



Office of Equity

UNIVERSITY OF COLORADO  
DENVER | ANSCHUTZ MEDICAL CAMPUS

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**OFFICE OF EQUITY**

**UNIVERSITY OF COLORADO DENVER | ANSCHUTZ MEDICAL CAMPUS**

**SEXUAL MISCONDUCT, INTIMATE PARTNER ABUSE, AND STALKING  
PROCEDURES**

*Effective October 4, 2018*

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

The University of Colorado Denver | Anschutz Medical Campus (the “University”) is committed to providing a safe and non-discriminatory environment for all members of the University community. The University prohibits Sexual Assault, Sexual Exploitation, Intimate Partner Abuse, Stalking, Sexual Harassment. (together, “Prohibited Conduct”). The Policy also defines other Related Violations, which includes; 1) Failure to Report, 2) Retaliation, 3) Providing False or Misleading Information, 4) Interference with Reporting and 5) Failure to comply with Orders and Sanctions. These forms of Prohibited Conduct and Related Violations are defined in the University of Colorado’s Sexual Misconduct Administrative Policy Statement (the “Policy”). This document identifies the procedures (the “Procedures”) the University follows when it receives a report alleging Prohibited Conduct. 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>1</sup>

The University of Colorado Denver | Anschutz Medical Campus Office of Equity (OE) strives to stop, prevent, and remedy discrimination, harassment, sexual misconduct, and any related retaliation; assist employees with obtaining reasonable ADA accommodations; 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 and Prohibited Conduct. 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.

## II. JURISDICTION

- A. The Procedures govern all students, faculty, staff, contractors, patients, volunteers, affiliated entities, and other third parties. For specific jurisdiction provisions, please see the Applicable Policy.<sup>1</sup>
- B. The University has an obligation and jurisdiction to conduct at least a preliminary inquiry to determine whether the alleged conduct

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<sup>1</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.

occurred in the context of, or has continuing effects on, a University program, activity or employment.<sup>2</sup>

- C. 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 resolving an incident. There is no time limitation for reporting a concern to the OE or for the OE to address matters described within 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.
- D. 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.
- E. 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. 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 is not limited to, concurrent investigations, joint investigations, deferring the findings of one office or using the investigation or findings of one office as the basis of further investigation by the other.
- F. When an alleged violation 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 resolution process may request the involvement or cooperation of any other affected campus and should advise appropriate officials of the

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<sup>2</sup> See Policy- Section H: Jurisdiction to Conduct Preliminary Inquiry and Further Action.

affected campus(es) of the progress and results of the resolution process.

- G. 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 entity; 3) defer to the findings of 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.
- H. Conduct alleged to have occurred before an individual became a student, faculty, staff, contractor, patient, volunteer, or affiliated entity with the University of Colorado Denver | Anschutz Medical Campus 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 for any current University of Colorado Denver | Anschutz Medical Campus community members, as determined by the OE Director(s).

### III. REPORTING OPTIONS & REQUIREMENTS

#### A. Reporting Options

**Will Dewese, Title IX Coordinator & Director of Title IX**  
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A Complainant may choose to make a report to the University to pursue resolution under these procedures and may also choose to make a report to law enforcement. A Complainant may pursue either or both options at the same time. The OE can assist a Complainant in notifying law enforcement authorities, if the Complainant so chooses. A Complainant who wishes to pursue criminal action in addition to, or instead of, making a report under these Procedures can also contact law enforcement directly.

- 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

**Please note that it is important to preserve evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protective order.** Regardless of whether or not a Complainant wants to report an incident(s), it is important to preserve any evidence of the sexual assault (or other misconduct), 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 accused 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 Hospital, Medical Center of Aurora-South Campus, Saint Anthony North Hospital, Littleton Adventist Hospital, and Saint Anthony Central 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 their website. Contact information and addresses for these locations can be found on the OE website under the tab “What Can I do Now”

**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.**

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. In some instances the OE is obligated to report the alleged conduct to the appropriate law enforcement agency. In those instances, OE will make reasonable effort to notify potential complainants prior to the reporting to law enforcement.

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 VIII. sub-sections 1, 2, & 3 identify confidential and other resources, both at the University and in the surrounding community.

- Section VIII(1) – CU Denver Resources
- Section VIII(2) – CU Anschutz Resources
- Section VIII(3) – Off-campus Resources

## B. Reporting Requirements

Responsible Employees Must Report Sexual Misconduct - Many members of the University community, generally including faculty and members of the administration with supervisory responsibilities, are *Responsible Employees*, who must promptly report *sexual misconduct* to the Title IX Coordinator or designee. A full definition of *Responsible Employees* is provided in Section IV.

1. 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 *sexual misconduct* 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 *sexual misconduct*, the obligation to report exists independently of whether the individual who was subjected to or committed an act of *sexual misconduct* is currently enrolled or employed at the University.
2. The *Responsible Employee* is required to promptly report to the Title IX Coordinator or designee all known details about the alleged *sexual misconduct*, including:
  - a. Name of the alleged victim;
  - b. Name of alleged perpetrator;
  - c. Name of any alleged witnesses; and
  - d. Any other relevant facts, including the date, time, and specific location of the alleged incident.

If the *Responsible Employee* is unable to provide this information at the time of making an initial report, but later becomes aware of additional information, the *Responsible Employee* must supplement the prior report.

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

3. In many instances, it may not be immediately apparent whether a person is a member of the University community, whether the *sexual misconduct* occurred on University property, or whether the alleged *sexual misconduct* 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 *sexual misconduct* to the Title IX Coordinator or designee to allow a preliminary inquiry to occur.
4. *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 may, in appropriate cases, require researchers to provide reporting information to all subjects of IRB Research.

5. *Responsible Employees* who receive information related to *sexual misconduct* 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 or designee. These *Responsible Employees* must report *sexual misconduct* disclosed to them when they are not serving in the capacity as ombuds.
6. *Responsible Employees* who receive information related to *sexual misconduct* 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 or designee. These *Responsible Employees* must report *sexual misconduct* 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.
7. A *Responsible Employee* does not satisfy the reporting obligation by reporting *sexual misconduct* to a supervisor or University personnel other than the Title IX Coordinator or designee.
8. *Responsible Employees* are not required to report *sexual misconduct* to which they have been personally subjected to the Title IX Coordinator or designee, but are nonetheless encouraged to report.

In the event that the individual wishes to maintain privacy and requests that no resolution process be pursued, that no disciplinary action be taken, or that the allegation not be reported to law enforcement, the Responsible Employee remains obligated to report the known information to the Title IX Coordinator. OE staff will also explain that the University prohibits retaliation, and will also take strong responsive action if it occurs.

All other individuals who become aware of an incident of Prohibited Conduct are highly encouraged to report all known details about the Prohibited Conduct to the University Title IX Coordinator by telephone, email, in person, or through the University's online Sexual Misconduct & Discrimination [Report Form](#).

The University may have an obligation to report to the relevant law enforcement agency, keeping the name of the Complainant confidential, in circumstances where the incident includes an allegation that a crime has been committed.

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

*Privacy and confidentiality have distinct meanings.*

**Privacy:** Generally means that information related to a report of Prohibited Conduct will be shared with a limited number of individuals on a "need to know" basis in order to assist in the active review, investigation, resolution of the report, and related issues. All University employees who are involved in a 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 state law.

**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.

The University supports the use of confidential resources as listed in Section VIII so that Complainants can provide information confidentially and still receive remedial and/or protective measures as necessary through the Title IX Coordinator or designee. Communications with these confidential resources acting in their official capacity are not considered "Responsible Employees" for mandatory reporting purposes.

**Findings of Sexual Misconduct:** The University recognizes that third parties may have a legitimate interest in knowing whether a University employee has been found responsible for engaging in sexual misconduct. In the event that, after an investigation and any rights of appeal have been completed, an employee has been found responsible for engaging in sexual misconduct, the University may confirm upon inquiry from a potential employer or licensing or credentialing agency that the employee has been found responsible for violating a policy related to sexual misconduct. The University may also confirm that an investigation of potential sexual misconduct is pending against an employee or that an employee resigned employment while an investigation of potential sexual misconduct was pending. As required by the Colorado Open Records Act, the University shall not release any records related to the



investigation of sexual misconduct or finding of sexual misconduct unless otherwise permitted by law.

***Determinations Regarding Obligation to Provide a Safe and Non-Discriminatory Environment and Consideration of Override Factors***

If a Complainant has disclosed an incident of misconduct, but wishes to maintain privacy or requests that no investigation be conducted or disciplinary action taken, the Title IX Coordinator or a designee will explain that the University prohibits retaliation and will explain the actions the University will take to prevent retaliation if the individual participates in a resolution 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 individual would still like to maintain privacy or requests that no resolution process be pursued or disciplinary action be taken, the Title IX Coordinator or a designee will weigh that request against the University's obligation to provide a safe, non-discriminatory environment in its programs, activities, and employment. In making that determination, the Title IX Coordinator or designee will consider a range of potentially overriding factors that would cause the campus to address the alleged conduct in some manner or take disciplinary action after an investigation if misconduct occurred, including the following:

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

The decision to proceed with a resolution process or other action despite the individual's request that no resolution process or action proceed will be conducted on a case-by-case basis after an individualized 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 informal resolution, 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 | Anschutz Medical Campus FAST Team, Office of Student Conduct and Community Standards, or CU Denver Housing and Dining. Additionally, nothing in the override analysis limits the authority of a disciplinary authority to initiate or impose disciplinary action as necessary.

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

The 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.

## V. PROHIBITED CONDUCT

The misconduct applicable to these Procedures can be found in the Policy<sup>3</sup>, which prohibits sexual assault – nonconsensual sexual intercourse, sexual assault – nonconsensual sexual contact, sexual exploitation, intimate partner abuse (domestic and dating violence), stalking, and sexual harassment.

Under the Policy, the OE may also address allegations of the the following related Prohibited Conduct<sup>4</sup>:

A. Failure to Report – The University will administer the Policy in a manner that promotes the reporting of misconduct and avoids disciplinary actions when Responsible Employees conscientiously discharge their reporting obligations. A failure to report an allegation of misconduct shall result in a violation of the the Policy only if the Responsible Employee received information that a member of the University community was subjected or committed an act of misconduct and intentionally, knowingly, or recklessly disregarded the obligation to report, thus resulting in harm to a member of the University community.

B. Retaliation – The University of Colorado Denver | Anschutz Medical Campus will not permit retaliation against a member of the University community who has indicated an intent to file or who has filed, supported, or provided information in connection with a complaint of misconduct. Retaliation means adverse educational or employment actions, including direct or indirect intimidation, threats, and harassment taken against a member of the University community because of their protected activities. An adverse educational or employment action is any conduct that would dissuade a reasonable person from reporting an allegation of misconduct or participating in a resolution process.

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<sup>3</sup> <https://www.cu.edu/ope/aps/5014>

<sup>4</sup> These provisions are included in the Sexual Misconduct, Intimate Partner Abuse and Stalking Policy (APS 5014).

C. Providing False or Misleading Information – Providing false or misleading information related to misconduct is contrary to the purposes of the Policy. Members of the University community must provide reports of misconduct in good faith. A person who knowingly or recklessly alleges a false complaint of misconduct or knowingly or recklessly provides false information during the course of an investigation 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.

D. Interference with Reporting – No member of the University community may prohibit or interfere with a Responsible Employee or any other person’s reporting misconduct to the Title IX Coordinator or designee.

E. 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 of the OE or other appropriate University officials related to the Sexual Misconduct, Intimate Partner Abuse and Stalking Policy, including but not limited to, no-contact orders, exclusion orders, and orders for interim suspension. Subject to any rights of appeal, members of the University community must abide by and complete sanctions related to the applicable misconduct.

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 nevertheless becomes aware of the potential related misconduct.

## VI. RESOLUTION PROCEDURES

The University does not tolerate and will be responsive to any report or complaint of “Prohibited Conduct” as listed in Section V. 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 recurrence of any Prohibited Conduct and remedy 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 an obligation and jurisdiction 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 complaint implicates a policy enforced by the OE, whether the complaint and parties are within the jurisdiction of the OE, and whether the 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 Investigation (See Section 5.)
2. Informal Resolution (See Section 6.)

3. Preliminary Inquiry: Determining that the facts of the complaint or report, even if true, would not constitute a violation of the the Policy and closing the matter following a preliminary inquiry.
4. No limitation on existing authority: Referring the matter to an employee's disciplinary authority or supervisor. The 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. Remedial and Protective Measures

The University will implement reasonably available measures to protect parties and facilitate the parties' continued access to University employment or educational programs and activities at any stage of the process as applicable and determined by the appropriate University official.

Such measures may be both **Remedial** (designed to address well-being and continued access to educational opportunities or employment) or **Protective** (taken to ensure safety of the parties and/or community).

Whether remedial and/or protective measures are appropriate is determined after an individualized assessment, making every effort to avoid depriving any student of educational access.

Parties involved in allegations of Prohibited Conduct are entitled to receive written information, assistance, and a broad range of protective and remedial measures regardless of the resolution option pursued or level of participation by the parties. Protective measures, which involve restricting the rights of a party, may require a formal resolution, unless interim action is determined appropriate, and as outlined below.

Participants in the OE resolution process may request remedial and/or protective measures from the Title IX Coordinator/Director of Title IX or designee. The Title IX Coordinator/Director of Title IX or designee will maintain oversight of these requests and the provision of any such measures. The Title IX Coordinator/Director of Title IX or designee has the discretion to ensure the appropriateness of any remedial and/or protective measures based on all available information, including whether such measures are reasonably available, and will meet with a Complainant or Respondent to address any concerns about the provision of remedial or protective measures.

Remedial and protective measures which may be available include but are not limited to:

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 VI, subsection 3)
  12. Administrative leave for employees in consultation with Associate Vice Chancellor of Human Resources or designee and appointing/disciplinary authority.
  13. Temporary suspension of supervisory or evaluative authority for employees in consultation with Associate Vice Chancellor of Human Resources or designee and appointing/disciplinary authority.

The University will maintain the parties' respective privacy regarding any remedial and protective measures provided to the extent practicable and will promptly address any violation of the protective measures. These measures may be kept in place until the end of a resolution, may be lifted or modified as additional information is presented, or may be extended permanently as appropriate.

Participants in the OE resolution process may request remedial and/or protective measures from the Title IX Coordinator or designee. The Title IX Coordinator or designee will maintain oversight of these requests and the provision of any such measures. The Title IX Coordinator or designee has the discretion to ensure the appropriateness of any remedial and/or protective measures based on all available information, including whether such measures are reasonably available, and will meet with a Complainant or Respondent to address any concerns about the provision of remedial or protective measures.

### C. Interim Student Suspension

The Title IX Coordinator/Director of Title IX or designee has the authority to interim suspend (including suspension from online and/or in-person classes) any student whose presence may impose a continuing danger to persons or property or an ongoing threat of disrupting academic progress. The factors considered in an interim suspension

decision include:

1. Seriousness of the alleged conduct;
2. Location of alleged incidents;
3. Educational and housing impact on parties;
4. The risk that the alleged perpetrator will commit additional acts of sexual or other violence;
5. Whether the alleged perpetrator threatened further sexual or other violence against the alleged Complainant or others;
6. Whether there have been other misconduct complaints about the same alleged perpetrator or whether the perpetrator has a known history of sexual or other violence;
7. The existence of multiple alleged Complainants and/or perpetrators;
8. Whether the conduct was facilitated by the incapacitation of the Complainant (through alcohol, drugs, disability, unconsciousness, or other means);
9. Whether the alleged conduct was perpetrated with force, violence, or weapons;
10. Whether the alleged Complainant is a minor;
11. Whether the alleged conduct reveals a pattern of perpetration (by the alleged perpetrator, by a particular group or organization, around a particular recurring event or activity, and/or a particular location); and/or
12. Whether any other aggravating circumstances or signs of predatory behavior are present.

In the case of an interim suspension, 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/Director of Title XI or designee. The Title IX Coordinator/Director of Title IX or designee will ensure that the student is afforded the opportunity to meet within ten days of the notice of interim suspension. This does not preclude additional meetings after the ten days has passed to review the interim suspension.

**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 interim suspension, potentially until the completion of a Formal Resolution. 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 protective measures may be re-evaluated during the course of a resolution process if new information is presented that mitigates the threat to campus safety.

## D. Investigators

Resolutions 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 Standing Review Committee members 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.

*Outside Investigators.* The OE Title IX Coordinator or designee may also designate other individuals (either from within the University, including an administrator, or from outside the University) to conduct or assist with an investigation or to manage an alternative resolution process. 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. Outside investigator(s) shall have adequate training, qualifications and experience that will, in the judgment of the OE Title IX Coordinator or designee, facilitate a prompt, fair, and impartial resolution. Any outside investigator(s) designated to address an allegation must adhere to the requirements of the Procedures and confer with the OE Title IX Coordinator or designee on a regular basis about the progress of the investigation or alternative resolution process.

### 1. Formal Investigation

The OE may resolve a report of alleged misconduct under the Policy through the Formal Investigation process when the alleged misconduct, if true, would be prohibited under the Policy. The OE may decline to pursue a Formal Investigation if 1) a Complainant has requested that a Formal Investigation not be pursued, and 2) the OE has determined that the Complainant's request can be honored consistent with the University's obligation to provide a safe and non-discriminatory environment.

The OE is committed to providing a prompt, fair, and impartial resolution of all complaints referred for formal investigation. A formal investigation can include three stages: investigation, sanction and appeal, as applicable and described below. Investigators interview the Complainant(s) and the Respondent(s) separately and provide each party the opportunity to be heard and to respond. Investigators also review additional evidence as available including, but not limited to, conducting witness interviews, gathering documentation, and reviewing video surveillance footage.

The Complainant(s) and Respondent(s) shall each have equitable opportunity to:

- An investigation conducted by trained officials who do not have a conflict of interest or bias for or against the Complainant(s) or Respondent(s). An official shall recuse from participating in an investigation in those instances where the official believes that their impartiality might reasonably be questioned by an independent, neutral observer due to the official's bias or prejudice against the

Complainant(s) or Respondent(s) 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 as determined by the Title IX Coordinator;

- Interim measures to be provided before an investigation or while an investigation is pending. Interim measures, when determined to be appropriate and reasonably available by the Title IX Coordinator or designee, are intended to maintain the educational or employment environment if possible and may include counseling, extensions of time or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact between the parties, changes in work or CU Denver Housing and Dining locations, leaves of absence, increased security and monitoring of certain areas of campus, and other similar measures. Interim measures should be individualized and appropriate based on the information gathered by the Title IX Coordinator or designee;
- Receive notice before they participate in an interview with sufficient time to prepare for meaningful participation;
- A process with reasonably prompt timeframes, with extensions for good cause, as outlined below;
- Present relevant information to the Investigator(s), including providing evidence and identifying witnesses;
- Have an advisor of their choosing, including an attorney, advocate, or other person who is not a potential witness in the investigation, or a party to the investigation, or who could otherwise compromise the investigation, provide support and advice throughout the Formal Investigation process, including but not limited to, being present for any meetings with 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 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;
- Timely and equal access to relevant investigative information via a review of the Written Evidence Summary and, upon request, an in-person review of the investigative file, unless the University is legally prohibited from disclosing information to a party.
- Review and respond to the Written Evidence Summary (WES) of the relevant and material facts gathered during the Investigative Stage prior to any investigative findings or conclusions and submit questions to the Investigator to be asked of the other party or witnesses, following the dissemination of the Written Evidence Summary. The Investigator may decline to ask a question that is not reasonably calculated to lead to the discovery of probative evidence or when the probative value of the information is outweighed by the danger or unfair prejudice or



confusion of the issue or by considerations of undue delay or needless presentation of cumulative evidence. Questions about any party's prior sexual history are normally not probative and will be asked only when directly relevant to the incident where the alleged sexual misconduct occurred. The investigator will address all relevant questions and provide an explanation as to any decision to exclude questions as not relevant.

- An internal review by the Standing Review Committee (SRC) before the investigative findings are issued;
- Receive written, concurrent notice of the investigation outcome at the conclusion of the Formal Investigation stage. A copy of the final, redacted investigative report, as approved by the SRC, shall be made available for in-person review by the Complainant(s) and Respondent(s).
- Provide information about aggravating or mitigating factors prior to any sanction being imposed, if applicable;
- Receive notice of any sanction, if applicable, in writing, including a statement of the basis upon which any sanction was imposed;
- Appeal the investigative findings or sanction imposed as described in Section 5(g) or Section 5(h), as applicable.

#### ***a. Major Stages and Timelines***

##### **i) Notice of Investigation**

If a Formal Investigation is commenced, the OE shall send the Complainant(s) and the Respondent(s) a Notice of Investigation which will:

- Include a copy of the Procedures;
- Identify the Complainant(s) and Respondent(s);
- Identify the Investigator(s) who will conduct the investigation;
- Identify the conduct allegedly constituting the potential violation, including the date and location of the alleged incident to the extent known and available;
- Identify the specific section of the Policy alleged to have been violated;
- Include a statement that no determinations have been made or will be made until the conclusion of the investigation;
- Identify any interim protective measures, which typically include, but are not limited to, a no-contact order or location or campus exclusion; and
- Instruct the Respondent(s) contact the OE ***within five business days*** to schedule a meeting.

The Notice of Investigation may be sent to the Complainant(s) and Respondent(s) via:

- CU Denver | CU Anschutz email;
- USPS Certified Mail to the permanent addresses appearing in the University's information system or the address appearing in a police report; or
- Hand delivery.

Notice will be considered furnished on the date of hand-delivery, when the notice was emailed, or date of postmark when sent by USPS Certified Mail.

For employee Respondents<sup>5</sup>, the employee's appointing/disciplinary authority, may also be notified.

If the Respondent chooses not to participate in the investigative process, the OE may complete the investigation based on the totality of the information obtained during the Investigation Stage, which may include police investigation reports and other relevant documents or information. The OE may also complete the Sanctioning and Appeal stages without the Respondent's participation, as applicable and appropriate.

ii) Disclosure of the Written Evidence Summary  
(WES)

Following the initial fact gathering, the Investigator(s) shall send a Written Evidence Summary of the relevant and material facts to the Complainant(s) and Respondent(s) who each have **seven business days** to review and respond. At this time, the parties will also have access to witness identities and opportunity to inspect the full investigative file. Both the Complainant(s) and Respondent(s) will also have an opportunity to submit questions for the Investigator(s) to ask of the other party and of witnesses. 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 any party's prior sexual history are normally not probative and will be asked only when directly relevant to the incident where the alleged sexual misconduct occurred. (See Section 5(d)(i).

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 extension and investigation, the Investigator(s) will issue an amended Written Evidence Summary, which shall again be made available to the Complainant and Respondent. Each party will have seven business days to review and

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<sup>5</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.

respond. The decision to extend the investigation shall be at the discretion of the Investigator(s), in consultation with the Title IX Coordinator.

### iii) Investigative Report

At the conclusion of the fact gathering, including, as appropriate, any relevant information or questions submitted in response to the Written Evidence Summary and subsequent follow-up investigation, the Investigator(s) shall prepare a written investigation report that will include a statement of factual findings and a determination as to whether or not there was a violation of policy.

For investigations involving student Respondents, the investigation report will include a determination of whether the Respondent(s) is found responsible for violating the applicable policy or not.

For investigations involving employee Respondent(s), the investigation report will include a determination of whether the Respondent(s) is found responsible for violating the policy or not. If an employee Respondent(s) is found not to be responsible for violating the policy, the investigation report may, if applicable, include a determination that the employee Respondent(s) engaged in conduct related to the Policy that is inappropriate or unprofessional. In such cases, the OE will refer such matters to the disciplinary authority who will make the final determination on appropriate action or response.

The OE may also submit the investigation report to the Office of University Counsel to review for legal sufficiency.

### iv) Report to the Standing Review Committee (SRC)

The investigation report shall be presented for review to the SRC. The SRC shall consist of employees who are not affiliated with the OE and have received appropriate training regarding implementation and application of the Policy and OE Procedures. The Standing Review Committee reviews the investigation report to review for Investigator bias and impartiality, thoroughness of the investigation, and sufficiency to support the finding. The Standing Review Committee may review any information contained in the investigative file, may consult with the Investigator(s), or may recommend that further investigation or a new investigation be done by the same or other Investigator(s). The Standing Review Committee may not conduct its own investigation.

### v) Notice of Finding<sup>6</sup> (NOF)

The OE shall advise the Complainant(s) and Respondent(s) simultaneously in writing of the result or outcome of any investigation conducted under the Procedures. A copy of the final, redacted investigative report, as approved by the SRC, shall be made available for in-person review by the Complainant and Respondent. In limited circumstances, the OE may make available redacted copies of the investigative report to be shared with those individuals with a need to know, including but not limited to, the

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<sup>6</sup> Findings under the OE Resolution Procedures are not findings pursuant to applicable state and federal legal standards, i.e., a policy violation may not rise to a violation of equal opportunity law.

Complainant(s), Respondent(s), Respondent's supervisory upline, and Respondent's appointing/disciplinary authority as applicable for employee Respondents, or the Director of Student Conduct and Community Standards for CU Denver students, or the student's disciplinary authority for CU Anschutz students. Such requests must be made to the Title IX Coordinator or designee.

For investigations involving employee Respondent(s), the investigation report will include a determination of whether the Respondent(s) is found responsible for violating the policy or not. If an employee Respondent(s) is found not to be responsible for violating the policy, the investigation report may, if applicable, include a determination that the employee Respondent(s) engaged in conduct that is inappropriate or unprofessional under the Policy.

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

#### iv) Timeframes

The University will use its best efforts to complete its investigation and impose sanctions ***within an average of ninety days*** of the issuance of a Notice of Investigation, although this time frame may be extended for good cause.

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.

In the event that the 90-day time frame is extended, both the Complainant(s) and Respondent(s) will be notified in writing of the reason for the extension.

#### ***b. Deadlines & Extensions of Time***

The Complainant(s) and Respondent(s) each have an obligation to meet deadlines as requested by the OE during the investigation and as specified above. Investigators, in consultation with the Title IX Coordinator, have the discretion to determine where good cause exists and extend deadlines as appropriate. The parties shall be provided with written notice of extensions as applicable.

#### ***c. Standard of Review/Burden of Proof***

The OE applies the "preponderance of evidence" standard when making findings of fact and conclusions as to whether violations of policy occurred. A preponderance of the evidence exists when the totality of the evidence demonstrates that an allegation of misconduct is more probably true than not. If the evidence weighs so evenly that the Investigator(s) is unable to say that there is a preponderance on either side, the Investigator(s) must determine that there is insufficient evidence to conclude a violation of the Policy occurred.

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

It is the responsibility of the OE, not the parties, to make a determination based on the totality of the available information to determine whether or not the preponderance of the evidence standard has been met. The burden of proof does not rest with either party.

**d. Evidentiary Standards**

i) Sexual history in sexual misconduct cases

The OE will not seek or consider irrelevant information regarding the Complainant's or Respondent's sexual history. Relevant information may include the shared sexual history between the Complainant and Respondent, particularly if there are questions about physical injury or trauma or history that may be relevant to the manner or method of affirmative consent as raised by a Respondent.

ii) Respondent's prior acts/or patterns

The OE will review, if available, any prior complaints of misconduct committed by the Respondent if they are relevant and probative to the alleged conduct at issue, or if they demonstrate a pattern of behavior. Such prior complaints, if relevant and probative, may be used in the imposition of interim protective measures, the investigative finding, and/or sanctioning.

**e. Sanctioning Process for Student Respondents<sup>7</sup>**

In cases where the investigation results in a policy violation, the matter will be referred to the Title IX Coordinator or designee. In the event that no violation of applicable policies was found, there is no preclusion of discipline for other student misconduct under either the Student Code of Conduct, or other behavioral or ethical standards policies and procedures.

The Title IX Coordinator or designee is authorized to impose sanctions for student Respondents and to remedy the sexual misconduct, intimate partner abuse, stalking and/or any other related prohibited behavior. The Title IX Coordinator shall simultaneously notify Complainant(s) and the Respondent(s) of any sanctions.

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<sup>7</sup> The University of Colorado School of Medicine and School of Dental Medicine will continue to serve as the authority for sanctions and disciplinary actions for all matters under the Policy. The Title IX Coordinator or designee reserves the right to make appropriate recommendations to these authorities regarding the sanctioning process.

***Within seven business days*** of the date of the Notice of Finding, the Respondent(s) and Complainant(s) will each have the opportunity to present separately to the Title IX Coordinator or designee any aggravating or mitigating circumstances related to the conduct that may impact sanctioning. Parties may meet separately in person with the Title IX Coordinator or designee or submit such information to the Title IX Coordinator or designee in writing. It is the responsibility of the parties to set the appointment and meet within the timeframe prescribed. Information submitted to the Title IX Coordinator or designee must be limited to describing mitigating or aggravating circumstances that may affect sanctioning. Any statement outside of these guidelines will not be considered.

The Title IX Coordinator or designee shall review the final investigative report and may review the entire file and/or consult as necessary with OE staff, the Office of Student Conduct and Community Standards, disciplinary authority, or any other University staff as needed in making a sanctioning determination. Repeated violations are likely to result in progressively severe sanctions.

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

1. Severity and/or pervasiveness of conduct and whether it escalated during the incident;
2. Whether the Complainant(s) was incapacitated at the time of the incident(s);
3. Relationship between the parties, including, degree of control of one party over another;
4. Whether there was force/violence, weapons, or threats of force/violence;
5. Any prior history of related criminal, conduct, or policy violations;
6. Impact of incident on Complainant(s);
7. Acceptance of responsibility by Respondent(s);
8. Ongoing safety risk to Complainant(s) and/or community; and/or;
9. Educational impact on parties.

The Title IX Coordinator will provide a written statement to the parties (Notice of Sanction to Respondent(s) and Letter of Information to Complainant(s) informing them of the sanction and the basis upon which any sanction was imposed. Sanctions may include one or more of the following:

1. *Warning/Written Reprimand*: A warning/written reprimand is a written statement from the Title IX Coordinator or designee that the behavior was inappropriate and that more serious action will be taken should subsequent infractions occur.
2. *Educational Sanctions*: The student may be required to attend a class, evaluation, and/or program (e.g., alcohol or anger management classes or training on sexual misconduct, intimate partner abuse, and stalking). This is not an exhaustive list but should serve as a reference for the types of educational sanctions that may be imposed.

3. *Meeting with the Title IX Coordinator or designee:* The student Respondent(s) 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.
4. *Residence Hall Reassignment/Relocation:* A student who resides at CU Denver Housing and Dining at Campus Village may be assigned a different space.
5. *Residence Hall Termination:* In consultation with CU Denver Housing and Dining Staff a student's residence hall agreement may be terminated through OE process and the student may be prohibited from residing at CU Denver Housing and Dining at Campus Village on either a temporary or permanent basis. Specific exclusion from CU Denver Housing and Dining at Campus Village may also be imposed.
6. *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.
7. *Restriction or Denial of University Services:* The student is restricted from using or is denied specific University services, including participation in University activities.
8. *Delayed Conferral of Degree:* The issuance of a student's diploma is delayed for a specified period of time.
9. *Suspension:* The student is required to leave the University for a specified period of time. A suspension notation appears on the student's transcript. After the period of suspension has expired and all other sanctions are complete, the transcript notation will be removed. The student is required to apply for readmission to the University after their suspension period. Suspension from the University includes and exclusion from University property during the period of suspension. A suspension decision results in the student being suspended from all of the 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.
10. *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 onto University property for limited periods of time and specific activities with the permission of the Title IX Coordinator. Should the student enter the University of Colorado Property without permission, action may be taken by the police for trespass.

11. *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 system.
12. *Additional Sanctions*: The Title IX Coordinator or designee has the discretion to impose any additional sanctions that may be warranted and appropriate given the circumstances of the case.

**f. Sanctioning Process for Employee Respondents<sup>8</sup>**

The Title Coordinator or designee will notify the disciplinary authority if an employee Respondent was found to have violated the policy or acted inappropriately or unprofessionally.

**Within seven business days** of the Notice of Finding, the Respondent(s) and Complainant(s) will each have an opportunity to meet separately with the Title IX Coordinator to discuss any mitigating or aggravating circumstances related to the conduct that may impact sanctioning. It is the responsibility of the parties to set the appointment and meet within the timeframe prescribed. Alternatively, the Complainant(s) and Respondent(s) may submit a written statement to the Title IX Coordinator in lieu of a meeting. Written statements must be submitted **within seven business days** of the Notice of Finding. Information provided must be limited to describing mitigating or aggravating circumstances that may affect sanctioning. Any statement outside of these guidelines will not be considered.

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).

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

1. Severity and/or pervasiveness of conduct and whether it escalated during the incident;
2. Whether the Complainant(s) was incapacitated at the time of the incident(s);
3. Relationship between the parties, including, degree of control of one party over another;
4. Whether there was force/violence, weapons, or threats of force/violence;
5. Any prior history of related criminal, conduct, or policy violations;

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<sup>8</sup> If the Respondent(s) is a student employee and the alleged misconduct occurs outside of 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.



6. Impact of incident on Complainant(s);
7. Acceptance of responsibility by Respondent(s);
8. Ongoing safety risk to Complainant(s) and/or community; and/or;
9. Educational impact on parties.

The Title IX Coordinator or designee will provide a formal recommendation as to the applicable sanctions consistent with the factors set forth above.

The disciplinary authority will impose sanctions as warranted in consultation with the Associate Vice Chancellor for Human Resources or designee, the Title IX Coordinator, and any other administrative staff as needed<sup>9</sup>. The appointing/disciplinary authority may have access to the redacted versions of investigative records and may consult with the Investigator(s) in order to take appropriate action.

The Title IX Coordinator or designee will ensure to the extent possible that both parties simultaneously receive notice of any sanctions imposed and any other steps taken by the campus to remedy the sexual misconduct or related violation(s) to the extent permitted by law. Regardless of the OE findings, there is no preclusion of discipline by the appointing authority for other misconduct or for inappropriate or unprofessional conduct (for employees).

Sanctions may include one or more of the following:

*(i) Letter of Direction/Reprimand:* A warning/written letter of direction 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.

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

*(iii) Demotion:* The employee may be demoted from their current position, resulting in a reduction of grade, rank, or status.

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

*(v) 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.

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<sup>9</sup> The University of Colorado School of Medicine and School of Dental Medicine will continue to serve as the authority for sanctions and disciplinary actions for all matters under the Policy. The Title IX Coordinator or designee reserves the right to make appropriate recommendations to these authorities regarding the sanctioning process.

(vi) *Exclusion*: In consultation with the disciplinary authority, the Title IX Coordinator or designee denies access for the employee to all or a portion of University property. When an employee is excluded from University property that employee may be permitted onto University Property for limited periods of time and specific activities with the permission of the Title IX Coordinator or designee. Should the employee enter University property without permission, action may be taken by the police for trespass.

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

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

(ix) *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.

**g. Appeals for Investigations Involving Student Respondents<sup>10</sup>**

Upon the completion of the investigation or the sanctioning, whichever is applicable, either the Complainant(s) or Respondent(s) may file a written appeal. All appeals must be made in accordance with the procedures outlined in this section.

i) How to File an Appeal and Timeframe

Appeals must be submitted in writing to the Title IX Coordinator or designee **within five business days** of the delivery of the Notice of Sanction (or Notice of Finding if no sanction) is issued. The appeal should indicate the specific grounds for the appeal (see below), 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 in which no oral testimony is taken. Generally, appeals are determined solely on the merits of the documents submitted. Appeal documents therefore should be as complete and succinct as possible. Unless any applicable Notice of Sanction specifies otherwise based on safety considerations, 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.

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<sup>10</sup> The University's School of Medicine and School of Dental Medicine will serve as the body for all appeals, for both students and employees, for all matters related to the Policy. The Title IX Coordinator reserves the right to make appropriate recommendations to this body regarding the appeal process and resulting decisions.

ii) Basis for Appeal

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

- a) procedural errors by which any party was prevented from receiving a fair adjudication and that would have materially affected the outcome; or
- b) a sanction was disproportionate to the violation of the Policy.

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.

**(iii) Appeal Process and Appeal Advisory Board**

In the event that the Title IX Coordinator or designee determines that one or more of the appeal criteria have been met, the Title IX Coordinator or designee will notify the parties. Upon determination that the criteria for an appeal has been met, the Title IX Coordinator or designee will notify the other party to the original complaint (Complainant(s) or Respondent(s)) in writing, and that 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 or the five day deadline for response has passed, the Title IX Coordinator or designee will appoint two additional University employees (who may include staff from the Boulder and Colorado Springs campuses) who are not otherwise affiliated with the OE at the University of Colorado Denver | Anschutz Medical Campus to serve on the three-person Appeal Advisory Board. The Appeal Advisory Board appointees will have received appropriate training on the applicable policies and appeal procedures.

**(iv) Appeal Decisions**

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

1. Uphold the initial decision in its entirety;
2. Send the case back for reconsideration and potentially re-investigation (by the same or different officials) based on procedural error and/or material evidence not previously available; or
3. Reduce or increase a disproportionate sanction.

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.

#### **h. Appeals for Employee Respondents<sup>11</sup>**

Upon the conclusion of the Investigation, either the Complainant(s) or the Respondent(s) may file a written appeal of the Investigation outcome. All appeals must be made in accordance with the procedures outlined in this section. Any rights of appeal of a sanction shall be conducted in accordance with the procedure for appeal, available to the employee, such as the State Personnel Board Rules or rules governing proceedings before the Faculty Senate Committee on Privilege and Tenure. Nothing in this section shall be read to create a right of appeal of sanctions for employees that is not otherwise provided for by law or University policy.

##### **i) How to File an Appeal and Timeframe**

Appeals must be submitted in writing, to the Title IX Coordinator or designee **within five business days** after the Notice of Finding or sanctioning decision is issued, as applicable.<sup>12</sup> The appeal should indicate the specific grounds for the appeal (see below), 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 in which no oral testimony is taken. Generally, appeals are determined solely on the merits of the documents submitted. Appeal documents therefore should be as complete and succinct as possible. Unless any applicable discipline decision notice specifies otherwise based on safety considerations, all discipline 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.

##### **ii) Basis for Appeal**

The only basis for appeal is:

- a) procedural errors by which any party was prevented from receiving a fair investigation.

In the appeal, the party may not present any new evidence unless the party can demonstrate that it could not, with reasonable diligence, have discovered and produced evidence during the course of the investigation.

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<sup>11</sup> The University's School of Medicine and School of Dental Medicine will serve as the body for all appeals, for both students and employees, for all matters related to the Policy. The Title IX Coordinator reserves the right to make appropriate recommendations to this body regarding the appeal process and resulting decisions.

<sup>12</sup> In employee Respondent cases, the disciplinary authority sends the sanctioning information directly to the Respondent while the Title IX Coordinator or designee sends a Letter of Information to the Complainant.

### iii) Appeal Process and Appeal Advisory Board

In the event that the Title IX Coordinator or designee determines that the appeal criteria has been met, the Title IX Coordinator or designee will notify the parties. Upon determination that the criteria for an appeal has been met, the Title IX Coordinator or designee will notify the other party to the original complaint (Complainant(s) or Respondent(s)) in writing and provide **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, or the five-day deadline for response has passed, the Title IX Coordinator or designee will appoint two additional University employees (who can include staff from Boulder and Colorado Springs campuses) who are not otherwise affiliated with the OE at the University of Colorado Denver | Anschutz Medical Campus to serve on the three-person Appeal Advisory Board. Title IX Coordinator or designee is the Chair of the Appeal Advisory Board.

#### (i) Appeal Decisions

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

- i) Uphold the initial decision in its entirety; or
- ii) Send the case back for reconsideration and potentially re-investigation (by the same or different officials) based on procedural error and/or material evidence not previously available.

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.

## VI. INFORMAL RESOLUTIONS

The OE may determine that the most prompt and effective way to address a concern is through the informal resolution process. The primary focus during an informal resolution remains the welfare of the Complainant and the safety of the campus community, but it does not involve a written report or a determination as to whether a policy was 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 remedial measures to the Complainant(s) that do not require notification to the Respondent(s);
- 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
- Meet with the Respondent(s) to (1) discuss the behavior as alleged and provide an opportunity to respond; (2) review Prohibited Conduct under the applicable policies; (3) identify and discuss appropriate future conduct and behavior as well as how to avoid behavior that could be interpreted as retaliatory; (4) inform Complainant(s) of the Respondent's responses if appropriate; and (5) notify the Office of Student Conduct and Community Standards, or other disciplinary authority, or the Respondent's supervisor of the allegations and responses if necessary, who will determine whether any other disciplinary action is appropriate.

Participation in an informal resolution is voluntary by Complainants and Respondents; however, for allegations that, if proven true, would violate the Policy, failure to participate could result in the OE deciding to proceed with a formal investigation.

For allegations that would warrant a formal investigation, but the OE proceeded with an informal resolution or did not proceed with a formal resolution process (as requested by the Complainant(s)) and consistent with the factors and obligations of the OE as set forth in Section IV, the OE will notify the Complainant(s) of their right end the informal resolution process at any time and commence a formal investigation.

## VII. OE RELEASE OF RECORDS AND INFORMATION CONCERNING STUDENTS

Provisions of the Family Educational Rights and Privacy Act of 1974 (FERPA), as amended by the Higher Education Amendments of 1998, govern access to a student's academic transcript or conduct file. Records concerning sexual harassment are protected in accordance with the Colorado Open Records Act.

The student and/or those University officials who demonstrate a legitimate educational need for disciplinary information may have access to the student's conduct file. Students who would like to request review of educational records in OE that pertain to them must submit a request to inspect records form. The OE will comply with a request for access within a reasonable time, not to exceed 45 days.

Parent(s) who provide proof that a student is a dependent as defined in Section 152 of the Internal Revenue Code of 1954 may have access to the student's conduct file. A copy of the last federal income tax return listing the student as a dependent will serve as proof of dependency and allow the parent(s) access to the student's conduct file without written consent of the student. In this case, parents may also have access to a conduct file even if the student has requested otherwise. In addition, parent(s) may be notified if a student under 21 years of age is found responsible through Student Conduct and Community Standards for a violation involving use or possession of alcohol or other drugs.

All other inquiries, including, but not limited to, inquiries from employers, government agencies, news media, family, friends, or police agencies, require a written release

from the student before access to University conduct files or any information from within those files is granted. An exception to the foregoing is that information may be released pursuant to a lawfully issued subpoena or court order and as otherwise provided by FERPA and state law.

## VII. Title IX Coordinator

At the University of Colorado Denver | Anschutz Medical Campus, the Director of Title IX is also the Title IX Coordinator. The responsibilities of the Title IX Coordinator pursuant to the University of Colorado Sexual Misconduct, Intimate Partner Abuse and Stalking Policy, which the Title IX Coordinator has the discretion to delegate include:

1. Ensuring that complaints are being handled appropriately and in a timely manner.
2. Overseeing adequate, reliable, and impartial investigations of complaints of sexual misconduct;
3. Evaluating any Complainant request for privacy;
4. Referring matters for further action or discipline for inappropriate or unprofessional conduct under other applicable policies or procedures even if a policy violation was not found. No provision of the Policy shall be construed as a limitation upon the authority of the disciplinary authority to initiate disciplinary action for inappropriate or unprofessional conduct;
5. Facilitating reasonable interim protective remedies and accommodations as applicable for all parties;
6. Ensuring broad publication of the campus complaint process and procedures including posting the process and procedures on appropriate campus website and maintaining a current procedure;
7. Providing an annual report to the President and the appropriate campus Chancellor documenting: (a) the number of reports or complaints of alleged violations of applicable policies; (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.
8. Reviewing and confirming 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;

9. Monitoring campus compliance with the Policy;
10. Ensuring there is ongoing training and education regarding reporting and preventing sexual and other discriminatory misconduct, for all students, faculty, and staff;
11. Maintaining records and related documentaion 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 interim measures, accommodations, for persons experiencing sexual misconduct, investigation, and sanctioning; and
12. Ensuring broad dissemination of the statement that the University shall not discriminate in employment or in its education programs and activities.

## VIII. RESOURCES

### ***University of Colorado Denver, On-Campus Confidential Resources***

The Phoenix Center at Auraria  
Tivoli Student Union, Suite 259  
Phone: (303) 315-7250  
24/7 Helpline: 303-556-CALL (2255)  
Website: [www.thepca.org](http://www.thepca.org)

The Phoenix Center at Auraria provides free and confidential resources and assistance to survivors of interpersonal violence (relationship violence, sexual violence, and stalking) as well as their friends, family and concerned others.

CU Denver Student and Community Counseling Center  
The Tivoli Student Union, Suite 454 (4<sup>th</sup> floor)  
Phone: (303) 315-7270  
Emergencies/After Hours: (303) 615-9911  
Website: [www.ucdenver.edu/counselingcenter](http://www.ucdenver.edu/counselingcenter)

The CU Denver Student and Community Counseling Center offers counseling programs and activities for students and community members. All contacts are confidential.

Ombuds Office\*  
CU Denver: Lawrence Street Center, Suite 1003  
Phone: 303-315-0046



Website:

<http://www.ucdenver.edu/about/departments/OmbudsOffice/Pages/OmbudsOffice.aspx>

The Ombuds Office provides an alternative forum for prompt, impartial, and confidential discussion for individuals to review options for the informal resolution of differences.

***University of Colorado Denver, On-Campus Non-Confidential Resources***

Auraria Police Department  
Administrative Building, Suite 110  
Phone: 303-556-5000  
Website: [www.ahec.edu/police](http://www.ahec.edu/police)

CARE (Campus Assessment, Response and Evaluation) Team  
Tivoli 227  
Phone: 303-315-7306

Website: <http://www.ucdenver.edu/life/services/CARE/Pages/default.aspx>

Takes a preventative approach to risk assessment by offering resources, referrals, and support to both concerning individuals and those impacted by their behavior.

Dean of Students Office  
Tivoli 227  
Phone: 303-315-7310

Website: [www.ucdenver.edu/life/services/DeanofStudents/pages/About.aspx](http://www.ucdenver.edu/life/services/DeanofStudents/pages/About.aspx)

Assists students in advocating for their needs and resolving potential problems.

Student Conduct and Community Standards  
Tivoli 227  
Phone: 303-315-7311

Website: [www.ucdenver.edu/conduct](http://www.ucdenver.edu/conduct)

Support community members with conflict management and resolution, and respond to inappropriate behavior, oversee the implementation of the Student Code of Conduct.

LGBTQ Student Resource Center  
Tivoli 213  
Phone: 303-615-0515

Website: [www.ucdenver.edu/life/services/glbts/services/Pages/default.aspx](http://www.ucdenver.edu/life/services/glbts/services/Pages/default.aspx)

Offers a variety of support, education and advocacy services for the entire campus community. Advocacy for students experiencing discrimination or harassment based on real or perceived gay, lesbian, bisexual, or transgender identity.

Veteran and Military Student Services  
Tivoli 124  
Phone: 303-315-7300

Website: [www.ucdenver.edu/life/services/Veteran/Pages/home.aspx](http://www.ucdenver.edu/life/services/Veteran/Pages/home.aspx)

Provide service members and their families with high-quality education, catered to their distinct needs. The VMSS represent veteran, active duty, reservist, national guard, and dependent students.

International Student & Scholar Services  
Lawrence Street Center, Suite 932

Phone: 303-315-2230

Website:

[www.ucdenver.edu/academics/internationalprograms/oia/iss/Pages/default.aspx](http://www.ucdenver.edu/academics/internationalprograms/oia/iss/Pages/default.aspx)

From pre-departure to orientation, ISSS provides immigration and advising services for F-1 or J-1 student visas, J-1 exchange scholar visas, H-1B temporary worker visas, lawful permanent resident visas and LPR-employment based visas.

Women and Gender Center

Tivoli 260

Phone: 303-315-7262

Website: [www.ucdenver.edu/life/services/studentlife/WGC/Pages/WGC.aspx](http://www.ucdenver.edu/life/services/studentlife/WGC/Pages/WGC.aspx)

Committed to advancing issues of gender equality and supporting the gender-focused needs of students, faculty, and staff on the Auraria Campus.

### **CU Anschutz, On-Campus Confidential Resources**

The Phoenix Center at Anschutz

Education 2 North, Room 5232

Phone: (303) 724-9120

24/7 Helpline: 303-556-CALL (2255)

Website: [www.thepca.org](http://www.thepca.org)

The Phoenix Center at Anschutz free and confidential resources and assistance to survivors of interpersonal violence (relationship violence, sexual violence, and stalking) as well as their friends, family and concerned others.

CU Anschutz Student Mental Health Service

Fitzimons Building, Level 2

Phone: (303) 724 4716

Website:

<http://www.ucdenver.edu/academics/colleges/medicalschoo/departments/psychiatry/PatientCare/StudentMentalHealth/Pages/Student-Mental-Health-Service.aspx>

Provides comprehensive and confidential mental health services for all student enrolled in the schools located at the CU Anschutz Campus (Medical, Dental, Nursing, Pharmacy, Public Health, Physician Assistant, Physical Therapy, Graduate School, etc.).

CU Anschutz Campus Health Center

12348 East Montview Boulevard, Aurora, CO 80045

Phone: 303-724-9221

Website: <http://www.ucdenver.edu/academics/colleges/nursing/clinical-practice-community/PatientServices/CHC/Pages/default.aspx>

Provides behavioral and counseling services to anyone who works or studies on the CU Anschutz Campus. All contacts are confidential.

Ombuds Office\*

CU Anschutz: Fitzimons Building, Room 7005c

Phone: 303-724-2950

Website:

<http://www.ucdenver.edu/about/departments/OmbudsOffice/Pages/OmbudsOffice.aspx>

Provides an alternative forum for prompt, impartial, and confidential discussion for individuals to review options for the informal resolution of differences.

### **CU Anschutz, On-Campus Non-Confidential Resources**

University Police, CU Anschutz

Building 407 – 12454 E. 19<sup>th</sup> Place

Phone: 303-724-4444

Website: [www.ucdenver.edu/police](http://www.ucdenver.edu/police)

Office of Campus Student Services

Education 2 North, 3<sup>rd</sup> floor, #3200

Phone: 303-724-2866

Website: [www.ucdenver.edu/anschutz/studentresources/student-assistance/Pages/default.aspx](http://www.ucdenver.edu/anschutz/studentresources/student-assistance/Pages/default.aspx)

Provides specific non-academic and academic student services for the CU Anschutz Campus.

CARE (Campus Assessment, Evaluation, and Response) Team

Education 2 North, 3<sup>rd</sup> Floor #3200

Phone: 303-724-8488

Website: <http://www.ucdenver.edu/life/services/CARE/Pages/default.aspx>

Takes a preventative approach to risk assessment by offering resources, referrals, and support to both concerning individuals and those impacted by their behavior.

Office of Professional Excellence

Building 500 (Fitzimmons), E4312

Phone: 303-724-4776 (4PRO)

Website: [www.ucdenver.edu/about/departments/Professionalism/Pages/default.aspx](http://www.ucdenver.edu/about/departments/Professionalism/Pages/default.aspx)

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.

### **CU Anschutz, Off-Campus Resources**

The Blue Bench

Phone: 303-332-7273

Website: <http://www.thebluebench.org/>

Offers counseling and support regarding sexual assault.

Survivors Organizing for Liberation (SOL):

Phone: 888-557-4441

Website: [www.solcolorado.org](http://www.solcolorado.org)

Building safety and justice for Lesbian, Gay, Bisexual, Transgender, and Queer communities.

SafeHouse Denver (Denver)

Phone: 303-318-7273

Website: <https://safehouse-denver.org>

Offers shelter and advocacy for people who have experienced domestic violence.

Gateway Battered Shelter (Aurora)

Phone: 303-343-1851

Website: [www.gatewayshelter.org](http://www.gatewayshelter.org)

Provides shelter and advocacy for people who have experienced domestic violence.

The Center for Trauma and Resilience

Phone: 303-894-8000 (English)

Phone: 303-718-8289 (Spanish)

711 for Relay Colorado Access for deaf or hard of hearing

Website: [www.traumahealth.org](http://www.traumahealth.org)

Provides culturally and linguistically responsive programs, health promotion, and crime prevention education. Translation services available.

Colorado Crisis Services

Phone: 1-800-TALK (8255)

Website: [www.coloradocisisservices.org](http://www.coloradocisisservices.org)

Text: Text "TALK" to 38255 to text with a trained professional

Offers mental health, substance use or emotional help for yourself or someone you know. Provide confidential and immediate support, 24/7/365.

U.S. Department of Education

Office for Civil Rights, Denver Regional Office

Phone: 303-844-5695

Website: [www2.ed.gov/about/offices/list/ocr/index.html](http://www2.ed.gov/about/offices/list/ocr/index.html)

Colorado Legal Services

Phone: 303-866-1019

Website: [www.coloradolegalservices.org](http://www.coloradolegalservices.org)

Provide meaningful access to high quality, civil legal services in the pursuit of justice for as many low-income persons and members of vulnerable populations throughout Colorado as possible.

*\*The Ombuds offices are confidential and not "Responsible Employees" for mandatory reporting purposes pursuant to University of Colorado applicable policies but do not currently have statutory privilege in Colorado.*

## IX. DEFINITIONS

**Advisor:** An individual designated by the complainant or Respondent to be present at interviews or meetings with OE. Advisors can include attorneys.

**Aggravating Factor:** Relevant circumstances accompanying the commission of misconduct or occurring prior to the misconduct as specified in Prohibited Conduct that add to its seriousness. Examples may include the use of violence or force, violation of a trust or duty, premeditation or an incident, and the existence of a previous conduct violation.

**Appointing/Disciplinary Authority:** An appointing authority is the individual with the authority or designated authority to make ultimate personnel decisions concerning a particular employee. A disciplinary authority is the individual or office that has the authority or delegated authority to impose discipline upon a particular employee or student.

**Complainant:** A person who is subjected to the alleged Prohibited Conduct under these policies.

**Day:** For purposes of these policies and procedures, a day is a business day.

**Employee:** anyone under the University's control (excluding independent contractors) who receives payment from the University for work performed, including but not limited to regular faculty, research faculty, clinical faculty, residents, post-docs, professional research assistants, research assistants, teaching assistants, University staff, classified staff, undergraduate and graduate student employees, or temporary employees.

**Interim Suspension:** Immediate and temporary suspension from classes and any other University activity or program.

**Mitigating Factor:** Relevant circumstances accompanying the commission of misconduct or other extenuating circumstances that may be considered to reduce a sanction. These factors do not constitute a justification or excuse for the behavior in question.

**Participant:** Complainant, Respondent, and any witnesses or other third parties participating in an OE resolution process.

**Party:** Complainant or Respondent and collectively referred to as "parties."

**Respondent:** Means a person who is accused of alleged prohibited conduct.

**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 sexual misconduct; and/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.

**Sanction:** Refers to either a sanction imposed by the Title IX Coordinator or designee for students or discipline as imposed by the appointing/disciplinary authority for employees.

**Students:** The term student includes all persons taking courses at the University, either full time or part time, active in a program, pursuing undergraduate, graduate, or professional studies, as well as non-degree Students and concurrently enrolled high school Students. This also includes individuals admitted or in the process of being admitted, those attending orientation sessions, and those that were enrolled at the date of an alleged incident. Persons who withdraw after having been alleged to have violated the Sexual Misconduct, Intimate Partner Abuse and Stalking policies are considered “students.”

**University:** The University of Colorado Denver | Anschutz Medical Campus, South Denver Location.

**University Official:** A University employee working in the performance of their duly authorized duties.

**University Property:** University owned or controlled property.

**Witness:** Any individual who may have information relating to a matter being investigated by OE.

## **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 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 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.