



UNIVERSITY of  
DENVER

**UNIVERSITY OF DENVER  
POLICY MANUAL  
Equal Opportunity/Sexual Harassment**

**Responsible Department:** Human Resources  
**Recommended By:** G. Kvistad, C. Woody  
**Approved By:** Chancellor Coombe

**Policy  
Number**  
3.10.010

**Effective Date:**  
9/10/2013

- A. Policy Statement. The University of Denver strives to create and maintain a community in which people are treated with dignity, decency and respect. The environment of the University should be characterized by mutual trust, freedom of inquiry and expression, and the absence of intimidation, oppression and exploitation. People in this community should be able to work and learn in a safe, yet stimulating, atmosphere. The accomplishment of this goal is essential to the academic mission of the University.

Therefore, the University will not tolerate unlawful discrimination or harassment of any kind. Through the policy which follows and by targeted educational programming, the University will seek to prevent, correct and discipline behavior that violates this Policy.

Application. This policy applies to all faculty, staff, students, board of trustee members, volunteers, contractors, guests and visitors of the University of Denver.

- B. Prohibited Conduct.

1. Discrimination.

- a. It is a violation of this Policy to discriminate in the provisions of educational or employment opportunities, benefits or privileges, to create discriminatory work or academic conditions, or to use discriminatory evaluative standards in employment or educational settings if the basis of that discriminatory treatment is, in whole or in part, the person's race, color, national origin, age, religion, disability, sex, sexual orientation, gender identity, gender expression, marital status, or veteran status.
- b. Discrimination of these kinds may also be strictly prohibited by a variety of federal, state and local laws, including: Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; the Americans with Disabilities Act of 1990; the Vietnam Era Readjustment Assistance Act; Title 24, Article 34 of the Colorado Revised Statute; and Denver Municipal

Ordinance. This Policy is intended to comply with the prohibitions of these anti-discrimination laws.

2. Harassment.

- a. Harassment on the basis of any legally protected characteristic is a form of discrimination and is likewise prohibited by this policy. Prohibited harassment occurs if an environment has been created that is sufficiently severe, pervasive, or persistent so as to unreasonably interfere with a person's work or academic performance or participation in University programming/activities.
- b. Prohibited harassment may take the form of (but is not limited to) offensive slurs, jokes, and other offensive oral, written, computer-generated, visual or physical conduct.

3. Sexual Harassment.

- a. Sexual harassment is a form of discrimination prohibited by this policy.
- b. Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature will constitute "sexual harassment" when:
  - i) Submission to such conduct is either explicitly or implicitly a term or condition of an individual's employment or status in a course, program or University-sponsored activity; or
  - ii) Submission to or rejection of such conduct is used as the basis for employment or educational decisions affecting that individual; or
  - iii) Such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance, or of creating an intimidating, hostile or offensive environment for working or learning.
- c. Determining what constitutes sexual harassment depends on the specific facts and context in which the conduct occurs. Sexual harassment may take many forms; subtle and indirect or blatant and overt. For example, it may include:
  - i) Be conduct toward an individual of the opposite sex or the same sex.
  - ii) Occur between peers or between individuals in a hierarchical relationship.

iii) Be aimed at coercing an individual to participate in an unwanted sexual relationship or it may have the effect of causing an individual to change behavior or performance.

iv) Consist of repeated actions or may even arise from a single incident if sufficiently egregious.

4. Non-Consensual Sexual Contact.

- a. Non-Consensual Sexual Contact is a form of discrimination prohibited by this policy.
- b. Non-consensual sexual contact is any intentional sexual touching, however slight, with any object, by any individual upon any individual that is without consent or by coercion, force, or threat.
- c. Sexual Contact includes:
  - i) Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts;
  - ii) Any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice; or
  - iii) Any other act, which a reasonable person would associate with sexual contact.
- d. Consent must be clear, knowing, and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity. Also, in order to give consent, one must be of legal age. Further, consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity. Previous relationships or prior consent cannot imply consent to future sexual acts.
  - i) Sexual activity with someone whom one should know to be—or based on the circumstances should reasonably have known to be—mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout), constitutes a violation of this policy.

- ii) Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent. Incapacitation could result from mental disability, sleep, involuntary physical restraint, or from the ingestion of alcohol and/or rape drugs. Possession, use and/or distribution of any of these substances, including, but not limited to Rohypnol, Ketomine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another person is a violation of this policy. Use of alcohol or other drugs will never function as a defense to a violation of this procedure.
- iii) Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
- iv) Force is the use of physical violence and/or imposing on someone physically to gain sexual access.
- v) Threats include threats of physical violence against another person or intimidation (implied threats) to gain sexual access.

5. Sexual Exploitation:

- a. Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited.
- b. Determining what constitutes sexual exploitation depends on the specific facts and context in which the conduct occurs. Sexual exploitation may take many forms, subtle and indirect or blatant and overt. For example, it may include:
  - i) Prostituting another person;
  - ii) Non-consensual video or audio-taping of sexual activity, or posting said media;
  - iii) Going beyond the boundaries of consent (such as letting someone hide in the closet to watch you having consensual sex);
  - iv) Engaging in voyeurism;

- v) Endangering the health and safety without effective consent (such as knowingly transmitting an STD or HIV to another party); or
- vi) Exposing one's genitals in a non-consensual circumstance, or inducing another to expose their genitals.

6. Domestic Violence.

- a. Domestic violence means an act or threatened act of violence upon a person with whom the individual is or has been involved in an intimate relationship.
- b. Intimate relationship means a relationship between spouses, former spouses, or past or present unmarried couples including same sex partners. The persons involved do not need to be sexually intimate, but rather represent themselves as a couple or dating whether different sexes or the same sex.

7. Stalking.

- a. Any act, display or communication that causes substantial injury or distress, or would cause a reasonable person to fear for his or her safety.
- b. Prohibited stalking may take the form of (but is not limited to) intentionally following another person or attempting to contact a person through telephone, emails, text messages, or social media.

8. Retaliation.

- a. No hardship, no loss of benefit, and no penalty may be imposed on any student, faculty, or staff as punishment for:
  - i) filing or responding to a bona fide complaint of discrimination or harassment;
  - ii) appearing as a witness in the investigation of a complaint; or
  - iii) serving as an investigator or as a member of the Equal Opportunity Board.
- b. Retaliation or attempted retaliation of this kind is a violation of the Policy and will be subject to severe sanctions up to and including termination.

9. Groundless and malicious complaints.

Anyone who abuses the Policy by bringing groundless and malicious complaints of discrimination, harassment or retaliation violates the Policy.

- C. Consensual Sexual Relationships. The University strongly discourages sexual relationships between a teacher and student or between a supervisor and staff member because such relationships tend to create compromising conflicts of interest, or the appearance of such conflicts.

The relationship may give rise to the perception on the part of others that there is favoritism or bias in academic or employment decisions affecting the student or staff member. Moreover, given the uneven balance of power within such relationships, consent by the student or staff member in such cases is suspect and may be viewed by others or, at a later date, by the student or staff member as having been given as the result of coercion or intimidation. The atmosphere created by such appearances of bias, favoritism, intimidation, coercion or exploitation undermines the spirit of trust and mutual respect that is essential to a healthy work and academic environment.

As in all cases, the burden of proving sexual harassment (defined in Section B.3 above) rests with the accuser. But when charges of harassment are brought by the student or subordinate employee during or subsequent to such a relationship, and the teacher or supervisor claims that the relationship was consented to by the student or employee, the burden will be on the teacher or supervisor to prove that the relationship was consensual and voluntary.

As used in this section, the term “teacher” includes a faculty member, or a graduate student, administrator, coach, advisor, counselor, residence staff or program director having supervisory responsibilities for students.

- D. Procedures. The Director of the Office of Equal Opportunity shall develop and publish procedures and rules implementing this Policy. The Provost and the Vice Chancellor for Business and Financial Affairs shall approve such procedures and rules.