



Office of Equity

UNIVERSITY OF COLORADO

DENVER | ANSCHUTZ MEDICAL CAMPUS

SEXUAL MISCONDUCT, INTIMATE PARTNER VIOLENCE, AND  
STALKING PROCEDURES

*Effective September 2, 2021*

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# I. OVERVIEW AND MISSION STATEMENT OF THE OFFICE OF EQUITY

The University of Colorado Denver | Anschutz Medical Campus (“University”) is committed to providing a safe and non-discriminatory environment for all members of the University community. The University prohibits all forms of *Sexual Misconduct*<sup>1</sup>, including all conduct prohibited by Title IX and other sexual misconduct. These forms of misconduct and Related Violations are defined in APS 5014, Sexual Misconduct, Intimate Partner Violence, and Stalking Policy (“Policy”). This document identifies the procedures (“Procedures”) the University follows when it receives a report alleging *Sexual Misconduct*. The University uses these Procedures to investigate and resolve any such allegations and to impose disciplinary sanctions against individuals found responsible for violating the Policy<sup>2</sup>.

The University’s Office of Equity (OE) strives to stop, prevent, and remedy discrimination, harassment, sexual misconduct, and any related retaliation; provide education on these topics; design policy to make our campus safer and more inclusive; and ensure all people are treated with dignity, compassion, and respect.

The OE’s administration of the Policy is conducted in accordance with Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and other applicable federal and state laws.

These Procedures describe the University’s Procedures for the investigation and remediation of potential sexual misconduct. It does not constitute a contract, whether express or implied, between the University and any person who is subject to requirements. The University reserves the right to modify these Procedures at its discretion and without notice.

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<sup>1</sup> As used in the Policy, Sexual Misconduct includes both Title IX Sexual Harassment and other forms of sexual misconduct that fall outside Title IX’s jurisdiction.

<sup>2</sup> [\[APS 5014\]](#) These Procedures should be read in conjunction with the Policy. Capitalized terms used and not otherwise defined in these Procedures are defined in the Policy. For purposes of these Procedures, the “Title IX Coordinator” means the Title IX Coordinator & Director of Title IX and/or any trained designees.

## II. PROHIBITED CONDUCT

The University will be responsive to any report or complaint of “Prohibited Conduct” as listed below and is committed to providing prompt, fair, impartial, and equitable resolutions of any complaint reported to the OE, whether reported directly by a *complainant* or by a third party, such as a mandatory reporter. The primary concern is the safety of all University community members. The University will take steps to prevent recurrence of any prohibited conduct and remedy discriminatory effects on the *complainant* and others, as appropriate.

The Policy prohibits “Sexual Misconduct,” meaning both conduct on the basis of sex specifically prohibited by Title IX as well as conduct that falls outside of Title IX’s jurisdiction. Specifically, the Policy prohibits sexual assault, dating violence, domestic violence, Title IX stalking, sexual exploitation, Title IX hostile environment, hostile environment, Title IX quid pro quo sexual harassment, and quid pro quo sexual harassment. The Policy also prohibits retaliation and other related violations.

### A. Related Violations and Consolidation of Complaints

Other misconduct, while not falling within the definition of *Sexual Misconduct*, hinders the University’s ability to uphold its legal obligations and ensure equal access to educational and employment opportunities. As such, the University prohibits the following conduct:

1. **Failure to Report** – The University will administer the Policy in a manner that promotes the reporting of prohibited conduct and avoids disciplinary actions when *responsible employees* conscientiously discharge their reporting obligations. A failure to report an allegation of prohibited conduct shall result in a violation of the Policy only if the *responsible employee* received information that a member of the University community was subjected to or committed an act of prohibited conduct and intentionally, knowingly, or recklessly disregarded the obligation to report, thus resulting in harm to a member of the University community.
2. **Retaliation** – The University will not permit *retaliation* against a member of the University community because the individual has made a report or *formal complaint*, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or prohibited conduct, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or *formal complaint* of prohibited conduct constitutes retaliation.
3. **Providing Materially False Statements** – Providing materially false statements related to prohibited conduct is contrary to the purposes of the Policy. Members of the University community must provide reports of prohibited conduct in good faith. A person who knowingly or recklessly makes false statements or knowingly or recklessly submits false information during the grievance process violates the Policy. Making a report or providing information in good faith, even if the facts alleged in the report are not later substantiated, will not constitute providing false or misleading information.

4. Interference with Reporting – No member of the University community may prohibit or interfere with a *responsible employee* or any other person’s reporting prohibited conduct to the Title IX Coordinator or designee.
5. Failure to Comply with Orders and Sanctions – Subject to any rights of appeal, members of the University community must comply with orders of the Title IX Coordinator or other appropriate University officials related to the Policy, including but not limited to no-contact orders, exclusions orders, and emergency removal orders. Subject to any rights of appeal, members of the University community must abide by and complete sanctions related to prohibited conduct.
6. The University may consolidate *formal complaints* of prohibited conduct with charges of related violations in situations that arise out of the same facts or circumstances and proceed under the grievance process applicable to *formal complaints* described in Section V(A)(4)(a and b) of the Policy. Alternatively, in the absence of a *formal complaint* for prohibited conduct, the University may proceed with adjudication for related violations under other applicable procedures or conduct codes.

Additionally, when more than one *formal complaint* is received by the OE, the OE may consolidate *formal complaints* in situations that arise out of the same facts or circumstances and involve more than one *complainant*, more than one *respondent*, or what amount to counter-complaints by one party against the other. The OE may also consolidate under the grievance process related violations as designated in the Policy or other prohibited conduct under other policies, procedures, or conduct codes.

The OE may initiate an investigation into allegations of related Prohibited Conduct on behalf of the University when there is no individual *complainant* who reports the allegation, but the OE nevertheless becomes aware of the potential related misconduct.

### III. 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 Policy, but those options may be limited depending on the circumstances of the arrangement.

The Policy 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. Alleged conduct may be considered either *Title IX Sexual Misconduct* or *Sexual Misconduct*, depending on the following jurisdictional requirements:

#### A. Title IX Sexual Misconduct

*Title IX Sexual Misconduct* applies to conduct that occurs in an *education program or activity* against a person in the United States. If the Prohibited Conduct falls under Title IX Sexual Misconduct jurisdiction and definitions, the Title IX Coordinator or designee must utilize the Title IX Sexual Misconduct Procedures as prescribed by the Title IX Regulations.

#### B. Sexual Misconduct

*Sexual Misconduct* applies to conduct that does not otherwise meet the jurisdictional standard or definition of Title IX Sexual Misconduct, but where the conduct occurred in the context of an employment or *education program or activity* of the University or where both the *complainant* and *respondent* are affiliated with the University.

For all allegations of *Sexual Misconduct* not falling under Section III(A) above, the Title IX Coordinator or designee will consider the degree of the University's control over the *respondent* and the relationship between the *complainant* and *respondent*, and assess the surrounding circumstances of the alleged conduct for the presence of the following factors:

1. Targets or causes harm to an individual connected with the University;
2. Threatens further sexual or other violence against the *complainant* or others and there is reasonable fear that such further conduct could target or cause harm to someone connected to the University;
3. Is of a violent nature or was frequent or severe;
4. Prior or current similar, misconduct complaints about the *respondent*, or if the *respondent* has a known history of records from a prior school indicating a history of sexual or other violence;
5. Use of, or threat to use, a weapon, access to or attempts to access weapons, or a history of bringing weapons to the University;

6. Multiple alleged *complainants* or *respondents*;
7. Facilitation by the *incapacitation* of the *complainant* through alcohol, drugs, disability, unconsciousness, or other means;
8. The *complainant* is a minor;
9. Whether the alleged sexual misconduct reveals a pattern of perpetration at a given location or by a particular group; or
10. Any other signs of predatory behavior.

If the Title IX Coordinator or designee determines that at least one of the above factors is present, then the Title IX Coordinator or designee may determine that the University may exercise jurisdiction, and the *Sexual Misconduct* Policy standards apply.

The Title IX Coordinator or designee is authorized to determine whether the Policy applies to alleged prohibited conduct and whether the University has jurisdiction to take any action pursuant to the Policy.

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*.<sup>3</sup>

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 Policy 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 Policy 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.

The failure of an individual to appear and/or respond to the OE does not prevent the OE from proceeding with or completing the applicable process.

For employees, any matters falling outside the scope of the Policy shall be addressed by the appointing/disciplinary authority. For students on the CU Denver campus, the Office of Student Conduct and Community Standards (SCCS) has jurisdiction for all other student conduct matters. For students on the CU Anschutz campus, the *respondent's* school, college, or program has jurisdiction for all other student conduct matters falling outside the scope of this Policy. In the event that there are multiple potential charges involving the Policy and the Student Code of Conduct or 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

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<sup>3</sup> See Policy Section IX(E).

office or using the investigation or findings of one office as the basis for further investigation by the other.

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 complaint shall be addressed as provided in the affiliation agreement between the University and the other entity. In the absence of an affiliation agreement or a provision addressing this issue, 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 Title IX Coordinator or designee.

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 OE Director(s).

## **C. Reports Involving Two or More Campuses or Affiliated Entities**

### **1. Two or More University of Colorado Campuses**

When the alleged violation of the Policy involves more than one University of Colorado 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.

### **2. Affiliated Entities**

When the alleged violation of the Policy involves an institution affiliated with the University of Colorado Denver | Anschutz (including, but not limited to, Metropolitan State University, Community College of Denver, Children's Hospital, University of Colorado Hospital, or the Veterans Administration), the reported concern will be provided to the entity with primary disciplinary authority over the *respondent*. In these instances, the OE may be unable to conduct a formal investigation though the OE may be able to work collaboratively with the affiliated entity to assist in the resolution and remedy of the matter. Additionally, while the OE may be unable to conduct a formal investigation, the OE may still consider and implement *supportive measures*.

## **D. Supportive and Safety Measures**

*Supportive measures* are non-disciplinary, non-punitive individualized services offered as appropriate, 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 program or activity without unreasonably burdening the other party, including measures designed

to protect the safety of all parties or the University's educational or work environment, or deter Prohibited Conduct. Supportive measures should be individualized and appropriate based on the information available to the 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 III(E) below.

Whether supportive or safety measures are appropriate is determined after an individualized assessment by the 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.

*Complainants* and *respondents* may request supportive or safety measures from the Title IX Coordinator or designee. *Supportive measures* should be provided to *complainants* or *respondents* whether or not the *complainant* files a formal complaint or engages in another resolution process. Witnesses or other participants in a Formal Grievance Process may also request supportive or safety measures. The Title IX Coordinator or designee will maintain oversight of these requests and the provision of any such measures.

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

Types of supportive and safety measures:

1. Academic support measures (arranging for a party to retake a course, excuse related absences, request extensions on assignments or exams, change sections when available or withdraw from a class without penalty)
2. Accessing medical services
3. Accessing counseling services
4. Employment modifications
5. Transportation changes
6. No-contact orders enforced by the University
7. Discussing options for obtaining criminal or civil protection or restraining orders
8. Residential relocations in CU Denver Housing and Dining and/or offering resources for housing off-campus
9. Changes to, or interim exclusion from, classes
10. Interim exclusion orders (for parts of or entire campus)
11. Interim student suspension. See Section III(E).
12. Administrative leave for employees in consultation with Associate Vice Chancellor and Chief Human Resources Officer or designee and appointing/disciplinary authority
13. Temporary suspension of supervisory or evaluative authority for employees in consultation with Associate Vice Chancellor and Chief Human Resources Officer and appointing/disciplinary authority

## E. 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 immediate threat to the physical health or safety of any students or other individuals arising from the allegations of the Policy justifies removal and 3) provides the *respondent* with notice and an opportunity to challenge the decision immediately following the removal.

Types of emergency removal include, but are not limited to:

- Interim student suspension.
- Interim or permanent exclusion order for parts of or entire campus, classes, etc.
- 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 Associate Vice Chancellor & Chief Human Resource Officer or designee and appointing/disciplinary authority.
- Temporary suspension of supervisory or evaluative authority for employees in consultation with Associate Vice Chancellor & Chief Human Resource Officer or designee and appointing/disciplinary authority.

## F. Individualized Safety and Risk Analysis

The Title IX Coordinator/Director of Title IX or designee has the authority to conduct an individualized safety and risk analysis. The Title IX Coordinator may consult with other offices on campus such as the CARE Team and FAST Team in conducting the individualized safety and risk analysis. The factors considered in an emergency removal decision include:

1. Seriousness of the alleged conduct;
2. Location of alleged incident(s);
3. The risk that the alleged *respondent* will commit additional acts of sexual or other violence;
4. Whether the alleged *respondent* threatened further sexual or other violence against the alleged *complainant* or others;
5. 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;
6. The existence of multiple alleged *complainants* and/or *respondents*;
7. Whether the conduct was facilitated by the incapacitation of the *complainant* (through alcohol, drugs, disability, unconsciousness, or other means);
8. Whether the alleged conduct was perpetrated with force, violence, or weapons;
9. Whether the alleged *complainant* is a minor;
10. 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

11. Whether any other aggravating circumstances or signs of predatory behavior are present.

In the case of an emergency removal, the student will be provided oral and/or written notice of the alleged Prohibited Conduct and the opportunity to meet, if the student chooses, with the Title IX Coordinator or designee. The Title IX Coordinator or designee will ensure that the student is afforded the opportunity to meet within *five business days* of the notice of emergency removal. This does not preclude additional meetings after the five 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 Title IX Coordinator or designee may decide to lift or continue the emergency removal, potentially until the completion of the grievance process. The Title IX Coordinator or designee may also determine whether any exceptions may be appropriate based on factors which include, but are not limited to, nature/severity of the behavior, prior misconduct, extent of academic progress to date, and availability of faculty and/or online classes. The interim supportive and safety measures may be re-evaluated during the course of a grievance process if new information is presented that mitigates the threat to campus safety.

In the case of an emergency removal, including campus exclusion, procedures outlined in the Exclusion of Persons from University Property will be followed.<sup>4</sup>

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<sup>4</sup> See Exclusion of Persons from University Property, [https://www.ucdenver.edu/faculty\\_staff/employees/policies/Policies%20Library/3XXX%20General%20Administration/3052%20-%20Exclusion%20of%20Persons%20from%20University%20Property.pdf](https://www.ucdenver.edu/faculty_staff/employees/policies/Policies%20Library/3XXX%20General%20Administration/3052%20-%20Exclusion%20of%20Persons%20from%20University%20Property.pdf)

## IV. REPORTING OPTIONS

*\*Call 911 in an Emergency or if you have an immediate safety concern.\**

### A. University/Office of Equity

To notify the University of any Prohibited Conduct listed in Sections II, II(A), III, and III(A)(B) to request support measures related to such conduct, or to initiate an OE resolution process, please contact the OE directly via email at [equity@ucdenver.edu](mailto:equity@ucdenver.edu) or via phone at 303-315-2567.

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

#### 1. Amnesty Provisions

To encourage reporting and participation, 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 failure to comply with public health and safety provisions in the Student Code of Conduct will not be subject to disciplinary action. The goal of these provisions is to remove potential barriers to reporting and/or participation. However, final jurisdiction and decision-making regarding any conduct not covered by the Applicable Policies will be made by the Director of Student Code Conduct and Community Standards (for students) or 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 for in Section VIII and to access available supportive and safety measures as set forth in Section III(D).

### B. Law Enforcement

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

- 911 (for emergencies)
- Auraria Police (for non-emergencies) 303-556-5000
- Anschutz Medical Campus Police (for non-emergencies) 303-724-4444
- Denver Police (for non-emergencies) 720-913-2000
- Aurora Police (for non-emergencies) 303-627-3100

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

## 1. Preservation of Evidence

Regardless of whether or not 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 assault (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 assault to the police, a medical exam can be done to preserve evidence. Sex Assault Nurse Examiner (SANE) programs at 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 84<sup>th</sup> Avenue Location, Littleton Adventist Hospital, are available to conduct a SANE exam, ideally within five 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 you have done any or all of these things. More information about the SANE can be located on the hospital’s respective websites. Contact information and addresses for these and other locations within the state of Colorado can be found on the OE website under the tab [Sexual Misconduct Resources](#).

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

## C. Confidential Reporting Options

The University offers access to confidential resources for individuals who are unsure about whether to report Prohibited Conduct or are seeking counseling or other emotional support in addition to (or without) making a report to the University. Section [Support and Resources page](#), identify confidential and other resources, both at the University and in the surrounding community. See Section VIII for CU Denver | CU Anschutz on- and off-campus resources.

#### **D. Supportive Services and Assistance including Protective Orders**

When an individual notifies the OE (either directly or through a responsible employee, advocate, third party, or other) that they have experienced conduct prohibited by the Policy, the OE will provide referral information as needed (whether or not there is a formal complaint or participation in a formal grievance process, formal adjudication process, or other resolution process) in accessing on- and off-campus services, including but not limited to counseling, academic assistance, housing, mental health services, victim advocacy, legal assistance, visa and immigration services, assessments for no contact orders, and/or forensic sexual assault nurse examiner (SANE) exams.

For a written summary of options and resources available to any person reporting Prohibited Conduct, please refer to this PDF document on the OE website:

<https://www.ucdenver.edu/offices/equity>.

#### **E. Orders of Protection, Restraining Orders, or Similar Lawful Orders**

*Complainants* who are interested in obtaining an Order of Protection, or any other order issued by a court, must pursue those options on their own behalf. Restraining orders are obtained through the court with applicable jurisdiction.<sup>5</sup> More information on obtaining a restraining order in Colorado is located in the State of Colorado County Court Restraining Order Brochure: <https://www.courts.state.co.us/userfiles/File/Media/Brochures/restraining.pdf>.

The Phoenix Center at Auraria (PCA) can assist individuals free of charge with the process of obtaining a restraining order. CU Denver | 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 Auraria Campus) and/or the University of Colorado Denver Police Department (for those on the CU Anschutz) and the Title IX Coordinator or designee.

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<sup>5</sup> For additional assistance you may contact Project Safeguard: <https://psghelps.org/>

## V. PRIVACY, CONFIDENTIALITY, AND THE UNIVERSITY'S OBLIGATION TO PROVIDE A "SAFE AND NON-DISCRIMINATORY ENVIRONMENT"

### *Privacy and confidentiality have distinct meanings.*

Privacy: 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.

The privacy of student education records will be protected in accordance with the University's policy for compliance with the Family Educational Rights and Privacy Act (FERPA) and state law protections. Access to personnel records is restricted in accordance with University policy and applicable laws.

Confidentiality: Means that information shared by an individual with designated campus or community professionals cannot be revealed to any other person without express 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 who normally have privileged confidentiality that is recognized by Colorado state law. The Title IX Coordinator has also designated the Ombuds staff serving in their capacity as a confidential resource for CU Denver | CU Anschutz campus. 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.

#### **A. Confidential Resources and Privacy**

Confidential Resources/Independent Reporting Obligations – 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 Policy. A person who is a confidential resource under the Policy may have an independent obligation to report some forms of criminal conduct to law enforcement officials. Any person who is a confidential resource may consult with campus legal counsel to determine whether an independent reporting obligation exists.

## B. Responsible Employees

All members of the University community may report Prohibited Conduct. Reporting allows the University to undertake investigations when appropriate, but also allows the University to inform those who have been involved of *supportive measures* and to facilitate access to those services. Reporting also allows the University to identify institutional risks, increase the effectiveness of its training programs, and identify the need for additional services that will protect the University community from harm. The University views reporting of Prohibited Conduct as fundamental to its ability to provide a campus environment that allows equal access to educational and employment opportunities.

### 1. Reporting Requirements

- a. *Responsible employees must report prohibited conduct.* Many members of the University community, generally including faculty and members of the administration with supervisory responsibilities, are *responsible employees*, who must promptly report Prohibited Conduct as set forth in the Policy and these Procedures to the Title IX Coordinator or designee.
- b. *Responsible employees* means 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 Title IX Coordinator.
- c. 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 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.
- d. The *responsible employee* is required to promptly report to the Title IX Coordinator or designee all known details about the alleged Prohibited Conduct, including:
  - 1) Name(s) of the *complainant(s)*;
  - 2) Name(s) of the *respondent(s)*;
  - 3) Name(s) of any alleged witnesses; and
  - 4) 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.

- e. *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).
- f. 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* should report potential Prohibited Conduct to the Title IX Coordinator or designee to allow a preliminary inquiry to occur.
- g. *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.
- h. *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 Title IX Coordinator. These *responsible employees* must report Prohibited Conduct disclosed to them when they are not serving in the capacity as Ombuds.
- i. *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 Title IX Coordinator. These *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.
- j. A *responsible employee* does not satisfy the reporting obligation by reporting Prohibited Conduct to a supervisor or University personnel other than the Title IX Coordinator or designee.
- k. *Responsible employees* are not required to report Prohibited Conduct to which they have been personally subjected to the Title IX Coordinator, but are nonetheless encouraged to report.

1. Communications of Prohibited Conduct to a “responsible employee” are not confidential, and these employees must report Prohibited Conduct to the Title IX Coordinator or designee when it is disclosed to them.

2. **Reporting by Students and Other Members of the University Community Who are Not Responsible Employees**

The University encourages all members of the University community, even those who are not defined as *responsible employees*, to report Prohibited Conduct to the Title IX Coordinator or designee.

### C. **Privacy and Information Disclosure**

The University will not disclose the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of Prohibited Conduct, any *complainant*, any individual who has been reported to be the perpetrator of sex discrimination, any *respondent*, and any witness, except as may be permitted by law, or to carry out an investigation, hearing, or judicial proceeding related to the Policy. This may require sharing information, including identification information, between internal University offices.

1. **Confidential Resources**

See Section VIII for CU Denver | CU Anschutz resources.

2. **Clery Act Reporting**

Those persons who are “Campus Security Authorities” for purposes of crime reporting under the Clery Act may find a summary of their obligations at:

[CU Denver](#)  
[CU Anschutz Medical Campus](#)

### D. **Formal Complaints by Title IX Coordinator and Overriding Factors**

If a *complainant* has disclosed an incident of Prohibited Conduct, but wishes to maintain privacy and does not wish to initiate the grievance process, the Title IX Coordinator or designee must discuss the availability *supportive measures* with the *complainant*, describe the process for filing a *formal complaint*, and explain that the University prohibits *retaliation*. The Title IX Coordinator or designee will further explain the steps the University will take to prevent *retaliation* if the individual participates in a grievance process and 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 *complainant* would still like to maintain privacy or does not want to file a *formal complaint* initiating the grievance process, the 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 this determination, the Title IX Coordinator or designee will consider a range of potentially overriding factors that would cause the Title IX Coordinator or designee to file a *formal complaint* and initiate a grievance process, including the following:

1. The risk that the *respondent* will commit additional action of sexual violence or other violence;
2. The seriousness of the alleged misconduct, including whether the *respondent* threatened further sexual or other violence against the *complainant* or others, whether the alleged misconduct was facilitated by the incapacitation of the *complainant*, or whether the *respondent* has been found responsible in legal or other disciplinary proceedings for acts of sexual or other violence;
3. Whether the alleged misconduct was perpetrated with a weapon;
4. Whether the *complainant* is a minor;
5. Whether the University possesses means other than the *complainant's* testimony to obtain relevant evidence of the alleged misconduct (*e.g.*, security cameras or personnel, physical evidence); and
6. Whether the alleged misconduct reveals a pattern of perpetration at a given location or by a particular group.

The decision to file a *formal complaint* by the Title IX Coordinator or designee and initiate the formal grievance process pursuant to the Policy will be on a case-by-case basis after an individualized and thoughtful review.

Nothing in this section limits the Title IX Coordinator or designees from responding to the alleged conduct in a manner other than investigation or adjudication that the Title IX Coordinator or designee may determine is appropriate under the circumstances, for example with *supportive measures*, referral to other offices, or consulting with University officials as appropriate, including but not limited to the University of Colorado Police Department, CU Denver or CU Anschutz CARE Team, CU Denver | CU Anschutz FAST Team, Office of Student Conduct and Community Standards, or CU Denver Housing and Dining. Additionally, nothing in the override analysis limits the authority to initiate or impose disciplinary action as necessary.

The Title IX Coordinator or designee may also determine that a report to the relevant law enforcement agency is warranted given the 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 *complainants* prior to reporting to law enforcement.

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.

#### **E. Disclosure of Findings of Sexual Misconduct**

The University recognizes that third parties (either employers and/or institutions receiving transferring students) may have a legitimate interest in knowing whether a University employee or student has been found responsible for engaging in Prohibited Conduct. In the event that, after a

grievance process and any rights of appeal have been completed, an employee or student has been found responsible for engaging in Prohibited Conduct, the University may confirm upon inquiry from a potential employer, licensing or credentialing agency, or institution that the employee or student has been found responsible for violating the Policy subject to applicable state and federal laws (*e.g.*, FERPA) regarding such disclosures. As required by the Colorado Open Records Act, the University shall not release any records related to the investigation of Prohibited Conduct or finding of sexual misconduct unless otherwise permitted by law.

## VI. RESOLUTION PROCEDURES

The University does not tolerate and will be responsive to any report or complaint of “Prohibited Conduct” listed in these Procedures and is committed to providing prompt, fair, impartial, and equitable resolutions of any complaint that the University knows, or in the exercise of reasonable care should have known, about. 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 reports of complaints of Prohibited Conduct:

### A. Overview of Resolution Procedures and Options

The University has authority to 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. The OE shall then determine the most appropriate means for addressing the report or complaint. Options include, but are not limited to:

1. Formal Grievance Process. See Section VI (B) through (H) below.
2. Policy Education Remedies. See Section VI(I) below.
3. Preliminary Inquiry: Determining that the facts of the complaint or report, even if true, would not constitute a violation of the Policy and closing the matter following a preliminary inquiry.
4. No limitation on existing authority: Referring the matter to an employee’s appointing/disciplinary authority or supervisor. These Procedures do not limit the authority of a disciplinary authority to initiate or impose disciplinary action as necessary.
5. Other referral: Determining a complaint does not fall within the jurisdiction of the Policy and referring the complaint to appropriate office(s) on campus best suited to address the reported concerns.

### B. Initiation of the Grievance Process, Including Filing and Evaluation of a Formal Complaint

#### 1. Formal Complaint Required to Initiate Formal Grievance Process

An individual (referred to as the *complainant*) or Title IX Coordinator or designee must file a document alleging a violation of misconduct under the Policy against an individual (referred to as the *respondent*) for the University to initiate a formal grievance. The formal complaint must grievance. The formal complaint must contain the *complainant’s* or Title IX Coordinator’s

physical or digital signature. The formal complaint form is available on the OE's website.

A *complainant* who reports allegations of misconduct with or without filing a formal complaint may receive *supportive measures*. See Section III(D).

## 2. Who May File a Formal Complaint

To initiate the grievance process under the Policy, either the *complainant* or the Title IX Coordinator or designee must file and sign a *formal complaint*.

- a. Title IX Sexual Misconduct: To file a *formal complaint*, a *complainant* must be participating in or attempting to participate in the University's *education program or activity*. "Attempting to participate" can include a *complainant* who (1) is applying for admission or employment; (2) has graduated from one program but intends to apply to another program and/or intends to remain involved with the University's alumni programs or activities; or (3) has left school because of *Sexual Misconduct* but expresses a desire to re-enroll. A *complainant* who is on a "leave of absence" may also be participating or attempting to participate in a University *education program or activity*.
- b. Sexual Misconduct: To file a *formal complaint*, a *complainant* may or may not be a member of the University community who alleges to be a victim of conduct that would violate the Policy.

*Complainants* are encouraged to meet with an investigator(s) prior to filing a formal complaint, but are not required to do so<sup>6</sup>.

## 3. Evaluation of a Formal Complaint

Once a formal complaint has been filed, the Title IX Coordinator or designee will evaluate whether the conduct alleged in the formal complaint, if proved, would constitute a violation of the Policy. If additional information is needed to evaluate jurisdiction, the Title IX Coordinator or designee will make reasonable efforts to obtain that information.

The Title IX Coordinator or designee will notify the complainant if additional time is needed to consider the complaint, such as when gathering additional information is necessary to determine whether dismissal is appropriate.

The OE may, but is not required to, dismiss a *formal complaint* at any time during the investigation if the *complainant* notifies the Title IX Coordinator in writing that the *complainant* would like to withdraw the *formal complaint* or any allegations therein, if the *respondent* is no longer enrolled or employed at the University, or if specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the *formal complaint* or the

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<sup>6</sup> In-person reporting and meetings may not be available at all times during the 2020-2021 academic year due to remote campus operations implemented as preventative measures during the COVID-19 pandemic. Meetings will be conducted via telephone or videoconference.

allegations therein (discretionary dismissal).

- a. Title IX Sexual Misconduct: The Title IX Coordinator or designee must dismiss a *formal complaint*, subject to appeal, if the alleged conduct would not constitute Title IX Sexual Misconduct or the University lacks jurisdiction under the requirements of Title IX. If the Title IX Coordinator or designee dismisses a *formal complaint* pursuant to these Procedures, the Title IX Coordinator or designee will consider whether the conduct alleged in the *formal complaint* violates other provisions of the Policy and any other University or campus policies, procedures, or conduct codes.
- b. Sexual Misconduct: The Title IX Coordinator or designee must dismiss a formal complaint, subject to appeal, if the alleged conduct would not constitute Sexual Misconduct or the University lacks jurisdiction to pursue the matter. If the Title IX Coordinator or designee dismisses a *formal complaint* pursuant to these Procedures, the Title IX Coordinator or designee will consider whether the conduct alleged in the *formal complaint* constitutes a violation of any other university or campus policies, procedures, or conduct codes.

If the alleged conduct would not violate the Policy, the Title IX Coordinator or designee will dismiss the formal complaint with regard to that conduct (mandatory dismissal).

The Title IX Coordinator or designee will notify both the *complainant* and the *respondent* of the complaint either by issuing a Notice of Allegations and Investigation. See Section IV(C) or a Notice of Complaint and Dismissal, which will include a summary of the allegations reported and an explanation as to the reason for the dismissal from the Formal Grievance Process.

#### **4. Appeal of Dismissal of Formal Complaint**

If a formal complaint is dismissed, either party may appeal. To file an appeal of the dismissal, the *complainant* or *respondent* must submit the written appeal to the Title IX Coordinator or designee within **five business days** of the Notice of Complaint and Dismissal. The appeal must include an explanation as to why the alleged misconduct, if true, would violate the Policy and why the formal complaint should not be dismissed.

An administrator within the OE, separate from the Title IX Coordinator or decision-maker for the initial dismissal, will consider the appeal and issue a determination in writing to both parties either upholding the appeal or overturning the dismissal within **five business days**.<sup>7</sup>

#### **C. Notice of Allegations and Investigation**

If a formal investigation is commenced, the *respondent* and *complainant* shall receive a Notice of Allegations and Investigation. 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

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<sup>7</sup> An external administrator, outside of the OE, may also be appointed to review and decide the appeal.

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 *respondents*, the employee's supervisory upline may receive a copy of the written Notice of Allegations and Investigation. This may include the Chancellor and the employee's appointing/disciplinary authority, as well as Human Resources.<sup>8</sup>

The OE requests that the *respondent* contact the investigator(s) within five business days of the issuance of the notice to schedule a meeting.<sup>9</sup>

If, in the course of an investigation, a *complainant* alleges additional violations or the 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 OIEC will issue an Amended Notice of Allegations to both parties.

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

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 and location of the alleged incident, to the extent known and available;
5. Information about the University's grievance process;
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;
7. Information about the provisions that prohibit knowingly making false statements or knowingly submitting false information during the grievance process;
8. Information that the parties have equal opportunity to inspect and review evidence; and
9. 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.

The Notice of Allegations and Investigation may also include information concerning any interim protective measures, which may include no-contact orders or location or campus exclusions, as well as other supportive measures.

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<sup>8</sup> 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.

<sup>9</sup> All parties will be provided with written notice of the date, time, location, and purpose of their investigative interviews, or other meetings, with sufficient time to prepare in order to participate.

## D. General Investigation Process

The OE's grievance process and Procedures provide for equitable resolution of any *formal complaint* of Prohibited Conduct within an ***average of 90 calendar days***, except that such time frame may be extended for good cause<sup>10</sup> 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 investigation throughout the process until conclusion.

A formal grievance process includes four major stages: (1) filing and evaluation of the formal complaint, (2) investigation, investigative report, (3) hearing and determination regarding responsibility (including sanctions, if applicable), and (4) appeal, if applicable and described below.

### 1. Investigators

The investigative process will be conducted by trained officials who do not have a conflict of interest or bias for or against *complainants* or *respondents* generally. An official shall recuse themselves from any role in the grievance process in those instances where the official believes that their impartiality might be reasonably questioned by an independent, neutral observer due to the official's personal bias or prejudice against the *complainant* or *respondent*, or against *complainants* or *respondents* generally, 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.

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 Title IX Coordinator or designee shall ensure that OE Investigators and other members involved in the formal grievance process will receive annual training on issues related to sexual assault, intimate partner abuse, stalking, sexual harassment, and retaliation. The 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.

#### a. *Outside Investigators*

The 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 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.

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<sup>10</sup> 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.

Outside investigator(s) shall have adequate training, qualifications, and experience that will, in the judgment of the 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 Title IX Coordinator or designee on a regular basis about the progress of the investigation.

### 3. Formal Investigative Process

The formal Investigative process is the procedure the OE uses to investigate allegations of Prohibited Conduct and to determine whether an individual more likely than not engaged in conduct that violates the Policy. Individuals found responsible for violating the Policy are subject to sanction, up to and including expulsion or termination of employment.

#### *a. Information Gathering During Investigation*

After the Notice of Allegations and Investigation 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.

During the course of the investigation, investigator(s) 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 formal investigation 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 **five business 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 all 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.

Questions about a *complainant's* prior sexual history are normally not probative and will be asked only when directly relevant to the incident where the alleged Prohibited Conduct occurred. See Section II.

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.

The OE will not use any party's 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.

The investigator(s) will prepare a written summary of each interview taken to include *complainant(s)*, *respondent(s)*, and witnesses. The investigator will send the summarized interview to the individual party or witness for a review of accuracy. Unless the *complainant(s)*, *respondent(s)*, and witness requests additional time, the summarized interview will be deemed accurate if the party or witness does not provide feedback on the statement within **two business days** of the investigator emailing it to the party or witness.

Information may be developed during the course of the investigation that indicates additional Policy violations to those initially identified in the Notice of Allegations and Investigation. In such circumstances, the investigator shall review such additional potential violations with the Title IX Coordinator or designee, who shall assess whether reasonable cause exists to believe the *respondent* engaged in the newly-discovered Prohibited Conduct. If so, the Title IX Coordinator or designee shall send a written Amended Notice of Investigation which includes relevant additional information.

Preliminary and Final Investigation Reports may be submitted to the Office of University Counsel to review for legal sufficiency.

*b. Preliminary Investigation Report*

When the investigator determines that the investigation is reasonably complete, the investigator will prepare a preliminary investigation report that includes the directly related evidence. The evidence subject to inspection and review in an electronic or a hard copy, along with the preliminary investigation report will be available for review by the *complainant(s)*, the *respondent(s)*, and each party's advisor.

The preliminary investigation report will include:

- A description of the incident;
- Procedural history and jurisdiction;
- Factual agreements and disputes;

- Summaries of the interviews conducted;
- Summaries of other information.

The *complainant(s)* and *respondent(s)* will have the opportunity to respond to the information in the preliminary investigation report 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 on aspects of the draft investigation report;
- 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 in the draft report.

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 **10 business days** to submit a written response to the preliminary investigation report 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 preliminary investigation report 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 Title IX Coordinator or designee.

*c. Extension Request – Response to Preliminary Investigation Report*

Should a *complainant* or *respondent*, intending to provide a response to the preliminary investigation report, 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 **10 business day** deadline for responding to the preliminary investigation report, 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.

*d. 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. The opportunity to inspect the investigative file will be provided equally to both parties. Requests must be made in advance and in writing (via email) to the investigator(s). The investigator(s) will arrange for the viewing of information contained in the file within a reasonable amount of time following receipt of such a request. Access to information contained in the investigative file shall be made available in person or via electronic means.<sup>11</sup>

*e. Final Investigation Report*

After the preliminary investigation report has been reviewed by the parties, and following the completion of any additional investigation if applicable, the investigator(s) will incorporate any responses to the preliminary investigation report to create the final investigation report. This report will fairly summarize relevant evidence without reaching any findings of fact or conclusions.

The final investigation report will be provided to each party and their advisor (if any) and shared with the Title IX Coordinator and Hearing Officer at least **ten business days** prior to the hearing for the parties' review and response and for the purpose of the live hearing.

**E. Hearing and Determination Regarding Responsibility**

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.

Upon notice that a party needs an advisor, the OE will endeavor to assign an advisor at least **ten business days** prior to the scheduled pre-hearing conference so the advisor may prepare. The advisor provided by the OE to conduct cross-examination on behalf of that party may be, but is

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<sup>11</sup> In-person inspections of the investigative file may not be available at all times during the 2020-2021 academic year due to remote campus operations implemented as preventative measures during the COVID-19 pandemic. Reviews will be conducted via electronic means.

not required to be, an attorney.

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.

### **2. Hearing Decorum**

The Hearing Officer is responsible for maintaining an orderly, fair, and respectful hearing. The Hearing Officer will direct the order of the proceeding and may engage in direct questioning of parties and witnesses during the hearing.

The Hearing Officer has broad discretion and authority to respond to disruptive or harassing behaviors, including adjourning the hearing or excluding the offending individual. The following rules apply:

- Advisors must be respectful of all participants and the hearing process. Abusive, intimidating, and harassing conduct will not be tolerated;
- Advisors may only make objections to questions on the grounds of relevance or to assert a privilege. Advisors must signal for the Hearing Officer's attention, calmly state their objection, and wait for a determination;

- Repetitive or redundant questioning may be deemed both lacking in relevancy and harassing;
- Should an advisor need to confer with their party, they may request that the Hearing Officer grant them a recess. A mid-hearing conferral may not exceed 10 minutes. Every effort should be made to conduct conferrals privately and to not be overly disruptive;
- Parties and advisors may not create audio or audiovisual recordings of the hearing;
- Advisors and parties must acknowledge the rules of decorum in advance of a hearing, including an acknowledgement that failure to abide by the rules may result in adjournment of the hearing and a postponement until the party whose advisor failed to abide by the rules may secure a new advisor.

### **3. Cross-Examination Procedure**

At the live hearing, the Hearing Officer must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Each party's advisor must ask questions directly, orally, and in real time. A party's advisor may only ask a party or witness relevant questions.

A relevant question seeks information that has any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the information sought in the question.

Before a *complainant*, *respondent*, or witness answers a cross-examination or other question, the Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

Questions and evidence about the *complainant's* sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the *complainant's* prior sexual behavior are offered to prove that someone other than the *respondent* committed the conduct alleged by the *complainant*, or if the questions and evidence concern specific incidents of the *complainant's* prior sexual behavior with respect to the *respondent* and are offered to prove consent.

### **4. 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. The Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. The Hearing Officer may consider any relevant prior statement of a party or witness, whether or not they submit to cross-examination at the live hearing. The Hearing Officer may decide how much weight to give the prior statements, weighed considering all the evidence in the case and the issues to be decided.

## 5. Determination Regarding Responsibility

Consistent with the standard of proof in other conduct proceedings, the Hearing Officer and panelist, if applicable, must apply the preponderance of the evidence standard when making findings and conclusions as to whether the Policy 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 evidence weighs so evenly that the Hearing Officer and panelists, if applicable, is unable to say that there is preponderance on either side, the Hearing Officer and panelists, if applicable, must determine that there is insufficient evidence to conclude there has been a violation of the Policy.

In applying the preponderance of the evidence standard, the Hearing Officer and panelists, if applicable, may consider both direct and circumstantial evidence. The Hearing Officer and panelists, if applicable, 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 the formal 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;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the University imposes on the *respondent*, and whether remedies designed to restore or preserve

equal access to the education program or activity will be provided by the University to the *complainant*; and

- The University's Procedures and permissible bases for the *complainant* and *respondent* to appeal.

In cases resulting in no Policy violation, the OE will provide the written determination to the parties simultaneously after it is prepared by the Hearing Officer. Both parties have the opportunity to appeal the written determination regarding responsibility. See Section VI(H).

In cases resulting in a Policy violation, prior to the issuance of the written determination to the parties, the Hearing Officer will refer the matter to the appropriate sanctioning authorities (for either a student or employee *respondent*) for a disciplinary sanction to be determined. See Section VI(F) and Section VI(G) below. After the sanction has been incorporated into the written determination regarding responsibility, the OE will provide the written determination and sanction to the parties simultaneously. Both parties have the opportunity to appeal the written determination, including the sanction, if applicable. See Section VI(H).

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 grievance process.

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 *respondents* 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.

## **F. Sanctioning Process for Student *Respondents***

In cases where the Formal Grievance Process results in a determination that a student *respondent* is responsible for a Policy violation, the matter will be referred, with the written determination (prior to the inclusion of the sanction), to the Sanctioning Board prior to the issuance of a final written determination.

### **1. Student Sanctioning Board**

The Sanctioning Board is composed of three members who are collectively authorized to impose sanctions for student *respondents* and to remedy the effects of the Prohibited Conduct. The Board shall decide by majority decision. For the grievance process, the Board will notify the Hearing

Officer of the determined sanctions so that the Hearing Officer can include them within the written determination.

The OE Coordinator of Remedies and Protective Measures or designee 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 to serve on the Sanctioning Board. University employees who serve on the Sanctioning Board will have received appropriate training regarding the applicable policies and factors pertinent to the sanctioning decision.

a. *Factors Considered in Sanctioning*

The Sanctioning Board members conduct an individualized review, including review of the Hearing Officer's written Determination Regarding Responsibility, similarly situated cases, assessment of the factors below, and may review the entire file and consult as necessary with OE staff, Student Conduct and Community Standards, or any other University staff as needed in making a sanctioning determination.

Factors pertinent to a sanctioning decision may include, as applicable:

- Severity and/or pervasiveness of conduct and whether it escalated during the incident;
- The impact of separating a student from their education;
- Whether the *complainant* was incapacitated at the time of the conduct;
- Relationship between the parties, including degree of control of one party over another;
- 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 Code of Conduct and any active disciplinary sanctions in place at time of the conduct;
- Impact of incident on *complainants*;
- Acceptance of responsibility by *respondent*; and
- On-going safety risk to *complainant* or community.

b. *Possible sanctions*

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 OE Coordinator of Remedies and Protective Measures 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.
- Delayed Conferral of Degree: The issuance of a student's diploma is delayed for a specified period of time.
- 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 to the University 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. Upon completion of the suspension, if the student wishes to return to the University, they must complete the re-admission process through the Office of Admissions.
- 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 OE Coordinator of Remedies and Protective Measures or designee. Should the student enter University property without permission, the police may charge the student with trespass.
- 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 includes an automatic exclusion from University of

Colorado property. An expulsion decision results in the student being expelled from all campuses in the University of Colorado.

- **Disciplinary Stop and Disciplinary Hold:** A disciplinary stop shall be placed on a student's record if they are suspended as the outcome of the OE proceedings. A disciplinary stop 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.

## **G. Sanctioning Process for Employee Respondents**

In cases where the Formal Grievance Process results in a determination that an employee *respondent* is responsible for a Policy violation or acted inappropriately or unprofessionally, the matter will be referred, with the written determination (prior to the inclusion of the sanction), to the appointing/disciplinary authority. 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.

Any applicable sanctioning meeting pursuant to these Procedures does not replace any additional meetings that may be required under other applicable personnel processes (e.g., State Personnel Board Rules for classified employees; Professional Rights and Duties procedure and Privilege and Tenure process for faculty).

### **1. OE's formal recommendation to disciplinary authority**

The Title IX Coordinator or designee will provide a formal recommendation to the appointing/disciplinary authority as to applicable sanctions. A formal recommendation will be consistent with the factors set forth below.

#### *a. Factors Considered in Sanctioning*

Factors pertinent to a sanctioning decision may include, as applicable:

- Severity and/or pervasiveness of conduct and whether it escalated during the incident;
- Whether the *complainant* was incapacitated at the time of the conduct;
- Relationship between the parties, including degree of control of one party over another;
- 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 Code of Conduct and any active disciplinary sanctions in place at time of the conduct;
- Impact of incident on *complainants*;
- Acceptance of responsibility by *respondent*; and
- On-going safety risk to *complainant* or community.

## 2. Sanction Required

In order to remediate the effects of Prohibited Conduct, the appointing/disciplinary authority will impose sanctions. Sanctions for classified staff in the written determination may include either a corrective action or a notice of disciplinary action, issued pursuant to the State Personnel Rules.

The appointing/disciplinary authority will determine the type of sanctions in consultation with the Associate Vice Chancellor & Chief Human Resources Officer or designee, the Title IX Coordinator or designee, and any other administrative staff with a need to know.

The appointing/disciplinary authority may have access to the formal grievance process records and may consult with the adjudicative staff in order to determine action.

The Title IX Coordinator or designee will notify the Hearing Officer of the determined sanctions so that the Hearing Officer can include the sanction within the written determination.

Potential sanctions 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.

- 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.

## H. Appeals

Either the *complainant* or *respondent* may file a written appeal of the determination regarding responsibility. All appeals must be made in accordance with the Procedures outlined in this section.

Basis for appeal of a determination regarding responsibility:

- To determine whether there were procedural irregularities that affected the outcome of the matter;
- If 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;
- The Title IX Coordinator, investigators, or Hearing Officer, and panelists, if applicable, 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.

In the appeal, both parties must have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

The decision-maker(s) for the appeal (Appeal Board) may not be the same Hearing Officer that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator. All Appeal Board members must be trained.

The Appeal Board will issue a written decision describing the result of the appeal and the rationale for the result. The appeal decision must be provided simultaneously to both parties.

### 1. How to File an Appeal and Timeframe

Appeals must be submitted in writing to the Title IX Coordinator or designee within **10 business days** after the determination regarding responsibility is issued. The appeal should indicate the

specific basis for the appeal (see above), supporting arguments and documentation, and any other relevant information the appealing party wishes to include. The appealing party should be aware that all appeals are documentary reviews, and no interviews are conducted. Generally, appeals are determined solely on the merits of the documents submitted. Appeal documents therefore should be as complete and succinct as possible. All sanctions imposed in the case will not go into effect until either the deadline for filing an appeal passes and no appeal is filed or, if a timely appeal is filed, the appeal is decided, whichever comes first.

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.

## **2. Extension Request**

Should an appealing party, intending to provide a response to the preliminary investigation report, believe they do not have adequate time to prepare their written response, a written request for extension of time may be submitted to the Title IX Coordinator or designee. The request must be submitted within the **10 business day** deadline for responding to the preliminary investigation report, 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.

## **3. Appeal Process and Appeal Board**

The 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 **five business days** to respond in writing to the appeal. The response should be sent to the 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 related to the appeal, or the passage of the five-day deadline for response has passed, the Title IX Coordinator or designee will appoint University employees (who may include staff from the CU Boulder and Colorado Springs campuses) who are not otherwise affiliated with the OE at CU Denver | CU Anschutz to serve on the Appeal Board.

## **4. Appeal Decisions**

Upon review of the appeal, the Appeal Board may:

- Uphold the initial decision in its entirety;
- Direct that there be reconsideration by the Hearing Officer (or a new Hearing Officer) based on the existing evidence; or
- Direct that there be re-investigation (by the same or different investigators) followed by a

second live cross-examination hearing process conducted in accordance with the process outlined above.

The Board members 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 **15 business days** of its receipt of all final documentation.

## **I. Policy Education Remedies**

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

The primary focus during a Policy Education 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 Policy has 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 for the specific facts of the case;
- Provide targeted or broad-based educational programming or training; and/or
- Conduct a Policy Education 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 a Policy Education Meeting. Additionally, the OE retains discretion to proceed with a Formal Grievance Process for allegations that, if proven true, would violate the Sexual Misconduct, Intimate Partner Violence, and Stalking Policy. For allegations that would warrant a Formal Grievance Process, but the OE proceeded with a Policy Education

Meeting because the *complainant* requested privacy or that no investigation or disciplinary action be taken and that request could be honored consistent with the factors and obligations of the OE as set forth in Section III, the OE will notify the *complainant* of the ability to end the Policy Education Meeting process at any time and to commence or resume a Formal Grievance Process.

## VII. RESPONSIBILITIES OF THE TITLE IX COORDINATOR

The Title IX Coordinator is responsible for overseeing reports of Prohibited Conduct and identifying and addressing any patterns or systemic problems that arise during review of those reports.

Each campus shall designate and provide notice of the name, title, office address, telephone number, and email address for the campus Title IX Coordinator and any designated Deputy Coordinators.

### **Title IX Coordinator:**

Karey Krohnfeldt, Title IX Coordinator & Director of Title IX  
Office of Equity  
Lawrence Street Center  
Campus Box #187  
1380 Lawrence Street, 12<sup>th</sup> Floor  
Denver, CO 80204  
Phone: 303-315-2567  
Email: [equity@ucdenver.edu](mailto:equity@ucdenver.edu)

Additional information about OE staff can be found at:

[CU Denver](#)  
[CU Anschutz Medical Campus](#)

For all matters within the scope of the Policy, at a minimum, each campus Title IX Coordinator shall be specifically responsible and have delegated authority from the Chancellor for implementing the Policy. Subject to the Title IX Coordinator's ultimate responsibility and authority, the Title IX Coordinator may further delegate responsibility and authority for the following functions:

1. Ensuring that reports of Prohibited Conduct are being handled appropriately and in a timely manner;
2. Overseeing adequate, reliable, and impartial investigations of reports of Prohibited Conduct;
3. Evaluating whether a *formal complaint* should proceed over a *complainant's* decision to not move forward pursuant to Section V.C.4 of the Policy;
4. Evaluating whether a *formal complaint* must be dismissed for jurisdictional bases;
5. Referring matters for further action or discipline for inappropriate or unprofessional conduct under other applicable policies or procedures even if a Policy violation is not found. No provisions of the Policy shall be construed as a limitation upon the authority of the appointing/disciplinary authority to initiate disciplinary action for inappropriate or unprofessional conduct;
6. Facilitating *supportive measures* for all parties;
7. Ensuring broad publication of the campus complaint process and Procedures, including posting the process and the Procedures on an appropriate campus website;

8. Providing an annual report to the President and the appropriate campus Chancellor documenting: (a) the number of reports or formal complaints of alleged violations the Policy; (b) the categories (i.e., student, employee, or other) of the parties involved; (c) the number of Policy violations found; (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 Policy and campus complaint process and Procedures;
10. Monitoring campus compliance with this Policy;
11. Ensuring there is ongoing training and education regarding reporting and preventing sexual misconduct for all 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 Policy, 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, investigation, hearing, sanctioning, and appeal; 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.

## VIII. RESOURCES

*Note\*: Confidential resources are identified by an asterisk.*

### **CARE (Campus Assessment, Response, and Evaluation) Team**

The 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.

#### ***CU Denver Campus***

- **Phone:** 303.315.7306

#### ***CU Anschutz Campus***

- **Phone:** 303.724.8488
- **Email:** [CARE Team Dual-Campus Email: shareaconcern@ucdenver.edu](mailto:shareaconcern@ucdenver.edu)

### **Resources Serving both CU Denver and CU Anschutz Campus**

#### **Office of Case Management**

The Office of Case Management services include; providing intervention, advocacy, resources and referrals for CU Denver Students.

#### **CU Denver Campus--Office of Case Management**

- **Phone:** [303.315.7306](tel:303.315.7306)
- **Location:** Tivoli Student Union, Room 309

#### **CU Anschutz Campus--Office of Case Management**

- **Phone:** 303.724.8488
- **Location:** Education 2 North, Room 3200

### **CARE (Campus Assessment, Response, and Evaluation) Team**

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- **Phone:** 303.315.7306

#### ***CU Anschutz Campus***

- **Phone:** 303.724.8488
- **Email:** [CARE Team Dual-Campus Email: shareaconcern@ucdenver.edu](mailto:shareaconcern@ucdenver.edu)

### **The Ombuds Office\***

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.

#### ***CU Denver Campus***

- **Phone:** [303.315.0046](tel:303.315.0046)
- **Location:** Lawrence Street Center, Room 1003

#### ***CU Anschutz Campus:***

- **Phone:** 303.724.2950
- **Location:** Fitzsimons Building, Room 7005C

### **The Phoenix Center at Auraria | Anschutz\***

The Phoenix Center at Auraria (PCA) provides free and confidential advocacy to survivors of interpersonal violence and their families and friends.

#### ***CU Denver Campus***

- **Phone:** 303.315.7250
- **Location:** Tivoli Student Union, Room 227

#### ***CU Anschutz Campus***

- **Phone:** 303.724.9120
- **Location:** Education 2 North, Room 3101

**24/7 Helpline:** [303.556.2255](tel:303.556.2255) (both campuses)

### **Employee Relations and Performance**

- **Phone:** 303-315-2700

#### ***CU Denver Campus***

- **Location:** Lawrence Street Center 10<sup>th</sup> floor

#### ***CU Anschutz Campus***

- **Location:** Fitzsimon's Building ground floor

### **Employee Real Help Hot Line\***

- **Phone:** 833-493-8255

### **Faculty and Staff Threat Assessment and Response Team (FaST)**

- **Phone:** 303-315-0182
- **Email:** [FacultyStaff.Assessment@ucdenver.edu](mailto:FacultyStaff.Assessment@ucdenver.edu)

### **State Employee Assistance Program CSEAP\***

- **Phone:** 303-866-4314
- **Location:** 1525 Sherman Street Ste 117, Denver, CO 80203

## CU Denver Campus Resources

### CU Denver Student and Community Counseling Center\*

The CU Denver Student and Community Counseling Center provides mental health counseling services to CU Denver students

- **Phone:** [303.315.7270](tel:303.315.7270)
- **Location:** Tivoli Student Union, Room 454

### International Student & Scholar Services

The International Student & Scholar Services (ISSS) provides immigration services/advising, programming & advocacy to international students and scholars.

- **Phone:** [303.315.2230](tel:303.315.2230)
- **Location:** Lawrence Street Center, Room 932

### LGBTQ Student Resource Center

Serves to support Gay, Lesbian, Bisexual, Transgender students by fostering acceptance and understanding through campus education on issues related to this population.

- **Phone:** 303.615.0515
- **Location:** Tivoli Student Union, Room 213

### Student Conduct and Community Standards

The 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](tel:303.315.7311)
- **Location:** Tivoli Student Union, Room 309

### Women and Gender Center

The Women and Gender Center (WGC) at CU Denver is committed to advancing issues of gender equity and supporting the gender-focused needs of students, faculty, and staff on the Auraria campus.

- **Phone:** [303.315.7262](tel:303.315.7262)
- **Location:** Tivoli Student Union, Room 310

### Auraria Police Department

- **Emergency:** 9-1-1
- **Phone:** 303.556.5000
- **Text-a-Tip:** 720.593.TIPS (8477)
- **Location:** Administrative Building, Room 110

## CU Anschutz Campus Resources

### Office of Campus Student Services

The Office of Campus Student Services' mission is to enhance student life at the Anschutz Medical Campus of the University of Colorado Denver by providing excellence in specific non-academic and academic student services.

- **Phone:** [303.724.2866](tel:303.724.2866)
- **Location:** Education II North, 3rd Floor, Room 3200

### Office of Professional Excellence

The CU Anschutz Office of Professionalism provides a resource to obtain a fair and equitable process and resolution for all matters pertaining to professionalism concerns regarding students, residents, fellows, staff members, and faculty in any school or college on the Anschutz Medical Campus.

- **Phone:** [303.724.4776](tel:303.724.4776)
- **Location:** Fitzsimons Building, 1st floor

### Student Mental Health Service\*

CU Anschutz provides comprehensive and confidential mental health services for all students enrolled in the schools located at the Anschutz Medical Campus, as well as Graduate Medical Education (GME) residents and fellows (including Denver Health residents and fellows).

- **Phone:** [303.724.4716](tel:303.724.4716)
- **Location:** Fitzsimons Building, Level 2

*For acute crisis care after-hours, on weekends or during holidays call 1.844.8255, or text "TALK" to 38255.*

### Anschutz Police Department

- **Emergency:** 9-1-1
- **Phone:** [303.724.4444](tel:303.724.4444)
- **Location:** Building 407, 12454 E. 19th Place

### CU Anschutz Faculty and Staff Mental Health Clinic\*

- **Phone:** 303-724-4940
- **Location:** Fitzsimons Building

## Off-Campus Sexual Assault Resources

### **The Blue Bench\***

- **Phone:** 303-329-9922
- **24/7 Sexual Assault Hotline:** 303-322-7273

### **Moving to End Sexual Assault (MESA)\***

- **Phone:** 24/7 303.443.7300

### **WINGS Foundation\***

- **Phone:** 303.238.8660

### **Sexual Assault Nurse Examination (SANE) Programs**

- [Click here to view a list of all SANE Locations in Colorado](#)

## Off Campus Dating and Domestic Violence Resources

### **211**

211 is a comprehensive source of located curated social services information in the U.S. and most of Canada; helpful resource if you are not sure where to turn but are experiencing a crisis or are worried about someone who might be.

- **Phone:** 24/7 at 211

### **Rose Anom Center\***

- **Physical Location:** 1330 Fox St. Denver, CO 80204
- **Phone:** 720.337.4400

### **Deaf Overcoming Violence Through Empowerment (DOVE)\***

- **24 Hour Crisis Line:** 303.831.7874
- **DOVE Email:** [hotline@deafdove.org](mailto:hotline@deafdove.org)

### **National Domestic Violence Hotline\***

- **Phone:** 800.799.SAFE (7233)
- **TTY:** 800.787.3224

### **Violence Free Colorado\***

- **Location:** 1330 Fox Street, Suite 3 P.O. Box 40328 Denver, CO 80204
- **Phone:** 303.831.9632
- **Toll-Free:** 888.778.7091
- **Violence Free Colorado Email:** [info@violencefreeco.org](mailto:info@violencefreeco.org)

## Other Related Resources

### Colorado Legal Services

- **Phone:** 303.866.1019

### The Center for Trauma and Resilience

- **Phone (English):** 303.894.8000 (ENG)
- **Phone (Spanish):** 303.718.8289 (ESP)
- **Phone (Deaf/Hard of Hearing):** 711 for Relay Colorado Access

*Translation and interpretation services available.*

### Colorado Network to End Human Trafficking

- **Phone:** 24/7 at 866.455.5075

### Cyber Civil Rights Initiative

- **Phone:** 844-878-2274

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

### Colorado Civil Rights Division

- **Phone:** (303)  
894-2997

### U. S. Department of Education, Office for Civil Rights

- **Phone:** (303) 844-2024

### U.S. Department of Justice

- **Phone:** (202)  
514-2000

### United States Equal Employment Opportunity Commission

- **Phone:** (303) 866-1300

## IX. DEFINITIONS

*Italicized terms* used in this Administrative Policy Statement are defined in the [APS Glossary of Terms](#) or are defined in this APS.

- A. **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 she or he would not otherwise have given. For example, threats to kill or harm someone, kill or harm themselves, or to 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.

*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.

- 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/drugs will not function as a defense to engaging in sexual activity without an individual's *consent*.
- B. **Complainant:** Within the context of this Policy, means an individual who is alleged to be the victim of conduct that could constitute Prohibited Conduct, *retaliation*, or [other conduct in violation of this Policy](#).
- C. **Dating violence:** means violence committed by a person, on the basis of sex—
- (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  - (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - (i) The length of the relationship.
    - (ii) The type of relationship.
    - (iii) The frequency of interaction between the persons involved in the relationship
- D. **Domestic violence:** The term “domestic violence” includes felony or misdemeanor crimes of violence, on the basis of sex, committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.
- E. **Education program or activity:** Includes locations, events, or circumstances over which the University exercises substantial control over both the *respondent* and the context in which the Prohibited Conduct occurs. This includes any building owned or controlled by a student organization that is officially recognized by the University.
- F. **Formal Complaint:** means a document filed by a *complainant* or signed by the Title IX Coordinator or designee alleging Prohibited Conduct against a *respondent* and requesting that the University investigate the allegation of Prohibited Conduct. A *formal complaint* may be filed with the Title IX Coordinator or designee in person, by mail, or by electronic mail. If the *complainant* files the *formal complaint*, the document must contain the *complainant's* physical or digital signature, or otherwise indicate that the *complainant* is the person filing the *formal complaint*.

- G. **Hostile Environment:** Unwelcome conduct determined by a reasonable person to be so severe, pervasive, or objectively offensive that it effectively denies a person equal access to the University's *education program or activity*. Mere offensive nonsexual conduct is not enough to create a *hostile environment*. Although repeated incidents increase the likelihood that harassment has created a *hostile environment*, a single or isolated incident of *sexual assault* may be sufficient. This definition governs allegations of *hostile environment* related to sexual misconduct that fall outside Title IX's jurisdiction, including allegations of student and employee sexual misconduct as described in Section IV(2)(b) of the Policy.<sup>12</sup>
- H. **Incapacitation:** *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.
- I. **Investigative Report:** A written report of relevant and material evidence distributed to both parties after gathering facts from both parties, witnesses, and any other available evidence. The *investigative report* does not contain responsibility determinations or analysis and is intended to objectively present relevant evidence.
- J. **Quid Pro Quo Sexual Harassment:** A member of the University community conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.
- K. **Respondent:** Within the context of this Policy, means an individual who has been reported to be the perpetrator of conduct that could constitute Prohibited Conduct, *retaliation*, or other conduct in violation of this Policy.
- L. **Responsible employee:** Means 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 of reporting incidents of sexual violence or any other misconduct by students to the Title IX Coordinator. A Title IX Coordinator may designate in campus Procedures that certain individuals who might otherwise not be considered *responsible employees* are subject to mandatory reporting requirements.

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<sup>12</sup> The following examples of non-Title IX sexual misconduct are offered for illustrative purposes only and are not an exhaustive list: alleged conduct that occurs in off-campus housing that does not have a nexus to an employment or educational program; and alleged conduct that occurs in study-abroad programs.

M. **Retaliation:** Means any adverse action threatened or taken against a person because an individual has filed, supported, or provided information in connection with a complaint of sexual misconduct, including, but not limited to, direct and indirect intimidation, threats and harassment. An “adverse action” is any conduct or action that would dissuade a reasonable person from reporting an allegation of Prohibited Conduct or participating in an investigation of Prohibited Conduct.

N. **Sexual assault:** Means any attempted or actual sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving *consent*. This includes:

i. 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*.

ii. Fondling: touching of the private body parts of another person for the purpose of sexual gratification, without the *consent* of the victim, including instances where the victim is incapable of giving *consent* because of the victim’s age or because of the victim’s temporary or permanent mental incapacity.

iii. 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.

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

O. **Sexual exploitation:** Means conduct that takes sexual advantage of another person without that person’s *consent*. Examples of behavior that could rise to the level of *sexual exploitation* include, but are not limited to: prostituting another person; taking possession of the intimate personal property of another person without that person’s *consent*; recording images (e.g., video, photograph) or audio of another person’s sexual activity, intimate body parts, or nakedness without that person’s *consent*; distributing images (e.g., video, photograph) or audio of another person’s sexual activity, intimate 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; and viewing or listening to another person’s sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person’s *consent*. If *sexual exploitation* is severe,

pervasive, and objectively offensive, it may meet the definition of Title IX Hostile Environment; otherwise, it may constitute *Sexual Misconduct*.

- P. **Stalking:** Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—(A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.
- Q. **Title IX Sexual Harassment:** means unwelcome conduct on the basis of sex that satisfies one or more of the following:
- (1) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30);
  - (1) Hostile Environment: Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s *education program or activity*; or
  - (2) Quid Pro Quo Sexual Harassment: An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct.
- R. **Title IX Hostile Environment:** Unwelcome conduct, on the basis of sex, determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s *education program or activity*. Mere offensive nonsexual conduct is not enough to create a *hostile environment*. Although repeated incidents increase the likelihood that harassment has created a *hostile environment*, a single or isolated incident of *sexual assault* may be sufficient.
- S. **Title IX Quid Pro Quo Sexual Harassment:** An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct.
- T. **Title IX Stalking:** Means engaging in a course of conduct, on the basis of sex, directed at a specific person that would cause a reasonable person to—(A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

## X. RECORDKEEPING

The University must maintain the following records for a minimum of seven years:

- A. Each Prohibited Conduct investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript;

- B. Any disciplinary sanctions imposed on the *respondent*, and any remedies provided to the *complainant* designed to restore or preserve equal access to the University's education program or activity;
- C. Any appeal and the result therefrom;
- D. All materials used to train Title IX Coordinators, investigators, and decision-makers. The University must make these training materials publicly available on its website;
- E. Records of any actions, including any *supportive measures*, taken in response to a report or *formal complaint* of Prohibited Conduct. In each instance, the University must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the University's *education program or activity*. If a University does not provide a *complainant* with *supportive measures*, then the University must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the University in the future from providing additional explanations or detailing additional measures taken.

**X. RELATED POLICIES AND OTHER RESOURCES**

- A. [APS 5015 Conflict of Interest in Amorous Relationships](#)
- B. [Title IX Coordinators](#)
- C. [Campus Discrimination and Harassment Policies and Procedures](#)

## Appendix 1: 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.