mental health services for all students enrolled in the schools located at the CU Anschutz, as well as Graduate Medical Education (GME) residents and fellows (including Denver Health residents and fellows).
Phone: 303.724.4716; for acute crisis care after-hours, on weekends or during holidays call 1.844.8255, or text "TALK" to 38255
Location: Fitzsimons Building, Level 2

CARE (Campus Assessment, Response, and Evaluation) Team
https://www.cuanschutz.edu/student/support/care-team (refer a student at this site)
The CU Anschutz CARE team coordinates with students, faculty, and staff as well as concerned others to identify, assess, and intervene with individuals of concern.
Phone*:* 303.724.8488

Student Outreach and Support Office (Case Management)
https://www.cuanschutz.edu/student/support/case-management
The Student Outreach and Support Office collaborates with all CU Anschutz schools and colleges to ensure students have access to resources that help them navigate challenging

experience
Phone: 303.724.8488
Location: Education 2 North, Room 3200

Office of Disability, Access, and Inclusion
https://www.cuanschutz.edu/offices/office-of-disability-access-and-inclusion
The Office of Disability, Access, and Inclusion partners with students and programs to identify opportunities to create and promote meaningful access.
Phone: 303.724.8488
Location: Strauss Health Sciences Library, V23

LGBTQ+ Hub
https://www.cuanschutz.edu/offices/diversity-equity-inclusion-community/programs-and-initiatives/lgbtq-hub
The LGBTQ+ Hub (formerly Women and Gender Center) creates and maintains an inclusive campus environment for LGBTQ+ and allied students, faculty, staff, patients, and visitors on campus and within the Aurora.
Location: Education 2 North, Room 2101

CU Anschutz Employee Resources:

CU Anschutz Faculty and Staff Mental Health Clinic*
https://medschool.cuanschutz.edu/psychiatry/PatientCare/faculty-and-staff-mental-health
The Faculty and Staff Mental Health Clinic provides CU
Anschutz faculty, staff and postdocs with comprehensive and confidential mental health services that are readily and easily accessible.
Phone: 303.724.4940
Location: Fitzsimons Building

Office of Faculty Relations (formerly Office of Professional Excellence)
https://www.cuanschutz.edu/offices/professionalism (report an incident at this site)
The CU Anschutz Office of Faculty Relations (formerly Office of Professional Excellence) is a resource for all matters pertaining to professionalism concerns regarding residents, fellows, staff members, and faculty in any school or college on the CU Anschutz.
Phone: 303.724.4776
Location: Fitzsimons Building, 1st floor

CU Anschutz Faculty and Staff Threat Assessment and Response Team (FaST)
https://www.ucdenver.edu/offices/human-resources
Provides safety and support for employees who are referred.
Phone: 303-724-9687

Employee ADA Accommodations
The University of Colorado CU Anschutz is required to provide accommodations to qualified individuals with disabilities who are employees or applicants for employment, and for persons who participate in or apply for participation in the University's program and activities
Contact HR ADA Coordinator at HR.ADAcoordinator@cuanschutz.edu or via phone at 303-

724-6813.

Employee Real Help Hotline*
The Real Help Hotline gives you access to professional counselors who can offer assistance finding local resources or provide immediate crisis counseling.
24/7 Help Hotline: 833-493-8255

State Employee Assistance Program CSEAP*
24/7 Emergency Line: 303-866-4314
Request an Appointment: https://cseap.colorado.gov/contact-us

Off-Campus Sexual Assault Resources:

The Blue Bench*
https://thebluebench.org/about-us/who-we-are/overview.html
Denver-area comprehensive sexual assault prevention and survivor support center providing low to no-cost client services including a 24-hour hotline, individual and group therapy, and case management.
Phone: 303-329-9922
24/7 Sexual Assault Hotline: 303.322.7273

WINGS Foundation*
https://www.wingsfound.org/
Wings supports adult survivors of childhood sexual abuse to transcend trauma and lead their fullest, healthiest lives.
Phone: 303.238.8660

Sexual Assault Nurse Examination (SANE) Programs
Sexual Assault Nurse Examiner (SANE) and Medical Forensic Exam (MFE) programs have medical professionals trained in sexual assault response and care. These programs provide medical care and evidence collection, if desired, for sexual assault victims.
Individuals can receive a forensic/SANE without first talking to the University or a confidential resource by calling the police directly and telling the dispatcher that they want to report a sexual assault and would like to preserve evidence. The police can provide transportation to the hospital.
View a list of all SANE Locations in Colorado:
https://cdpsdocs.state.co.us/ovp/SARP/SANELocations2016.pdf

Deaf Overcoming Violence Through Empowerment (DOVE)*
https://deafdove.org/
DOVE works with Deaf, DeafBlind, DeafDisabled, and Hard of Hearing (DDBDDHH) people of all ages and backgrounds who have experienced abuse. Abuse includes: domestic violence, family violence, sexual assault, child abuse, adult survivors of childhood sexual abuse, bullying, stalking, and teen dating violence.
24/7 Crisis Line: 303.831.7874

RAINN: National Sexual Assault Hotline*

https://www.rainn.org/resources
Phone: 800.656.HOPE (4673)
Chat online at: https://hotline.rainn.org/online

Off-Campus Dating and Domestic Violence Resources:

Rose Andom Center*
https://roseandomcenter.org/
The Rose Andom Center is a place for domestic violence victims to find the safety, support, and services needed to rebuild their lives and heal their families.
Physical Location: 1330 Fox St. Denver, CO 80204
Phone: 720.337.4400

Deaf Overcoming Violence Through Empowerment (DOVE)*
https://deafdove.org/
DOVE works with Deaf, DeafBlind, DeafDisabled, and Hard of Hearing (DDBDDHH) people of all ages and backgrounds who have experienced abuse. Abuse includes: domestic violence, family violence, sexual assault, child abuse, adult survivors of childhood sexual abuse, bullying, stalking, and teen dating violence.
24/7 Crisis Line: 303.831.7874

National Domestic Violence Hotline*
https://www.thehotline.org/
Phone: 800.799.SAFE (7233)
Chat online: https://www.thehotline.org/#

Additional Off-Campus Resources:

211
https://unitedwaydenver.org/
211 is a multilingual and confidential service that connects individuals to critical resources including food, shelter, rental assistance, childcare, and more.
24/7 Phone: 2-1-1

Colorado Legal Services
https://www.coloradolegalservices.org/
Legal help for low-income Coloradans seeking assistance with civil legal needs.
Phone: 303.866.1019

The Center for Trauma and Resilience
http://traumahealth.org/
The Center for Trauma & Resilience provides culturally and linguistically responsive programs, health promotion and crime prevention education. Translation and interpretation services available.
Phone (English): 303.894.8000 (ENG)
Phone (Spanish): 303.718.8289 (ESP)
Phone (Deaf/Hard of Hearing): 711 for Relay Colorado Access

Colorado Network to End Human Trafficking
https://combathumantrafficking.org/hotline/
24/7 Phone: 866.455.5075

Cyber Civil Rights Initiative
https://cybercivilrights.org/
CCRI's mission is to combat online abuses that threaten civil rights and civil liberties, such as image-based sexual abuse.
Phone: 844-878-2274

State and Federal Civil Rights Compliance Offices (for reports or complaints of harassment or discrimination):

Colorado Civil Rights Division (CCRD)
https://ccrd.colorado.gov/
CCRD is charged with enforcement of the Colorado Anti-Discrimination Act (CADA).
Local Phone: 303.894.2997
Voicemail: 800.262.4845
TTD – Relay: 711
Email: dora_ccrd@state.co.us

U.S. Equal Employment Opportunity Commission (EEOC)
https://www.eeoc.gov/
The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy and related conditions, gender identity, and sexual orientation), national origin, age (40 or older), disability or genetic information.
Phone: 800.669.4000
TTY: 800.669/6820
ASL Video: 844.234.5122
Email: info@eeoc.gov

U. S. Department of Education, Office for Civil Rights (OCR)
https://www2.ed.gov/about/offices/list/ocr/index.html
OCR's mission is to ensure equal access to education and to promote educational excellence through vigorous enforcement of civil rights in our nation's schools.
Phone: 800.421.3481
Fax: 202.245.8392
Email: OCR@ed.gov

U.S. Department of Justice Civil Rights Division
https://civilrights.justice.gov/ (file a complaint at this site)
The Civil Rights Division enforces federal laws that protect you from discrimination based on your race, color, national origin, disability status, sex, religion, familial status, or loss of other

constitutional rights.
Phone: 202.514.2000

X. Prohibited Conduct Definitions

Conduct prohibited by the Interim Sexual Misconduct, Intimate Partner Abuse, and Stalking Policy ("Sexual Misconduct Policy"):

A. Sexual Misconduct

The Sexual Misconduct Policy prohibits sexual misconduct and sex-based harassment. Sex-based harassment means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity and gender expression.

Each of the following categories of sex-based harassment are prohibited and could be charged as potential violations of this Policy in a formal adjudication:

1. ***Hostile Environment harassment***: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the university's education program or activity (i.e., creates a hostile environment). For purposes of this Policy, "sex-based" conduct includes any hostile environment based on sex, gender, gender identity, gender expression, sexual orientation or pregnancy.

   Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

   (i) The degree to which the conduct affected the *complainant's* ability to access the university's education program or activity;
   (ii) The type, frequency, and duration of the conduct;
   (iii) The parties' ages, roles within the university's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
   (iv) The location of the conduct and the context in which the conduct occurred; and
   (v) Other sex-based harassment in the university's education program or activity.

2. ***Intimate Partner Abuse (Dating/Domestic Violence)*** An act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. Intimate relationship means a relationship between spouses or former spouses, past or present unmarried couples, persons who are or have been in a romantic or intimate relationship (determined by length, type, and frequency of interactions), or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time. Intimate partner abuse also includes any other act against a person acts or threats of self-harm, or acts against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed

against a person with whom the actor is or has been involved in an intimate relationship.

3. ***Quid Pro Quo harassment***: An employee, agent, or other person authorized by the university to provide an aid, benefit, or service under the university's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

4. ***Sexual assault***: Any attempted or actual sexual act directed against another person, without consent (see Section II(B) of the Sexual Misconduct Policy, below) of the victim, including instances where the victim is incapable of giving consent. This includes:

    a. ***Rape***: the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of all persons and is properly applied regardless of the age of the victim if the victim did not consent or if the victim was incapable of giving consent.

    b. ***Nonconsensual Sexual Contact***: any sexual touching, however slight and with any body part or object, by any person upon another without consent. Examples of nonconsensual sexual contact include, but are not limited to: (1) touching of a nonconsenting person's intimate parts (such as groin, genitals, breasts, buttocks, mouth, and/or clothing covering these parts); (2) touching a nonconsenting person with one's own intimate parts; (3) making a nonconsenting person touch you, another, or themselves; or (4) any intentional bodily contact in a sexual manner

    c. ***Statutory Rape***: sexual intercourse with a person who is under the statutory age of consent if the victim consented and the offender did not force or threaten the victim. Under Colorado law, a person under the age of 15 cannot legally consent to sex with someone who is 4 or more years older than they are. A person who is 15 or 16 cannot legally consent to sex with someone who is more than 10 years older.

    d. ***Incest****:* sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

5. ***Sexual exploitation***: Taking or attempting to take non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. For example, sexual exploitation could include but is not limited to such actions as (1) prostituting another person; (2) taking possession of the intimate personal property of another person without that person's consent; (3) recording images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness; (4) distributing images (e.g., video, photograph) or audio of another

person's sexual activity, private body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure; (5) viewing or listening to another person's sexual activity, private body parts, or nakedness in a place where that person would have a reasonable expectation of privacy; or (6) knowingly transmitting a sexually transmitted infection to another person.

6. ***Stalking***: engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

    (i) Fear for the person's safety or the safety of others; or
    (ii) Suffer substantial emotional distress

B. Sexual Misconduct – Definition of Consent

Consent means affirmative consent, which is unambiguous and voluntary agreement to engage in a specific sexual activity. Consent is clear, knowing, and voluntary words or actions that create mutually understandable clear permission of willingness to engage in, and the conditions of, sexual activity. Consent must be active; silence by itself cannot be interpreted as consent. Consent is not effectively given if it results from the use of force, including threats or intimidation, or if it is from someone who is incapacitated*:*

- **Force** is the use of physical violence or imposing on someone physically to gain sexual access.
- **Threats** exist where a reasonable person would have been compelled by the words or actions of another to give permission to sexual contact they would not otherwise have given. For example, threats to kill or harm someone, kill or harm themselves, or kill or harm someone for whom a person cares constitute threats.
- **Intimidation** occurs when someone uses physical presence to menace another, although no physical contact occurs, or where knowledge of prior violent behavior by an assailant, coupled with menacing behavior, places someone in fear as an implied threat.
- **Incapacitation** may result from alcohol or other drug use, unconsciousness, or other factors. The use of alcohol or drugs in and of itself does not render a person incapacitated. Incapacitation is a state beyond drunkenness or intoxication. The impact of alcohol and drugs varies from person to person. Incapacitation is a state where a person cannot make a rational, reasonable decision because they lack the capacity to give consent (to understand the who, what, when, where, why, or how of sexual interaction). Incapacity can also result from illness, sleep, mental disability, and other circumstances. Engaging in sexual activity with a person whom you know to be mentally or physically incapacitated, or reasonably should know to be incapacitated, violates this Policy.

Consent will be determined using both objective and subjective standards. The

objective standard is met when a reasonable person would consider the words or actions of the parties to have manifested an agreement between them to do the same thing, in the same way, at the same time, with one another. The subjective standard is met when a party believes in good faith that the words or actions of the parties manifested an agreement between them to do the same thing, in the same way, at the same time, with one another. The following standards also apply to consent:

- A person who does not want to consent to sex is not required to resist.
- Consent to some forms of sexual activity does not automatically imply consent to other forms of sexual activity.
- Silence, previous sexual relationships, or the existence of a current relationship do not imply consent.
- Consent cannot be implied by attire or inferred from the giving or acceptance of gifts, money, or other items.
- Consent to sexual activity may be withdrawn at any time, as long as the withdrawal is communicated clearly.
- Withdrawal of consent can be manifested through conduct and need not be a verbal withdrawal of consent.
- In order to give effective consent, the person giving consent must be of legal age under Colorado law for the purposes of determining whether there was a sexual assault.
- A *respondent*'s intoxication resulting from intentional use of alcohol or drugs will not function as a defense to engaging in sexual activity without an individual's consent.

C. Related Violations

The Sexual Misconduct Policy prohibits violations related to sexual misconduct and sex-based harassment.

Each of the following actions are violations related to sex-based harassment, are prohibited, and could be charged as potential violations of this Policy in a formal adjudication:

1. ***Failure to Comply with Orders or Sanctions***: Not complying with orders of the Equity Office or other appropriate university officials related to this Policy, including but not limited to No-Contact Orders, Exclusion Orders, and Orders for Interim Suspension. Members of the university community must abide by and complete sanctions related to prohibited conduct.

2. ***Failure to Report***: When (1) the Responsible Employee received information that a member of the university community was subjected to or committed an act of alleged prohibited conduct and (2) the Responsible Employee intentionally, knowingly, or recklessly disregarded the obligation to report, thus resulting in harm to a member of the university community. A Responsible Employee is defined below in Section IV(B)(2) of the Procedures. This provision will be applied in a manner that promotes the reporting of prohibited conduct and avoids

disciplinary actions when Responsible Employees conscientiously discharge their reporting obligations.

3. ***Interference with Reporting***: Prohibiting or interfering with a Responsible Employee's or any other person's reporting to the Equity Office. A Responsible Employee is defined in Section IV(B)(2) of the Procedures.

4. ***Providing False or Misleading Information***: When a person knowingly or recklessly provides false or misleading information to an Equity Office in the course of a resolution process. Making a report or providing information in good faith, even if the information reported is not later substantiated, will not constitute a violation of this Policy.

5. ***Retaliation***: Intimidation, threats, coercion, or discrimination against any person by the university, a student, or an employee or other person authorized by the university to provide aid, benefit, or service under the university's education program or activity, for the purpose of interfering with any right or privilege provided by this Policy or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy including in an informal resolution process, grievance procedures, and in any other actions taken by a Title IX Coordinator or designee. Nothing in this definition or this part precludes the university from requiring an employee or other person authorized by the university to provide aid, benefit, or service under the university's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under this part.

Conduct prohibited by the Protected Class Nondiscrimination Policy ("Nondiscrimination Policy"):

A. Discrimination and Harassment

The Nondiscrimination Policy prohibits discrimination and harassment based on protected class (for definitions of protected classes see below). *To report information or make a complaint about conduct that may violate this Policy, individuals may contact their campus Equity Offices above.*

Each of the following categories are prohibited and could be charged as potential violations of this Policy in a formal adjudication:

1. ***Discrimination on the basis of protected class***: When an individual suffers an adverse consequence on the basis of a protected class. Examples include, but are not limited to, failure to be hired or promoted; denial of admission to an academic program; or failure to provide or implement legally required accommodations (for example accommodations approved by the campus ADA Coordinator, Disability Services Office or other designated office) as related to an individual's disability, pregnancy/pregnancy related conditions or religion.

2. ***Harassment on the basis of protected class***: Unwelcome verbal, written, or physical conduct based on one's protected class that unreasonably interferes with an individual's work or academic performance or creates an intimidating or hostile work or educational environment.

> ***Hostile environment*** is a form of harassment. Whether a hostile environment exists is determined by evaluating whether or not an individual experienced unwelcome conduct and whether or not the unwelcome conduct was, from the perspective of a reasonable person in the alleged individual's position, sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the campus's education or employment programs and/or activities. Although repeated incidents increase the likelihood that harassment has created a hostile environment, a single or isolated incident of conduct based on protected class may be sufficient.

B. Discrimination and Harassment – Definitions of Protected Classes

Protected class under this Policy refers to actual or perceived unless otherwise noted below:

1. **Age:** The length of time a person has lived. An employee must be at least 40 years old to fall within the protected category. Students are protected from age discrimination in academic situations like admissions decisions and residence hall assignments, regardless of their age.
2. **Color*:** The pigmentation of one's skin. An individual can make an allegation of color discrimination or color harassment against someone of the same race or color.
3. **Creed*:** "All aspects of religious beliefs, observances or practices, as well as sincerely-held moral and ethical beliefs as to what is right and wrong, and/or addresses ultimate ideas or questions regarding the meaning of existence, as well as the beliefs or teachings of a particular religion, church, denomination or sect. A creed does not include political beliefs, association with political beliefs or political interests, or membership in a political party.
4. **Disability:** Physical or mental impairment that substantially limits one or more major life activities of an individual.
5. **Gender:** Sex, gender identity, and gender expression including a person's gender-related self-image, appearance, behavior, expression, or other gender-related characteristic, regardless of the sex assigned to that person at birth.
6. **Gender Expression:** How a person represents or expresses their gender to others through external appearance, characteristics, or behaviors.
7. **Gender Identity:** The internal deeply-held sense of one's gender which may be the same as or different from one's sex assigned at birth.
8. **Marital Status:** A relationship or a spousal status of an individual, including, but not limited to, being single, cohabitating, engaged, widowed, married, in a civil union, or legally separated, or a relationship or a spousal status of an individual

who has had or is in the process of having a marriage or civil union dissolved or declared invalid.

9. **National Origin or Shared Ancestry*:** A person's (or a person's ancestors') place of origin or to the physical, cultural, or linguistic characteristics of an ethnic group.
10. **Political Affiliation:** A person's membership or association with others in commonality of political purpose and support.
11. **Political Philosophy:** A person's belief or endorsement of any system of thought pertaining to public policy or the administration of governmental functions.
12. **Pregnancy or related conditions:** (1) Pregnancy, childbirth, termination of pregnancy or lactation; (2) medical conditions related to pregnancy, childbirth, termination of pregnancy or lactation; or (3) recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.
13. **Race*:** How individuals may self-identify as a certain ethnic and racial category (socio-political constructs) or as multiracial. All racial categories are protected under this Policy. Race also includes hair texture, hair type, or a protective hairstyle commonly or historically associated with race, such as braids, locs, twists, tight coils or curls, cornrows, Bantu knots, Afros and headwraps.
14. **Religion*:** All aspects of religious observance, belief and practice. A person does not have to be a member or follower of a particular organized religion, sect or faith tradition to have a religion.
15. **Sex:** The labels of "male," "female," and/or "intersex" typically assigned at birth and based on anatomy and biology .
16. **Sexual Orientation:** An individual's physical, romantic, and/or emotional attraction toward people. Examples include, but are not limited to: heterosexual, bisexual, gay, lesbian, pansexual, asexual, queer, demisexual, or questioning.
17. **Veteran Status:** Refers to anyone who serves or who has served in any branch of the United States armed forces, including students in the Reserve Officer Training Corps (ROTC). Volunteers for military duty must be treated the same as those who are ordered to active duty.

** The university construes antisemitism, Islamophobia, and caste to be included within the university's current prohibitions on discrimination or harassment, which may be based on the protected classes of race, color, religion, creed, national origin or ancestry. All protected classes listed above encompass intersectional identities.*

C. Related Violations

The Nondiscrimination Policy prohibits violations related to protected class discrimination and harassment.

Each of the following actions are violations related to discrimination and harassment, are prohibited, and could be charged as potential violations of this Policy in a formal adjudication:

1***. Failure to Comply with Orders or Sanctions****:* Not complying with orders of the Equity Office or other appropriate university officials related to this Policy, including but not limited to No-Contact Orders, Exclusion Orders, and Orders for Interim Suspension. Members of the university community must abide by and complete sanctions related to prohibited conduct.

2. ***Failure to Report***: When (1) the Responsible Employee received information that a member of the university community was subjected to or committed an act of alleged prohibited conduct and (2) the Responsible Employee intentionally, knowingly, or recklessly disregarded the obligation to report, thus resulting in harm to a member of the university community. A Responsible Employee is defined below in Section IV(B)(2) of the Procedures. This provision will be applied in a manner that promotes the reporting of prohibited conduct and avoids disciplinary actions when Respondent Employees conscientiously discharge their reporting obligations.

3. ***Interference with Reporting***: Prohibiting or interfering with a Responsible Employee or any other person's reporting to the Equity Office. A Responsible Employee is defined in Section IV(B)(2) of the Procedures.

4. ***Providing False or Misleading Information:*** When a person knowingly or recklessly provides false or misleading information to an Equity Office in the course of a resolution process. Making a report or providing information in good faith, even if the information reported is not later substantiated, will not constitute a violation of this Policy.

5. ***Retaliation***: Adverse educational or employment actions, including direct or indirect intimidation, threats, and harassment, taken against an individual because of their involvement in a complaint of prohibited conduct. An adverse educational or employment action is any conduct that would dissuade a reasonable person from reporting an allegation of, or participating in, an investigation of prohibited conduct.

XI. Appendix: Selected Colorado Criminal Definitions

In Colorado, the criminal definitions of sexual assault, domestic violence (which also includes dating violence) and stalking are distinctly different from some of the definitions outlined in University Policy. Below are the relevant sections of the Colorado Criminal Code that demonstrate these differences.

Definition of Consent – Colorado Revised Statute § 18-3-401

(1.5) **"Consent"** for sexual activity means cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act. A current or previous relationship shall not be sufficient to constitute consent. Submission under the influence of fear shall not constitute consent.

Definition of Sexual Assault – Colorado Revised Statute § 18-3-402

(1) Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits **sexual assault** if:

- (a) The actor causes submission of the victim by means of sufficient consequences reasonably calculated to cause submission against the victim's will; or
- (b) The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or
- (c) The actor knows that the victim submits erroneously, believing the actor to be the victim's spouse; or
- (d) At the time of the commission of the act, the victim is less than fifteen years of age and the actor is at least four years older than the victim and is not the spouse of the victim; or
- (e) At the time of the commission of the act, the victim is at least fifteen years of age but less than seventeen years of age and the actor is at least ten years older than the victim and is not the spouse of the victim; or
- (f) The victim is in custody of law or detained in a hospital or other institution and the actor has supervisory or appointing/disciplinary authority over the victim and uses this position of authority to coerce the victim to submit, unless incident to a lawful search, or
- (g) The actor, while purporting to offer a medical service, engages in treatment or examination of a victim for other than a bona fide medical purpose or in a manner substantially inconsistent with reasonable medical practices; or
- (h) The victim is physically helpless and the actor knows the victim is physically helpless and the victim has not consented.

Definition of Unlawful Sexual Contact – Colorado Revised Statute § 18-3-404

(1) Any actor who knowingly subjects a victim to any sexual contact commits unlawful sexual contact if:

- (a) The actor knows that the victim does not consent; or
- (b) The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or
- (c) The victim is physically helpless and the actor knows that the

victim is physically helpless and the victim has not consented; or

(d) The actor has substantially impaired the victim's power to appraise or control the victim's conduct by employing, without the victim's consent, any drug, intoxicant, or other means for the purpose of causing submission; or

(e) The victim is in custody of law or detained in a hospital or other institution and the actor has supervisory or appointing/disciplinary authority over the victim and uses this position of authority, unless incident to a lawful search, to coerce the victim to submit; or

(f) The actor engages in treatment or examination of a victim for other than bona fide medical purposes or in a manner substantially inconsistent with reasonable medical practices.

(1.5) Any person who knowingly, with or without sexual contact, induces or coerces a child by any of the means set forth in section 18-3-402 to expose intimate parts or to engage in any sexual contact, intrusion, or penetration with another person, for the purpose of the actor's own sexual gratification, commits unlawful sexual contact. For the purposes of this subsection (1.5), the term "child" means any person under the age of eighteen years.

Definition of Domestic Violence – Colorado Revised Statute § 18-6-800.3 (1)-(2)

Domestic violence means an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. Intimate relationship means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.

Domestic violence also includes any other crime against a person, or against property, including an animal, or any municipal ordinance violation against a person, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.

(Note that "dating violence" in Colorado is included with the broader definition of domestic

violence)

Definition of Stalking – Colorado Revised Statute § 18-3-602 (1)(a)-(c)

A person commits **stalking** if directly, or indirectly through another person, the person knowingly:

(a) Makes a credible threat to another person and, in connection with the threat, repeatedly follows, approaches, contacts, or places under surveillance that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship; or

(b) Makes a credible threat to another person and, in connection with the threat, repeatedly makes any form of communication with that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship, regardless of whether a conversation ensues; or

(c) Repeatedly follows, approaches, contacts, places under surveillance, or makes any form of communication with another person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship in a manner that would cause a reasonable person to suffer serious emotional distress and does cause that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship to suffer serious emotional distress. For purposes of this paragraph (c), a victim need not show that he or she received professional treatment or counseling to show that he or she suffered serious emotional distress.