



Office of Equal Opportunity Procedures
2015-2016
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I. Purpose

The Office of Equal Opportunity establishes these Procedures to assist in carrying out its responsibilities in the administration and enforcement of the University of Denver's policies related to nondiscrimination and in assuring the University's compliance with applicable laws, including: Executive Order 11246; 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 (ADA) of 1990 and as amended by ADA Amendments Act of 2008; the Rehabilitation Act of 1973; the Vietnam Era Readjustment Assistance Act; the Genetic Information Nondiscrimination Act of 2008; Title 24, Article 34 of the Colorado Revised Statutes; and Denver Municipal Ordinances. University Policy and these Procedures are intended to comply with the prohibitions of these laws, as amended, as well as other applicable federal, state, and local anti-discrimination laws.

Consistent with federal, state and local law, and University policies related to non-discrimination, the University, through the Office of Equal Opportunity, takes prompt and equitable action in response to reports of:

- 1) discrimination and harassment on the basis of race, color, national origin, age, religion, disability, sex, sexual orientation, gender identity, gender expression, marital status, veteran status, or genetic information;
- 2) sexual and gender-based harassment, sexual violence, relationship violence, and stalking;
- 3) failure to provide reasonable accommodations for disability and religion; and
- 4) retaliation against any individual or group of individuals involved in an investigation and/or resolution of a report under these Procedures.

The Office of Equal Opportunity will impose interim measures for the individual and the community, conduct a neutral investigation, promote accountability for violations of policies and procedures, and impose other remedies designed to eliminate prohibited conduct, prevent its recurrence and address its effects.

II. Scope

These Procedures apply to all members of the University of Denver community, including students, faculty, staff, administrators, board members, consultants, vendors, and others engaged in business with the University. Each member of the community is responsible for conducting oneself in accordance with these Procedures and other University policies and procedures.

These Procedures apply to all conduct that occurs on campus. They also apply to conduct that occurs off campus, including online or electronic conduct, if: the conduct occurred in the context of an employment or education program or activity of the University; had continuing adverse effects on campus; or, had continuing adverse effects in an off-campus employment or education program or activity. Examples of covered off-campus conduct include University-sponsored study abroad, research or internship programs.

These Procedures apply to conduct that takes place from the time a person enrolls as a student or accepts employment and continues until the student withdraws or graduates or the employee ceases employment, including periods during term breaks and between terms.

Visitors to and guests of the University are both protected by and subject to the restrictions in these Procedures. Visitors and guests may initiate a report for violations of these Procedures committed against them by members of the University. Visitors and guests may also be permanently trespassed from the University. Further, under these Procedures, community members who host guests may be held accountable for the misconduct of their guests.

III. Notice of Non-Discrimination and Statement of Compliance with Title IX

A. Notice of Non-Discrimination

The University of Denver is committed to establishing and maintaining a safe and nondiscriminatory educational environment in which all individuals are treated with respect and dignity. The University does not permit discrimination or harassment in its education or employment programs and activities on the basis of race, color, national origin, age, religion, disability, sex, sexual orientation, gender identity, gender expression, marital status, veteran status, or genetic information, or any other characteristic protected by institutional policy or state, local, or federal law.

These Procedures address all forms of sexual discrimination, including sexual harassment and sexual violence. They also address stalking and relationship violence (commonly referred to as dating and domestic violence). Pursuant to Title IX of the Education Amendments of 1972, the University of Denver does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs or in the context of employment.

These Procedures prohibit sexual harassment, sexual violence, stalking, and relationship violence against University community members of any gender, gender identity, gender expression or sexual orientation. These Procedures also prohibit gender-based harassment that does not involve conduct of a sexual nature, including hazing, stalking, and failure to provide equal opportunity in admissions, employment or athletics.

The University, as an educational community, will promptly and equitably respond to reports of sexual harassment, sexual violence, stalking, and relationship violence in order to eliminate the harassment, prevent its recurrence, and address its effects on any individual or the community.

B. Relationship Violence

Relationship violence, also known as domestic and dating violence, encompasses a broad range of behaviors, all of which are prohibited under these Procedures. In particular, relationship violence means an act or threatened act of abuse and/or violence upon a person with whom the individual is or has been involved in a dating or domestic relationship. Forms of relationship violence, include, but are not limited to, physical violence, sexual violence, emotional violence, stalking, and economic abuse. Relationship violence may also take the form of threats, assault, property damage, violence or threat of violence to one's self, one's sexual or romantic partner, or to the family members, friends, pets, or the sexual or romantic partner. Relationship violence may involve one act or an ongoing pattern of behavior. It affects

individuals of all genders, gender identities, gender expressions, and sexual orientation and does not discriminate by racial, social, or economic background, or ability.

Dating violence includes conduct by someone who is or has been in a social relationship of a romantic or intimate nature with the victim. This includes relationships 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.

Domestic violence includes conduct by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; or by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner.

All of the conduct defined in the Prohibited Conduct section of these Procedures may be a form of relationship violence.

C. Role of Title IX Coordinator

The University has a designated Title IX Compliance Coordinator who oversees the University's investigation, response to, and resolution of all reports of discrimination, harassment on the basis of sex, sexual violence, relationship violence, stalking, and retaliation involving students, faculty and staff. The Title IX Coordinator is:

- Responsible for oversight of the investigation and resolution of all reports of prohibited conduct under these Procedures involving students, staff, faculty and visitors;
- Knowledgeable and trained in University policies and procedures and relevant state and federal laws;
- Available to advise any individual, including a Complainant, a Respondent or a third party, about the courses of action available at the University and in the community;
- Available to provide assistance to any University employee regarding how to respond appropriately to a report of prohibited conduct under these Procedures;
- Responsible for monitoring full compliance with all procedural requirements, record keeping and timeframes outlined in these Procedures; and
- Responsible for coordination of training, prevention and education efforts and annual reviews of climate and culture.

Inquiries or complaints concerning the application of Title IX may be referred to the University's Title IX Coordinator and/or the United States Department of Education:

Title IX Coordinator

Jean G. McAllister, MSW
Mary Reed Building, 4th Floor
2199 South University Blvd.
(303) 871-7481

United States Department of Education:

Office for Civil Rights

(800) 421-3481

Email: ocr@ed.gov

Regional Office:

999 18th Street

Denver, CO 80202

(800) 368-1019

Email: OCR.Denver@ed.gov

IV. Definitions

Complainant¹

A party who files a report alleging that he or she has been the subject of a discriminatory act. As necessary, the University reserves the right to initiate a complaint, to serve as Complainant, and to initiate proceedings without a formal complaint. A reporting party and Complainant need not be the same person.

Complaint of Discrimination

A charge filed in accordance with either these or other University procedures that alleges a violation of any University policy or federal, state, or local law related to discrimination. Complaint is also referred to as a report.

Corrective Action

Any action levied against an employee found responsible for violating University policy by the employee's supervisor and any other appropriate administrator.

Discriminatory Act

Any action taken in violation of the University's Discrimination and Harassment Policy, Section 3.10.010.

Investigator

An objective, neutral fact-finder with relevant training and experience. The investigator may or may not be an Office of Equal Opportunity investigator.

Office of Equal Opportunity

This office is responsible for reviewing complaints of discrimination, harassment and/or sexual misconduct. Its review will include factual findings and determinations of responsibility for violating the Discrimination and Harassment Policy, Section 3.10.010.

Outcomes

Required educational opportunities, restrictions, and/or expectations outlined for a student found responsible for violating University policy.

¹We recognize that an individual may self-identify as a victim or a survivor. For consistency in this Procedure, the University uses the term Complainant.

Outcome Council

A body composed of DU staff or faculty to review the factual findings and policy violation determinations issued by an investigator, and impose Outcomes.

Preponderance of the Evidence

The standard of proof that the Office of Equal Opportunity applies to its investigations. An allegation is proven by a preponderance of the evidence if, based on the information provided, it is more likely to have occurred than not to have occurred.

Reporting Party. Any person who has shared a concern or incident of discrimination or harassment or other prohibited conduct under these Procedures. The reporting party need not be the Complainant.

Respondent. An individual responding to a complaint under review for violating University policies.

Responsible Employee. All University faculty or staff members, or other University leaders who have leadership or supervisory responsibilities, or who have significant responsibility for student or campus activities. This includes, for example, members of the Board of Trustees, the Chancellor, Provost, Vice Chancellors, Associate Provosts, Deans, Directors, Department Chairs, Campus Safety personnel, Athletics personnel (including Coaches), Student Affairs personnel (including Student Conduct, Housing and Residential Education, and Resident Advisors) and faculty who serve as advisors to student and student groups.

Third Party. Any other participant in the process, including a witness to the incident(s) and an individual who makes a report on behalf of someone else.

University Premises. Means all land, buildings, facilities, or other property in the possession of or owned, used, or controlled by the University, including adjacent streets and sidewalks.

Written Notice. Means delivery via electronic mail to an individual's preferred email address as updated in the person's PioneerWeb account. It is therefore the responsibility of the individual, to have an updated preferred email account on file with the *University* which is checked regularly. Notice may also be delivered in person, or to an individual's University or permanent address, as reported by the person to the University.

V. Prohibited Conduct**A. Guiding Principles**

This is a consent-based policy and the following concepts are guiding principles related to review and evaluation of prohibited conduct, as delineated in these Procedures.

1. Consent

Individuals who choose to engage in sexual activity of any type with another individual must first obtain clear consent. Consent must be clear, knowing, and voluntary. Consent

is active, not passive. 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.

Further:

- In order to give consent, one must be of legal age (CRS Section 18-3-402).
- Each participant in a sexual encounter is expected to obtain and give consent to each act of sexual activity. Consent to any one form of sexual activity does not automatically imply consent to any other form of sexual activity.
- Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Relying on non-verbal communication can lead to misunderstandings. Silence, in and of itself, cannot be interpreted as consent. Consent may not be inferred from silence, passivity, lack of resistance, or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent.
- When consent is requested verbally, absence of any explicit verbal response constitutes lack of consent.
- If at any time during the sexual activity, any confusion or ambiguity arises as to the willingness of the other individual to proceed, both parties should stop and clarify, verbally, the other's willingness to continue before continuing such activity.
- Either party may withdraw consent at any time. Withdrawal of consent should be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.
- Individuals with a previous or current intimate relationship do not automatically give either initial or continued consent to sexual activity. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates a willingness to engage in sexual activity.
- Consent is not effective if it results from the use or threat of physical force, intimidation, or coercion, or any other factor that would eliminate an individual's ability to exercise his or her own free will to choose whether or not to have sexual contact.
- A person who is incapacitated cannot give consent.

2. Coercion

Coercion is unreasonable and/or persistent pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get sexual activity from another. When someone makes clear that they do not want to engage in sexual contact, 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. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats and blackmail. Examples of coercion include threatening to disclose another individuals' private sexual information related to sexual orientation, gender identity, or gender expression and threatening to harm oneself if the other party does not engage in the sexual activity.

3. Force

Force is the use of physical violence and/or imposing on someone physically to gain sexual access. There is no requirement that a party resists the sexual advance or request, but resistance will be viewed as a clear demonstration of non-consent. Threat includes threats of physical violence against another person or intimidation (implied threats).

4. Incapacitation

An individual who is incapacitated lacks the ability to make informed, rational judgments and cannot consent to sexual activity. Incapacitation is defined as the inability, temporarily or permanently, to give consent because an individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring. 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, or unconsciousness), constitutes a violation of these Procedures.

Where alcohol or other drugs are involved, incapacitation is a state beyond drunkenness or intoxication. The impact of alcohol and other drugs varies from person to person; however, warning signs that a person may be approaching incapacitation may include slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness, or emotional volatility.

Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual's:

- decision-making ability;
- awareness of consequences;

- ability to make informed judgments;
- capacity to appreciate the nature and the quality of the act; or
- level of consciousness.

A person may be considered unable to give consent due to incapacitation if the person cannot appreciate the who, what, where, when, why, or how of a sexual interaction. An individual who engages in sexual activity with someone the individual knows or reasonably should know is incapacitated is a violation of these Procedures.

Possession, use and/or distribution of any rape drugs, including, but not limited to Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another person is a violation of the Sexual Exploitation portion of these Procedures.

5. Alcohol and Other Drugs

In general, the University considers sexual contact while under the influence of alcohol or other drugs to be risky behavior. Alcohol and other drugs impair a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

The perspective of a reasonable person will be the basis for determining whether a Respondent should have been aware of the extent and amount of the ingestion of alcohol or drugs by the Complainant or of the extent to which the use of alcohol or drugs impacted a Complainant's ability to give consent. In determining whether consent has been given, the University will consider both: the extent to which a Complainant affirmatively gives words or actions indicating a willingness to engage in sexual activity; and, whether the Respondent was aware – or reasonably should have known – of the Complainant's level of alcohol consumption and/or level of impairment.

Being intoxicated or impaired by drugs or alcohol is never an excuse for committing sexual harassment, sexual violence, stalking or relationship violence and does not diminish one's responsibility to obtain informed and freely given consent.

B. Prohibited Conduct

In accordance with the University's Discrimination and Harassment Policy, Section 3.10.010, the following is an explanation of Prohibited Conduct under these Procedures:

1. Discrimination

It is a violation of these Procedures to discriminate in the provision 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.

Discrimination of these kinds are 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 2 of 6 Ordinance. These Procedures are intended to comply with the prohibitions of these anti-discrimination laws.

2. Harassment

Harassment on the basis of any legally protected characteristic is a form of discrimination and is likewise prohibited by these Procedures. 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.

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

Sexual harassment is a form of discrimination prohibited by these Procedures.

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, i.e. it is sufficiently serious, pervasive, or persistent as to create an intimidating, hostile or offensive

environment for working or learning under both an objective (a reasonable person's view) and subjective (the Complainant's view) standard.

Sexual harassment also includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex/gender or sex/gender-stereotyping, even if the acts do not involve conduct of a sexual nature.

A single, isolated incident of sexual harassment alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical. The determination of whether an environment is "hostile" must be based on all the circumstances. These circumstances could include, but are not limited to:

- The frequency of the speech or conduct;
- The nature and severity of the speech or conduct;
- Whether the conduct was physically threatening;
- Whether the speech or conduct was humiliating;
- The effect of the speech or conduct on the Complainant's mental and/or emotional state;
- Whether the speech or conduct was directed at more than one person;
- Whether the speech or conduct arose in the context of other discriminatory conduct;
- Whether the speech or conduct unreasonably interfered with the Complainant's educational opportunities or performance (including study abroad), university-controlled living environment, work opportunities or performance;
- Whether a statement is a mere utterance of an epithet which engenders offense in an employee or a student or offends by mere discourtesy or rudeness; and/or
- Whether the speech or conduct deserves the protections of academic freedom.

Determining what constitutes sexual harassment depends on the specific facts and context in which the conduct occurs. For example, sexual harassment:

- May be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
- Does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents.
- May occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.
- May be committed by anyone, regardless of gender, age, position, or authority. Including between peers or between individuals in a hierarchical relationship.
- May be aimed at coercing an individual to participate in an unwanted sexual relationship or may have the effect of causing an individual to change behavior or performance.
- May occur in the classroom, in the workplace, in residential settings, over electronic media (including the internet, telephone, and text), or in any other setting.
- May be committed in the presence of others or when the parties are alone.
- May consist of repeated actions or may arise from a single incident if sufficiently egregious.
- May affect the Complainant and/or third parties who witness or observe harassment.

4. Non-Consensual Sexual Contact

Non-Consensual Sexual Contact is a form of discrimination prohibited by these Procedures.

Non-Consensual Sexual Contact is any intentional sexual touching, however slight, with any object, by any individual upon any individual that is without consent; by force, coercion, or threat; or where that individual is incapacitated.

Sexual Contact includes:

- i. Having or attempting to have sexual contact, including vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand) or object, or oral penetration involving mouth to genital contact.

- ii. 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;
- iii. Any intentional bodily contact in a sexual manner, though not involving contact with/of/by the breasts, buttocks, groin, genitals, mouth or other orifice;
- iv. Any other act which a reasonable person would associate with sexual contact.

5. Sexual Exploitation

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.

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. Video or audio-taping sexual activity, or posting said media, without the knowledge and agreement of the other party;
- iii. Going beyond the boundaries of consent (such as letting someone observe a sexual act without the knowledge or agreement of the other party);
- iv. Engaging in voyeurism (observing another party's nudity or sexual activity without their knowledge or agreement);
- v. Endangering the health and safety without effective consent (such as knowingly exposing another individual to a sexually-transmitted infection);
- vi. Exposing one's genitals in a non-consensual circumstance, or inducing another to expose their genitals; and
- vii. Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

6. Stalking

Stalking occurs when a person engages in a course of conduct or repeatedly commits acts, displays or communications toward another person under circumstances that demonstrate either of the following:

- Placing the person in reasonable fear for one's safety; or
- Reasonably causing substantial injury or emotional distress to the person.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.

Prohibited stalking may take the form of (but is not limited to) intentionally following another person; attempting to contact a person through telephone, emails, text messages, or social media; extortion of money or valuables; repeated oral or written threats; or unwelcome/unsolicited communications about a person, their family, friends, or co-workers.

7. Physical Misconduct

Physical misconduct occurs when there are any acts causing or likely to cause, bodily harm to any person, regardless of intent; any act resulting in physical contact with another person, when performed over their objections; or any implied or actual threats or acts that cause an unreasonable fear of harm in another.

When these acts occur in the context of relationship violence or when the behavior is perpetrated on the basis of a legally protected characteristic, the conduct will be resolved under these Procedures.

8. Bullying and Hazing

Bullying includes any intentional electronic, written, verbal or physical act, or a series of acts, directed at another individual, that is severe, persistent, or pervasive and that has the intended effect of doing any of the following: (i) substantially interfering with a student's education; (ii) creating a threatening environment; or (iii) substantially disrupting the orderly operation of the University.

Hazing is any action or situation, with or without the consent of the participants, which recklessly, intentionally, or unintentionally endangers the mental, physical, or academic health or safety of another individual. This includes circumstances, which create a risk of injury; cause discomfort or embarrassment; involve harassment, degradation, humiliation or ridicule; or involve intentional destruction or removal of public or private property for the purpose of initiation or admission into, affiliation with, or as a condition for continued membership in an organization.

When these acts occur in the context of relationship violence or when the behavior is perpetrated on the basis of a legally protected characteristic, the conduct will be resolved under these Procedures.

9. Retaliation

Retaliation is any act or attempt to retaliate against or seek retribution from any individual or group of individuals involved in the investigation and/or resolution of a report under these Procedures. Retaliation can take many forms, including, but not limited to, abuse or violence, threats, physical intimidation, verbal, written, electronic or behavioral acts that are vulgar or obscene which produce or attempt to produce isolation, ridicule, embarrassment or intimidation as a result. Any individual or group of individuals, including a Complainant or Respondent, can engage in retaliation and will be held accountable under these Procedures.

Actions are considered retaliatory if they are motivated by disclosure of real or perceived University-related misconduct pursuant to these Procedures and the actions have a substantial adverse effect on the working, academic, university-controlled living environment or social functioning in the University community of a faculty, employee or student; or if the faculty, employee, or student can no longer effectively carry out his or her University responsibilities.

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 good faith 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 any Equal Opportunity review.

Retaliation, intimidation, or attempts of this kind is a violation of the Discrimination and Harassment Policy, Section 3.10.010 and will be subject to sanctions up to and including termination or expulsion.

10. Groundless and Malicious Complaints

The University takes the validity of information very seriously as a charge of harassment, discrimination, or sexual misconduct may have severe consequences. Anyone who abuses these Procedures or the Discrimination and Harassment Policy, Section 3.10.010 by bringing groundless or malicious complaints or intentionally giving false information during the course of a review violates these Procedures. This provision does not apply to reports made in good faith, even if the facts alleged in the report are not substantiated by an investigation.

VI. Consensual Sexual Relationship Policy

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. As used in this section, the term “teacher” includes a faculty member, teaching assistant, graduate student, administrator, coach, advisor, counselor, residence staff, program director or other University employee having supervisory, teaching, mentoring, advising, coaching or other evaluative responsibilities for

students. Relations between persons occupying such asymmetrical positions of power, even when both consent, raise suspicions that the person in authority has violated standards of professional conduct and potentially subject the person in authority to charges of sexual harassment. 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. In any allegation of sexual harassment brought by a person in a subordinate position, “consent to the relationship” will not be deemed a sufficient defense or justification for conduct which otherwise would be deemed sexual harassment under the policy of the University.

In the event of such a relationship, it is the responsibility of the person in a position of authority to notify his/her own supervisor so that a resolution consistent with this policy may be reached. Failure to comply with this requirement is a violation of this policy, and the person in authority could be subject to Corrective Action and/or Outcomes, up to and including dismissal from employment by the University.

Any individual may make a report or file a complaint alleging harassment or discrimination, including any party outside the relationship affected by the perceived harassment or discrimination. Retaliation against persons who report concerns about consensual relationships is prohibited and constitutes a violation of this policy.

VII. Privacy and Confidentiality

For any report under these Procedures, every effort will be made to respect and safeguard the privacy interests of all individuals involved in a manner consistent with and the need for a careful assessment of the allegation and any necessary steps to eliminate the conduct, prevent its recurrence, and address its effects. Privacy and confidentiality have distinct meanings under these Procedures.

Privacy: Privacy generally means that information related to a report under these Procedures will only be shared with those University employees who “need to know” in order to assist in the active review, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process. If the decision is made to pursue an investigation and/or resolution under these Procedures, information related to the report will be shared with the Respondent. Information regarding a report will not be shared with the Complainant’s or Respondent’s parents or guardians unless: the Complainant or Respondent is a minor (and sharing is permissible under the Family Education Rights and Privacy Act (FERPA)); the Complainant or Respondent has signed a waiver that is compliant with FERPA; or there is an articulable threat to the health or safety of the Complainant, Respondent or other individuals.

Confidentiality: Confidentiality means that information shared with designated campus or community professionals will only be disclosed with the individual’s express written permission,

unless there is a continuing threat of serious harm to the patient/client or to others, or there is a legal obligation to reveal such information (e.g., where there is suspected abuse or neglect of a minor). An individual can seek confidential assistance and support by speaking with specially designated Confidential Resources. See Confidential Resources section of these procedures ([link](#)).

Release of Information: If a report of prohibited conduct discloses a serious and immediate threat to the campus community, University of Denver's Office of Campus Safety will issue a timely notification to protect the health or safety of the community as required by the Clery Act. The notification will not include identifying information about a Complainant.

Pursuant to the Clery Act and the 2013 Amendments to the Violence Against Women Act, anonymous statistical information regarding reported criminal incidents must be shared with University of Denver Office of Campus Safety for inclusion in the Daily Crime Log. This information will also be included in the University's Annual Security Report. The University may also share aggregate and not personally identifiable data about reports, outcomes and sanctions.

All University proceedings are conducted in accordance with the requirements of Title IX, the Clery Act, the Violence Against Women Act, FERPA, state and local law, and University policy. No information, including the identity of the parties, will be released from such proceedings except as required or permitted by law or University policy.

Records: The Office of Equal Opportunity will maintain records of all reports under these Procedures and their outcomes in order to track patterns and systemic behaviors.

VIII. Resources

All individuals are encouraged to seek the support of on and off campus resources, regardless of when or where the incident occurred. Trained professionals can provide guidance in making decisions, information about available resources and procedural options, and assistance to either party in the event that a report and/or resolution under these Procedures is pursued. The University is committed to treating all members of the community with dignity, care, and respect. Any individual affected by discrimination, harassment, sexual harassment, sexual violence, relationship violence, stalking or retaliation, whether as a Complainant, a Respondent, or a third party, will have equal access to support consistent with their needs and available University resources.

In general, the University provides two distinct institutional resources:

Confidential Resources, which do not involve notifying the University of the incident unless the Complainant requests such action; and,

Reporting Resources, which notify the University of the incident and begin the initial assessment under these Procedures and ultimate resolution of the report through remedies or investigation and imposition of any appropriate sanctions.

A. Emergency Support Services

As a first priority, all individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident, which poses a threat to safety or physical well-being. Emergency medical and campus safety/law enforcement assistance are available both on and off campus.

The University encourages all individuals to report potential criminal conduct by calling 911 or by contacting the University of Denver’s Office of Campus Safety. If the incident occurred off-campus, the University of Denver’s Office of Campus Safety will refer the report to the police department or law enforcement agency in the correct jurisdiction.

The University also encourages individuals to seek assistance from a medical provider or crisis response service immediately after an incident. This provides the opportunity to address physical well-being or health concerns, preserve any available evidence, and begin a timely investigative and remedial response. Emotional care, counseling, and crisis response are also available on and off campus.

Campus Safety & Law Enforcement	Medical Care & Crisis Response
<p>University of Denver Office of Campus Safety http://www.du.edu/campussafety/</p> <ul style="list-style-type: none"> • Emergency 303-871-3000 • Non-Emergency (general): 303-871-2334 <p>The Office of Campus Safety will help any individual get to a safe place and will provide transportation to the hospital, coordination with outside law enforcement, and information about the University’s resources and complaint processes.</p>	<p>University of Denver Health and Counseling Center http://www.du.edu/health-and-counseling-center/</p> <ul style="list-style-type: none"> • During business hours 303-871-2205 (Monday through Friday, 8:00 a.m. to 5:00 p.m.), phone the office, and speak directly with a counselor or arrange to come in for a crisis session • When the office is closed 303-871-3000 Ask to speak to the Counselor on Call. A counselor on call is available free of charge <p>University of Denver CAPE Helpline http://www.du.edu/health-and-counseling-center/cape/index.html 303-871-3456</p> <p>Trained advocates will assist survivors, and any family and friends, to cope with the physical, psychological, judicial and/or legal aftermath resulting from gender-based violence.</p>
<p>Denver Police Department http://www.denvergov.org/police/PoliceDepartment/tabid/440727/Default.aspx</p> <ul style="list-style-type: none"> • Emergency: 911 • Non-Emergency (general): 720-913-2000 • Sex Crimes Unit: 720-913-6040 • Domestic Violence Hotline: 720-913-6071 • Victim Assistance Unit: 720-913-6035 	<p>Denver Health Medical Center 777 Bannock Street Denver, CO 80204 Main: 303-436-6000 SANE Program: 303-602-3007</p> <p>Porter Adventist Hospital 2525 South Downing Street Denver, CO 80210 Main: 303-778-1955 SANE Program: 303-430-2648 Admissions: 303-778-5745</p>

	<p>St. Anthony Hospital 11600 W. 2nd Drive Lakewood, CO 80228 Main: 720-321-0000</p> <p>-or-</p> <p>2551 W. 84th Ave. Westminster, CO 80031 Main: 303-426-2151 SANE Program: 303-430-2648</p> <p>Medical Center of Aurora 1501 S. Potomac Street Aurora, CO 80012 Main: 303-695-2600 SANE Program: 303-671-4945 Counties served: Arapahoe, Douglas, Elbert, and Lincoln Counties</p>
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B. Confidential Resources

An individual who is seeking confidential support and does not wish to make a report should speak with on-campus health or counseling professionals, members of the clergy, or on-campus victim advocates. Speaking with Health and Counseling Services, the University Chaplain, or Center for Advocacy, Prevention, and Empowerment does not constitute a report of prohibited conduct. These resources are also available to Complainants who have made a report to the Office of Equal Opportunity. Respondents may utilize the University Chaplain or the Health and Counseling Center for confidential support. These trained professionals can provide counseling, information and support in a confidential setting. These confidential resources will not share information about a patient/client (including whether that individual has received services) without the individual’s express written permission unless there is a continuing threat of serious harm to the patient/client or to others or there is a legal obligation to reveal such information (e.g., suspected abuse or neglect of a minor).

On Campus Confidential Resources

Health & Counseling Center

2240 East Buechel Blvd. Suite 3N
Denver, CO 80208
Phone: 303.871.2205

University Chaplain

Driscoll Student Center South, Suite 29
2050 East Evans Avenue
Denver, CO 80208
Phone: 303.871.4488

Center for Advocacy, Prevention, and Empowerment (CAPE)

2222 S. High Street
Nelson Residence Hall, Room 103
Denver, CO 80210
Phone: 303-871-3853

Off Campus Confidential Resources

Blue Bench

Phone: 303-322-7273 (available 24/7)

<http://thebluebench.org>

Colorado Coalition Against Domestic Violence

Phone: 303-831-9632

<http://ccadv.org/>

SAFEHOUSE Denver (Emergency Shelter Available 24/7)

Phone: 303-318-9989 (available 24/7)

<http://www.safehouse-denver.org/>

C. Reporting Resources

In addition to the confidential resources listed above, University of Denver community members have access to a variety of resources provided by the University.

The professionals listed below are trained to support individuals affected by discrimination, harassment and other prohibited conduct and to coordinate with the Title IX Coordinator or the Office of Equal Opportunity consistent with the University's commitment to a safe and healthy educational environment. While not bound by confidentiality, these resources will maintain the privacy of an individual's information within the limited circle of those involved in the resolution process.

Title IX Coordinator

Jean McAllister

2199 S. University Blvd.

Mary Reed Building, RM 411

(303) 871-7481

TitleIX@du.edu

Office of Equal Opportunity

2199 S. University Blvd.

Mary Reed Building, RM 422

Phone: 303-871-7436

EqualOpportunity@du.edu

Campus Safety

2130 High St.

Emergency: 303-871-3000

Non-Emergency (general): 303-871-2334

<http://www.du.edu/campussafety>

Student Conduct

2050-5 E. Evans Ave.
Driscoll Center North Room 202A
Denver, CO 80208
Phone: 303-871-4504
<http://www.du.edu/studentlife/studentconduct>

Pioneers CARE

2050-5 E. Evans Ave.
Driscoll Center North
Denver, CO 80208
Phone: 303-871-4724
http://www.du.edu/studentlife/studentsupport/pioneers_care

Graduate Studies

2199 S. University Blvd., Room 5
Denver, CO 80208
Phone: 303-871-2706
<http://www.du.edu/learn/graduates>

Housing and Residential Education

2055 E. Evans Ave., Suite 200
Denver, CO 80208
Phone: 303-871-2246
<http://www.du.edu/housing>

D. Additional Community Resources

Students, faculty, and staff may also access resources located in the local community. These organizations can provide crisis intervention services, counseling, medical attention and assistance in interfacing with the criminal justice system. All individuals are encouraged to use the resources that are the best suited to their needs, whether on or off campus.

Blue Bench

Phone: 303-322-7273 (available 24/7)
<http://thebluebench.org>

Colorado Coalition Against Domestic Violence

Phone: 303-831-9632
<http://ccadv.org/>

SAFEHOUSE Denver (Emergency Shelter Available 24/7)

Phone: 303-318-9989 (available 24/7)
<http://www.safehouse-denver.org/>

Denver Police Department

Emergency: 911

Non-Emergency (general): 720-913-2000

Sex Crimes Unit: 720-913-6040

Domestic Violence Hotline: 720-913-6071

Victim Assistance Unit: 720-913-6035

<http://www.denvergov.org/police/PoliceDepartment/tabid/440727/Default.aspx>

IX. Reporting

As noted above, the University encourages all individuals to seek assistance from a medical provider and/or law enforcement immediately after an incident of sexual violence or relationship violence, whether or not the individual plans to pursue criminal action. This is the best option to ensure preservation of evidence and to begin a timely response by law enforcement and/or the University.

The University has a strong interest in supporting community members who experience discrimination, harassment, sexual harassment, sexual violence, relationship violence, stalking and retaliation; and encourages all individuals or third party witnesses to report any incident to the University, and if it involves potential criminal conduct to law enforcement.

Making a report under these Procedures means telling someone in authority what happened -- in person, by telephone, in writing or by email. Deciding whether to make a report and choosing how to proceed are personal decisions. At the time a report is made, a Complainant does not have to decide whether or not to request any particular course of action, nor does a Complainant need to know how to label what happened. Choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time. The University provides support that can assist each individual in making these important decisions, and to the extent legally possible, will respect an individual's autonomy in deciding how to proceed. In this process, the University will balance the individual's interest with its obligation to provide a safe and non-discriminatory environment for all members of the University community.

Individuals have several reporting options. These include: 1) reporting to the police for criminal action; and, 2) reporting to designated campus officials, including the Title IX Coordinator, the Office of Equal Opportunity, Campus Safety, Student Conduct, Pioneers CARE, and Housing and Residential Education. Individuals may pursue these options simultaneously, or any one of them separately. Resources are always available to support a Complainant regardless of the course of action chosen.

Any individual who reports prohibited conduct can be assured that all reports will be investigated and resolved in a fair and impartial manner. All individuals involved can expect to be treated with dignity and respect. In every report under these Procedures, the University will make an immediate assessment of any risk of harm to the University or to the broader campus community and will take steps necessary to address those risks. These steps will include interim measures to provide for the safety of the individual and the campus community.

A. Reporting to Law Enforcement

The University encourages Complainants to pursue criminal action for incidents of prohibited conduct that may also be crimes under state criminal statutes. The University will assist a Complainant, at the Complainant's request, in contacting local law enforcement and will cooperate with law enforcement agencies if a Complainant decides to pursue the criminal process.

The University's policy, definitions, and burden of proof may differ from Colorado criminal law. Neither law enforcement's determination whether or not to prosecute a Respondent nor the outcome of any criminal prosecution are determinative of whether sexual harassment, sexual violence or relationship violence has occurred under these Procedures. Proceedings under these Procedures may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

B. Campus Reporting Options

The University encourages a Complainant to make a report directly to the Title IX Coordinator or the Office of Equal Opportunity. Other reporting options include: Campus Safety, Student Conduct, Pioneers CARE, and Housing and Residential Education.

Although a report may come in through many sources, the University is committed to ensuring that all reports are referred to the Title IX Coordinator or the Office of Equal Opportunity, who will ensure consistent application of the policy to all individuals and allow the University to respond promptly and equitably to eliminate the harassment, prevent its recurrence, and eliminate its effects. As such, when an individual chooses to share information with a University employee designated as a Responsible Employee, the report will be shared with Title IX Coordinator and the Office of Equal Opportunity.

Responsible Employees who are informed of an incident of discrimination, harassment, sexual violence, relationship violence, stalking and retaliation will safeguard an individual's privacy, but are required by the University to immediately share all details including the known details of the incident (date, time location), the names of the parties involved, a brief description of the incident and if the incident has been previously reported) with Title IX Coordinator. Such reporting ensures timely support for all parties and enables an effective and consistent institutional response.

Consistent with these Procedures, upon receipt of a report, the Title IX Coordinator or Office of Equal Opportunity will conduct an initial assessment of: the incident or behavior at issue; any risk of harm to the parties, any other individuals or the broader campus community; the Complainant's desired course of action; and the necessity for any interim measures to protect the safety of the Complainant, any other individuals or the community. Appropriate resources will be made available for Complainant (e.g., medical care, counseling resources, safe housing). At the conclusion of the initial assessment, the Title IX Coordinator and the Office of Equal Opportunity will determine the appropriate manner of resolution.

All individuals are encouraged to make a report, regardless of when or where the incident occurred, and to seek any necessary help from campus or community resources.

C. Anonymous Reporting

Any individual may make an anonymous report concerning an act of sexual harassment, sexual violence or relationship violence. A report can be made without disclosing one's own name, identifying the Respondent, or requesting any action. Depending on the level of information available about the incident or the individuals involved, anonymous reporting may impact the University's ability to respond or take further action.

As with all other reports, all anonymous reports will go to Office of Campus Safety and the Title IX Coordinator for review and appropriate response and action. Where there is sufficient information, the University will ensure that anonymous reports are reviewed and included for compliance with the Clery Act.

D. Reporting Considerations

1. Timeliness and Location of Incident

Complainants and third party witnesses are encouraged to report sexual harassment, sexual violence, stalking and dating/domestic violence as soon as possible in order to maximize the University's ability to respond promptly and effectively. There is no time limit on reporting violations of these Procedures, however, Complainants are encouraged to make a report within 180 days of the last incident. If the Respondent is no longer a student or employee, the University may not be able to take Corrective Action and/or impose Outcomes against the Respondent, but it will still seek to meet its Title IX obligation by providing support for a Complainant and taking steps to end the harassment, prevent its recurrence, and address its effects.

An incident does not have to occur on campus to be reported to the University. Off campus conduct that occurred in the context of an employment or education program or activity of the University or had continuing adverse effects on campus or continuing adverse effects in an off-campus employment or education program or activity will also be covered under these Procedures.

2. Amnesty for Personal Use of Drugs or Alcohol

The health, safety and well-being of all members of our community are of primary importance to the University. As such, the University seeks to remove barriers to reporting so that it can appropriately address and remedy the presence of a harassing environment. The University will generally offer any student, whether the Complainant or a third party, who reports sexual harassment, sexual violence or relationship violence amnesty from being charged for policy violations related to the personal ingestion of alcohol or other drugs, provided that any such violations did not and do not place the health and safety of any person at risk. The University may choose, however, to pursue educational or therapeutic remedies for those individuals. The University will always consider the unique nature of the incident and roles of those who may have been involved.

3. Protection of Minors and Mandatory Reporting of Suspected Child Abuse

The University will report all suspected child abuse and neglect, including sexual assault, to law enforcement and/or to the Denver Department of Human Services toll-free child abuse and

neglect hotline at (720) 944-3000. All University employees are required to report suspected child abuse and neglect to the Title IX Compliance Coordinator or Office of Campus Safety.

It is the University's intent to act quickly regarding all suspected child abuse. For the purposes of this reporting obligation, a child is any individual under the age of 18, and the suspected abuse may involve physical, sexual or other forms of abuse or neglect, regardless of the identity of the suspected perpetrator. The duty to report is triggered by reasonable suspicion or belief. There is no requirement that you have actual evidence of abuse, nor is it the responsibility of any employee, student, or volunteer to investigate suspected child abuse. This is the role of child protective services and law enforcement authorities, who are best positioned to do so.

A report should be made as follows:

If a child is in immediate danger, call the police (911).

If there is no immediate danger, call:

- University of Denver Office of Campus Safety: 303-871-3000
- University of Denver Title IX Compliance Coordinator: 303-871-7436

These individuals will assist in making the mandated child protective services report to:

- Denver Police Department: 720- 913-2000
- Denver Child Protective Services: 720-944-3000

X. Interim Measures

All students and employees have the right to continue their education or employment free from the threat of harassment, abuse, retribution, or violence. Upon the receipt of a report of prohibited conduct, the University will take whatever measures it deems necessary in order to protect the safety, security, or integrity of all parties involved and eliminate the reported hostile environment. The University will maintain consistent contact with the parties to ensure that all safety and emotional and physical well-being concerns are being addressed. Interim measures may be imposed regardless of whether an investigation or resolution is sought by the Complainant or the University in order to maximize of the Complainant's educational and/or employment experience and the overall university environment.

Interim measures are initiated based on information gathered during a report and are not intended to be permanent resolutions; hence, they may be amended or withdrawn as additional information is gathered. The Title IX Coordinator and Office of Equal Opportunity, in consultation with other administrators, will maintain consistent contact with the parties so that all safety, emotional, and physical well-being concerns can be reasonably addressed. A Complainant or Respondent may request separation or other protection, or the University may choose to impose interim measures at its discretion to ensure the safety of all parties, the broader University community, and/or the integrity of the investigative and/or resolution process.

Such measures include, but are not limited to:

- Access to counseling services and assistance in setting up initial appointments, both

- on and off campus
- Imposition of a campus “No-Contact Order”
- Rescheduling of exams and assignments
- Providing alternative course completion options
- Change in class schedule, including the ability to drop a course without penalty or to transfer sections
- Change in work schedule or job assignment
- Change in student’s campus housing
- Assistance from University support staff in completing housing relocation
- Limiting access to certain University facilities or activities pending resolution of the matter
- Voluntary leave of absence
- Providing an escort to assure safe movement between classes and activities
- Arranging for medical services
- Providing academic support services
- Any other remedy which can be tailored to the involved individuals to achieve the goals of these Procedures.

The Vice Chancellor for Campus Life and Inclusive Excellence or the Provost, or their designees, in consultation with the appropriate faculty and/or administrators, will be empowered to impose any interim measure short of an interim suspension. In imposing interim measures, the University should minimize the burden on the Complainant. The University also recognizes its obligation to students who have been accused of misconduct but have not yet gone through the investigative process. Therefore, interim measures should not unduly interfere with a Respondent’s academic progress short of that deemed necessary to protect the University, any member of its community, or its mission.

Interim Suspension. The Vice Chancellor for Campus Life and Inclusive Excellence or the Provost, or their designees, may suspend a student for an interim period prior to case resolution. An interim suspension will be effective immediately, without prior notice, whenever the Associate Provost for Student Life or Graduate Studies determines that the continued presence of the student on the University campus poses a substantial threat to any member of the University Community or the stability and continuance of normal University functions. During an interim suspension, students may be denied access to University premises and all University activities or privileges for which the student might otherwise be eligible, as the Vice Chancellor for Campus Life and Inclusive Excellence or the Provost, or their designees may determine to be appropriate. Whenever an interim suspension is imposed, case resolution will be completed as reasonably as possible. The interim suspension may remain in effect until a final decision has been reached, including any appropriate appellate process.

XI. Procedural Options for Resolution of Reports

Although a report may come in through many sources, the University is committed to ensuring that all reports are referred to the Title IX Coordinator and the Office of Equal Opportunity, who will ensure consistent application of the policy to all individuals and allow the University to respond promptly and equitably to eliminate the harassment, prevent its recurrence, and eliminate its effects.

A. Overview of Procedural Options

Upon receipt of a report, the University will conduct an initial assessment. The goal of this assessment is to provide an integrated and coordinated response to reports of prohibited conduct under these Procedures. The assessment will consider the nature of the report, the safety of the individual and of the campus community, the Complainant's expressed preference for resolution, and the necessity for any interim measures or modifications to maintain the safety of the Complainant or the community.

Following this assessment, the University may: 1) determine that the reported concern does not meet the criteria for a possible violation of University Policy (this determination may result in a referral to another University department or resource or result in no action taken); 2) seek alternative resolution that does not involve Corrective Action or Outcome against a Respondent; or, 3) initiate an investigation to determine if Corrective Action or Outcome are warranted. The goal of the investigation is to gather all relevant facts; make factual determinations; determine whether there is a violation under these Procedures; and if warranted, refer the investigative conclusion for Corrective Action and/or Outcomes.

At the conclusion of the investigation, the investigator will make a determination by a preponderance of the evidence whether sufficient information exists to support a finding of responsibility for violating the Discrimination and Harassment Policy, Section 3.10.010 and these Procedures. The specific procedures for Corrective Action and/or Outcomes will then occur as follows:

- For complaints against employees or non-students, the investigative finding will be shared with the Respondent's direct supervisor who, in consultation with Human Resources, shall have disciplinary authority to impose appropriate Corrective Action.
- For complaints against students, the investigative findings will be referred to the Outcome Council who shall have disciplinary authority to impose appropriate Outcomes (i.e. sanctions).

Each resolution process is guided by the same principles of fairness and respect for all parties. All individuals who violate these standards will be held accountable for their behavior through a process that protects the rights of both the Complainant and the Respondent. Resources are available for both students and employees, whether as Complainants or Respondents, to provide support and guidance throughout the investigation and resolution of a report.

At the conclusion of the disciplinary process, both a Complainant and a Respondent will have the opportunity to appeal.

B. Time Frames for Resolution

The University of Denver will make every effort to resolve all reports within sixty (60) calendar days from the time a complainant, or the University, decides to move forward with a concern. This time frame may be extended for good cause as necessary to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement, to

accommodate the availability of witnesses, to account for University breaks or vacations, to account for complexities of a case, including the number of witnesses and volume of information provided by the parties, or to address other legitimate reasons. Parties will receive written notice of any extension of the timeframes and the reason for the extension. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness. However, the University's failure to meet any of the timeframes outlined within these Procedures in no case shall be grounds for dismissing any matter or review, nor shall it limit the University's ability to complete an investigation, issue findings, impose outcomes, corrective actions, disciplinary actions, or limit the ability to take any other required administrative action under these Procedures.

C. Initial Assessment

The University will conduct an initial assessment in every report that is referred to the Title IX Coordinator or the Office of Equal Opportunity. In the course of this assessment, the University will consider the interest of the Complainant and the Complainant's expressed preference for manner of resolution, as well as the University's obligation to safe and non-discriminatory environment for all community members. Where possible and as warranted by an assessment of the facts and circumstances, the University will seek action consistent with the Complainant's request.

As part of the initial assessment of the facts, the University will:

- Assess the nature and circumstances of the report
- Address any immediate concerns about the physical safety and emotional well-being of the parties
- Notify the Complainant of the right to make a report (or decline to make a report) with law enforcement if the conduct is criminal in nature, and if requested, assist them with notifying law enforcement
- Notify the Complainant of the availability of medical treatment to address any physical and mental health concerns and to preserve evidence
- Provide the Complainant with information about:
 - On and off campus resources
 - The available range of interim measures
- An explanation of the procedural options, including alternative resolution, investigation, and Corrective Actions and/or Outcomes
- Discuss the Complainant's expressed preference for manner of resolution and any barriers to proceeding
- Explain the University's policy prohibiting Retaliation
- Explain the role of a Support Person or Advisor
- Assess for potential pattern evidence or other similar conduct
- Assess the reported conduct for the need for a timely notification under federal law
- Enter non-identifying information about the report into the University's daily crime log if the conduct is potentially criminal in nature

Where a Complainant requests that their name or other identifiable information not be shared with the Respondent or that no formal action be taken, the Title IX Coordinator and the Equal Opportunity Office will balance this request against the following factors in reaching a

determination whether the request can be honored:

- The nature and scope of the alleged conduct, including whether the reported misconduct involves the use of a weapon;
- The respective ages and roles of the Complainant and Respondent;
- The risk posed to any individual or to the campus community by not proceeding, including the risk of additional violence;
- Whether there have been other reports of misconduct by the Respondent;
- Whether the report reveals a pattern of misconduct (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group;
- The Complainant's wish to pursue Corrective Action and/or Outcomes;
- Whether the University possesses other means to obtain relevant evidence;
- Considerations of fundamental fairness with respect to the Respondent should the course of action include Corrective Action and/or Outcomes against the Respondent; and
- The University's obligation to provide a safe and non-discriminatory environment.

Where possible based on the facts and circumstances, the Title IX Coordinator and the Office of Equal Opportunity will seek action consistent with the Complainant's expressed preference for manner of resolution. The University's ability to fully investigate and respond to a report may be limited if the Complainant requests that her or his name not be disclosed to the Respondent or declines to participate in an investigation.

At the conclusion of the initial assessment, the Title IX Coordinator and Equal Opportunity Office will determine the appropriate manner of action. Where the University is unable to take action consistent with the request of the Complainant, the chosen course will be communicated to the Complainant. Action may include alternative resolution, a course of action that includes steps to limit the effects of the alleged misconduct and prevent its recurrence that do not involve formal Corrective Action and/or Outcomes against a Respondent or necessarily revealing the identity of the Complainant. Action may also include the initiation of an investigation that may lead to Corrective Action and/or Outcomes, either with the Complainant's participation or with the University serving as the Complainant seeking resolution against a Respondent on its own behalf. Regardless of the course of action, a Respondent may choose to accept responsibility at any stage in the process.

D. Alternative Resolution

The alternative resolution is a remedies-based resolution designed to eliminate a hostile environment without levying Corrective Action and/or Outcomes against a Respondent. Where an initial assessment concludes that alternative resolution may be appropriate, the University will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the Complainant's access to the educational, extracurricular and employment activities at the University and to eliminate a hostile environment. Examples of protective remedies are provided in the interim measures section of these Procedures.

Other potential remedies include targeted or broad-based educational programming or training, supported direct confrontation of the Respondent and/or indirect action by the Title IX Coordinator or the Office of Equal Opportunity. Depending on form of alternative resolution

used, it may be possible for a Complainant to maintain anonymity. The University will offer mediation for appropriate cases, but will not compel a Complainant to engage in mediation, to directly confront the Respondent, or to participate in any particular form of alternative resolution. Mediation, even if voluntary, may not be used in cases involving sexual or relationship violence (non-consensual sexual contact). The decision to pursue alternative resolution will be made when the University has sufficient information about the nature and scope of the conduct, which may occur at any time. Participation in alternative resolution is voluntary, and a Complainant can request to end alternative resolution at any time.

The Title IX Coordinator and Office of Equal Opportunity will maintain records of all reports and conduct referred for alternative resolution, which will typically be complete within thirty (30) business days of the initial report.

E. Investigation

Where the initial assessment concludes that Corrective Action and/or Outcomes may be appropriate, the University will initiate an investigation. The Office of Equal Opportunity will investigate all complaints of discrimination, harassment and prohibited conduct that contain sufficient foundation that, if found to be true, support a violation of University policy. The University will designate an investigator who has specific training and experience investigating allegations of harassment, discrimination, sexual harassment, sexual violence, relationship violence and stalking. The investigator may be an employee of the University or an external investigator engaged to assist the University in its fact gathering. Any investigator chosen to conduct the investigation must be impartial and free of any actual conflict of interest.

The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough, impartial and fair, and all individuals will be treated with appropriate sensitivity and respect. As described in the Privacy and Confidentiality section, the investigation will be conducted in a manner that is respectful of individual privacy concerns. Throughout the process, a Complainant or Respondent may have an Advisor or a Support Person present at any meeting related to the investigation.

The investigator will conduct interviews as necessary, review documents, and any other relevant information concerning the alleged discriminatory acts. The parties may provide any relevant information to the investigator, including the names of witnesses to contact and/or documents to review at any time before the investigation is closed. The Complainant and Respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. Witnesses must have observed the acts in question or have information relevant to the incident and cannot be participating solely to speak about an individual's character. Investigators will review and determine the weight and materiality of all submitted information and including the necessity of interviewing potential witnesses.

In general, a Complainant's prior sexual history is not relevant and will not be admitted as evidence during an investigation. Where there is a current or ongoing relationship between the Complainant and the Respondent, and the Respondent alleges that consent was given, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in other sections of these Procedures, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual history of the Complainant with other individuals is

typically not relevant and will not be permitted except under limited exceptions.

In gathering the facts, the investigator may consider prior allegations of, or findings of responsibility for, similar conduct by the Respondent to the extent such information is relevant. Where there is evidence of a pattern or conduct similar in nature by the Respondent, either prior to or subsequent to the conduct in question, regardless of whether there has been a finding of responsibility, this information may be deemed relevant and probative in the investigation. The determination of relevance will be based on an assessment of whether:

- The previous incident was substantially similar to the present allegation;
- The information indicates a pattern of behavior and substantial conformity with that pattern by the Respondent; or
- The Respondent was subject to a previous credible allegation and/or previously found responsible for a policy violation.

Any party seeking to introduce information about prior sexual history or pattern evidence should bring this information to the attention of the investigator at the earliest opportunity. The University, through the investigator, may choose to consider this information, with appropriate notice to the parties. Where a sufficient informational foundation exists, the investigator, in consultation with the Title IX Coordinator, will assess the relevance, form, and reliability of the information (hearsay will not be permitted) and determine if it is appropriate for inclusion in the written investigation report.

The investigator has the discretion to consolidate multiple reports against a Respondent into one investigation if the evidence related to each incident would be relevant and probative in reaching a determination on the other incident.

The University will seek to complete the investigation within forty-five (45) calendar days of the complainant's decision to move forward. This time frame may be extended for good cause with written notice to the parties of the delay and the reason for the delay. At the request of law enforcement, the University may agree to defer its Title IX fact-gathering until after the initial stages of a criminal investigation. The University will nevertheless communicate with the Complainant regarding Title IX rights, procedural options and the implementation of interim measures to assure the safety and well-being of all affected individuals. The University will promptly resume its Title IX fact-gathering as soon as law enforcement has released the case for review following the initial criminal investigation.

To help ensure that the investigation can be completed in a timely manner, the University has established time limits for each component of the investigation after a complainant has decided to participate. The time frames do not change the fact that complainants and respondents have the right to determine whether, and to what extent, they will participate in the investigation. It should be noted that the investigation will move forward at the time limit for each stage of the investigation whether or not the noticed individual completes the identified component of the investigation.

- After the University decides to move forward with an investigation and the complainant's initial interview is completed, the Respondent will be notified by Title IX or Equal Opportunity staff that an investigation has been initiated. They will be notified in writing and invited to an informational meeting to review the process and the resources available to them throughout the process. Each Respondent wishing to participate in an informational meeting will have five (5) business days after they receive notice to inform the Title IX Coordinator if they wish to have an informational meeting and ten (10) business days after receiving notice to complete the informational meeting with Title IX or Equal Opportunity before the investigation moves forward.
- After the respondent has completed the informational meeting or the initial ten (10) business days from receiving notice have passed, the respondent will be invited to complete an initial interview with an investigator. The initial interview must be completed within 10 business days of the request or the investigation will move forward without the Respondent's initial interview.
- In most cases, investigators will have follow-up questions for the complainant and respondent after their respective initial interviews. Each participant will have three (3) business days to complete any follow up interview requested by an investigator. Follow up interviews may be completed by phone. If a follow up interview is not completed within the three (3) business days of the request by the investigator, the investigation will move forward without the follow up interview.

An extension of a deadline for exigent or emergency circumstances may be requested in writing from the Title IX Coordinator, who will have sole discretion to grant or deny the extension. The Title IX Coordinator may require proof to verify the emergency or exigent circumstance on which the request is based.

Information gathered during the review or investigation will be used to evaluate the responsibility of the Respondent, provide for the safety of the Complainant and the University campus community, and take appropriate measures designed to end the prohibited conduct, prevent its recurrence and address its effects.

The Title IX Coordinator and the Office of Equal Opportunity Office document each report or request for assistance in resolving a report under these Procedures and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law.

F. Investigation Report

At the conclusion of the investigation, the investigator will prepare a written report that summarizes the information gathered and synthesizes the areas of agreement and disagreement between the parties and any supporting information or accounts. In preparing the report, the investigator will review all facts gathered to determine whether the information is material to the determination of responsibility given the nature of the allegation. In general, the investigator may exclude information that is immaterial. The investigator may also exclude statements of personal opinion, rather than direct observations or reasonable inferences from the facts, and statements as to general reputation for any character trait, including honesty. An external investigation or report does not replace the investigative process under these procedures.

Before the report is finalized, as permitted by FERPA, the Complainant and Respondent will be given the opportunity to review the preliminary report and offer oral or written comment to the report. Each party will have five (5) business days from the time they receive notice that the preliminary report is ready for review to complete their review of the preliminary report. A Complainant and Respondent may submit any additional comment or evidence to the investigator within five (5) business days of the opportunity to review the report.

Upon receipt of any additional information by the Complainant or Respondent, or after the five (5) business day comment period has lapsed without comment, the investigator will make a finding as to whether there is sufficient information to establish, by a preponderance of the evidence, that a policy violation occurred. The final written report will include the determination of responsibility and the rationale for the determination.

G. Possible Conclusions

There are three possible conclusions to an investigation:

1. A violation of a policy.
2. No violation of a policy.
3. Regardless of whether or not there is a violation of the policy, the reviewed behavior may warrant educational outreach.

Once the investigation report has been finalized, a member of the Office of Equal Opportunity will meet with the Complainant and Respondent individually during the pre-arranged time to share the decision made. The Complainant and Respondent may opt to speak by telephone or to receive the report by electronic email instead. This may or may not occur simultaneously based on the availability of the parties. The report includes determinations regarding responsibility for violating the Discrimination and Harassment Policy and/or the Honor Code.

Following (or in lieu of) the meeting, the Office of Equal Opportunity will issue a letter of determination indicating whether or not a policy violation occurred. This letter of determination shall be sent simultaneously to the Complainant, the Respondent, and the responsible administrators. Responsibility determinations are based on a preponderance of the evidence standard.

H. Investigative Finding

1. Violation of Policy

Where there is a determination of responsibility for a policy violation the Office of Equal Opportunity will refer the matter to the appropriate administrator for Corrective Action or Outcomes.

2. No Violation of Policy

Where there is no violation of the policy, the parties will be notified pursuant to this policy and no further action by the Office of Student Conduct or Equal Opportunity will be taken unless the decision is appealed. If a party is an employee, the party's supervisor will be notified, who will determine if any further action is necessary-

- **Appeal**

The Complainant has the right to appeal a finding of no violation of policy through review of the final investigative report.

Student appeals will be considered by the Vice Chancellor of Campus Life and Inclusive Excellence or the Provost or their Designee. Faculty and staff appeals will be considered by the Chancellor, or Provost or their Designee.

- **Requesting An Appeal**

Undergraduate and Graduate students may request a review by informing the appropriate Administrator as designated in the written notice by submitting a written request for review within five (5) business days of receiving the finding.

Employees and Faculty may request a review by informing the appropriate administrator as designated in the written notice within five (5) business days of receiving the finding.

I. Corrective Action or Outcomes

The Title IX Coordinator and the Office of Equal Opportunity do not have the authority to impose Corrective Actions and/or Outcomes upon a finding of a discriminatory act. The specific procedures for disciplinary action are as follows:

- For complaints against employees or non-students, the investigative finding will be shared with the Respondent's direct supervisor and/or other responsible administrator who, in consultation with Human Resources, shall have disciplinary authority to impose appropriate Corrective Action.
- For complaints against students, the investigative findings will be referred to the Outcome Council who shall have disciplinary authority to impose appropriate Outcomes (i.e. sanctions).

XII. Corrective Action for Employees and Other Non-Students as Respondents

A. Disciplinary Authority

The Respondent's supervisor, in consultation with Human Resources, will be responsible for deciding upon the corrective action. The supervisor or other responsible administrator will be responsible for imposing identified corrective action as soon as reasonably possible, but no more than ten (10) business days after receiving the final determination, unless extenuating circumstances apply. The Respondent's supervisor or Human Resources shall notify the Title IX Coordinator and/or Office of Equal Opportunity of the corrective or disciplinary action imposed.

Following any decision on the imposition of Corrective Action, the supervisor or Human Resources shall notify both the Complainant and Respondent of the outcome, including the determination of responsibility and any Corrective Action that directly relates to the Complainant, as consistent with University policies and procedures related to the confidentiality of employee personnel files.

B. Appeal

Faculty or staff members who receive Corrective Action pursuant to these Procedures may appeal said Corrective Action through the University's Employee Dispute Resolution/Grievance Process.

Corrective Action issued against faculty members who are subject to the Appointment, Promotion, and Tenure guidelines may also pursue the applicable appeal rights subject to the provisions of these guidelines.

Corrective Action issued against employees who are subject to a collective bargaining agreement must pursue their appeal rights pursuant to that agreement.

A Complainant may appeal the Corrective Action imposed as it is applicable to her or him in writing to the next most immediate decision maker and consistent with the Employee Dispute Resolution process applicable to the Respondent's status with the University.

XIII. Disciplinary Action for Students as Respondents

A. Referral to the Outcome Council

The Title IX Coordinator or the Office of Equal Opportunity refers cases where a determination of responsibility for violating the Discrimination or Harassment Policy and/or the Honor Code has been made to the Outcome Council. Either the Vice Chancellor of Campus Life and Inclusive Excellence or the Provost or their designee will convene an Outcome Council review, typically within five (5) business days. The Title IX Coordinator or designee will issue written notice in the form of a Letter of Determination to the Complainant and the Respondent.

B. Outcome Council

1. Outcome Council Composition

The Outcome Council is the body responsible for making a neutral and impartial review of investigations and findings, and imposing outcomes (sanctions). It is not a hearing body. It meets independently to complete its review and make its determinations. Typically, the Outcome Council will be comprised of three (3) University Community members, including the Director of Student Conduct (or his/her designee), the Director of Graduate Student Services (or his/her designee) and an appointed faculty member or similar University employee appointed by the Vice Chancellor for Campus Life and Inclusive Excellence or Provost. Any individual designated by the University must have sufficient training or experience to serve in this capacity. All Outcome Council members have specific training and experience in adjudicating allegations of harassment and discrimination, sexual harassment, sexual violence, relationship

violence and stalking.

In order to be eligible to serve on the Outcome Council, individuals must meet the following requirements:

- i. Faculty must have been employed by and taught courses at the University for at least one academic year. Faculty must also have taught at least one course within the most recent two academic terms.
- ii. Staff must be currently employed full-time.

Outcome Council members have the following expectations:

- i. Approach each case without any preconceived ideas of responsibility of the parties involved prior to reading the Investigative Report.
- ii. Thoroughly review all case materials prior to the Outcome Council being convened.
- iii. Impose clear and proportionate outcomes for those found to be responsible for violations of University policy.
- iv. Individual board members are compelled to offer input during the deliberation process, allow for fellow members to be heard, and to consider differing views before a decision is reached.
- v. Remove himself/herself from a particular Outcome Council if there is the potential conflict of interest.

The Outcome Council must be comprised of neutral and impartial decision-makers. The Respondent and Complainant(s) will be notified of the Outcome Council members who will be serving and have the right to object to the participation of any member based on a demonstrable significant bias. Such objections are due, with supporting information, to the administrator designated in the notice within two (2) business days. The designated administrator will review any concerns and determine if there is any merit to the assertion that an Outcome Council member may not be an objective, impartial, unbiased decision maker. The Respondent and Complainant(s) will be notified if any changes to the Outcome Council composition have been made. If a new Outcome Council member has been designated, Respondent and Complainant(s) will have one (1) business day to submit any objections to the new member to the designated Associate Provost for review.

2. Outcome Council Procedures

When an Outcome Council is convened, the following procedures will be followed:

- i. The Outcome Council is officially called to order.
- ii. The Outcome Council members review the specific finding(s) and policy violation(s).
- iii. The Outcome Council members may request additional information or clarification from the Equal Opportunity Investigators and/or University Counsel.
- iv. The Outcome Council makes determinations regarding appropriate sanctions.

C. Imposition of Outcome

The Outcome Council will consider the imposition of a sanction designed to eliminate the

misconduct, prevent its recurrence, and remedy its effects, while supporting the University's educational mission and Title IX obligations. Sanctions or interventions may also serve to promote safety or deter individuals from similar future behavior.

The Outcome Council is responsible for determining the appropriate sanction. The Outcome Council may impose any sanction deemed appropriate after a consideration of all of the relevant information.

The primary objectives when considering outcomes includes:

- Protecting the University of Denver community;
- Bringing the discriminatory conduct to an end;
- Taking steps reasonably calculated to prevent the future reoccurrence of the discriminatory conduct; and
- Restoring the Complainant to his or her pre-deprivation status, to the extent practical and possible.

In determining outcomes to meet these objectives, the following criteria are considered:

- Nature and severity of the act.
- Number of Complainants.
- Prior Student Conduct history of the Respondent.
- The Council's assessment of the effect of the act or policy violation has on the Complainant, community and University environment.
- Complainant(s) and community safety.

The imposition of sanctions will take effect immediately and will not be placed on hold pending the resolution of the appeal.

D. Range of Outcomes

Outcomes are assigned for the entirety of the incident(s) under review, not for each violation. All Outcomes will include an "Inactive" Outcome, and at least one, appropriate "Active" Outcome. In general violations of the non-consensual sexual contact provision of these Procedures typically result in a dismissal and do not include an Active Outcome.

A. Inactive Outcomes are those which define the student's status at the University. These include the following:

1. **Warning.** A warning is given to notify a student that their behavior has been inconsistent with the expectations of the University. A warning has no immediate effect upon a student's status at the University. However, once given a warning, students should expect different Outcomes to result from any subsequent violations.
2. **Student Conduct Probation.** Probation serves to notify a student that they must avoid any further violations of the Student Conduct Policies for a specified period of time in order to remain a student at the University. Students on probation are

not in good standing with the University; as a result, certain co-curricular activities may be prohibited to a student while on probation. Any further violations while on probation may result in a student's suspension or dismissal from the University.

3. **Deferred Suspension.** Deferred Suspension serves to notify a student that they must avoid any further violations of the Student Conduct Policies for a specific period of time in order to remain a student at the University because his/her behavior has not met the standards expected by students. Different than Student Conduct Probation, when a student on Deferred Suspension is alleged to be involved with any subsequent violations of policy, he/she will be issued an Interim Suspension until his/her responsibility in the subsequent incident can be determined. Students on Deferred Suspension are not in good standing with the University; as a result, certain co-curricular activities may be prohibited. If found responsible for any further violations of policy while on Deferred Suspension, a student will likely be dismissed from the University.

4. **Suspension.** A student who has been suspended from the University may not participate in any University activities, academic or otherwise, for a specific period of time, and will be restricted from all University Premises and activities. A suspended student who wishes to re-enroll must apply for re-entry to the University and must also apply to the Director of Student Conduct. The Director of Student Conduct will determine whether any and all requirements for readmission have been satisfactorily completed. The University does not accept courses completed at another institution while the student is suspended.

5. **Dismissal.** A student who has been dismissed from the University is permanently prohibited from participating in any University activities, academic or otherwise, and will be restricted from all University Premises and activities.

B. **Active Outcomes** may be assigned in order to facilitate the educational process. These Outcomes are intended to encourage a student to reflect on the impact of the decisions they have made and help students develop the skills necessary to be successful at the University of Denver. Types of "active" Outcomes include, but are not limited to:

1. **Written Assignments.** A student is required to write a reflection paper, maintain a journal, write a review of a policy, etc.

2. **Worksheets.** A student is required to answer a series of questions designed to help them evaluate the decisions that led to the violation and avoid making similar decisions in the future.

3. **Programs & Activities.** A student is required to complete community service hours, attend a program, design a poster board, etc.

4. **Interventions.** The student is required to undergo a counseling assessment, complete a drug and/or alcohol treatment program, or attend a workshop, etc.

5. Restrictions. The student is restricted from contacting one or more individuals, hosting guests on campus, using the University computer network, etc.

6. Referrals. The student is referred to another process, such as mediation or counseling, to resolve some of the issues resulting from the violation.

Failure to complete any active outcome by the specified deadline will result in a hold being placed on a student's registration account with the University, and may result in further action.

E. Notice of Outcome

Once the Outcome Council has rendered a finding, a member of the Outcome Council will offer the Respondent and Complainant(s) the opportunity to meet individually to share the outcome decision made. These meeting will be scheduled within two (2) business of the Outcome Council, and may occur simultaneously based on the availability of the parties.

At this meeting, Written Notice to the Respondent and Complainant(s) will be provided and will include the Outcome determinations. The Respondent will be informed of any sanctions, the date by which the requirements must be satisfied (if applicable), and the consequences of failure to satisfy the requirements. The Complainant will be informed of any sanctions that directly relate to the Complainant. The outcome letter will also provide each party with their appeal options.

To meet the objectives of the Outcome Council, in the event that the Respondent is suspended or dismissed, the Respondent shall be immediately removed from the campus community while any appeals process takes place. Should the Respondent successfully appeal the Outcome Council's decision, the University will make every reasonable effort to return the Respondent to his or her previous status.

F. Appeal

Any party may appeal Outcome determinations, pursuant to the appeal criteria. Appeals will only be considered in the following circumstances:

- i. The existence of procedural error(s) so substantial that it would likely alter the investigative findings and ultimate Outcomes;
- ii. Presentation of new and significant evidence which was not reasonably available at the time of the initial investigation and would likely alter the investigative findings and ultimate Outcomes; and/or
- iii. The Outcomes imposed are substantially disproportionate to the violation.

Mere disagreement with the decision is not grounds for appeal. The appellate process shall not re-hear a matter in part or in its entirety.

An appeal will only be considered if submitted to the appellate officer identified in the written

notice within five (5) business days of the date on the notice of the Outcomes. An extension of these deadlines may be requested if extenuating circumstances arise.

If an appeal is received from either the Complainant or Respondent, or both parties, the other party involved in the matter will be notified that an appeal has been received. The appellate officer reserves the right to forward any and all portions of the appeal to the other party(s) as needed in order to address matters raised in the appeal. In such situations, the other party(s) will be given the opportunity to submit a written response, which will only be considered when provided to the appellate officer within the expressed deadline. In any request for an appeal, the burden of proof lies with the party requesting the appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately. The appeal is not a new review of the underlying matter.

If the appellate officers determine that new evidence should be considered, the report will be returned to the Office of Equal Opportunity to be reviewed in light of the new information.

If the appellate officers determine that a material procedural error occurred, it may return the report to the Office of Equal Opportunity with instructions to reconvene the investigative process to cure the error. In rare cases where the procedural error cannot be cured by the Office of Equal Opportunity (as in cases of bias), the appellate officers may order a new review of the matter.

If the appellate officers determine that the outcomes imposed are disproportionate to the violation, the appellate officers may return the matter to the Outcomes Council with or without recommendations.

In cases where the appeal results in reinstatement to the institution or of privileges, all reasonable attempts will be made to restore the individual to his/her prior status, recognizing that some opportunities lost may be irretrievable in the short term.

The appellate officer will communicate the result of the appeal to the Complainant and Respondent within five (5) business days from the date of the submission of all appeal documents by both parties. Appeal decisions are final.

G. Group Infractions

When members of a student group, organization, or team or individuals acting collusively act in concert in violation of these Procedures, they may be charged as a group or as individuals, and an investigation may proceed against the group as joint Respondents or against one or more involved individuals as appropriate given available information and the circumstances.

A student group, organization, or team's officers and membership may be held collectively and individually responsible when violations of this policy by the organization or its members take place at organization sponsored events, have received the consent or encouragement of the organization or of the organization's leaders or officers, or was known or reasonably should have been known to the membership or its officers.

In any such action, separate Outcome Councils will be convened for each Respondent, however each Outcome Council may comprise the same members. Sanctions may be assigned collectively and individually and will be proportionate to the involvement of each individual.

H. Records

When the Office of Equal Opportunity matters involve at least one student Respondent, a Student Conduct Record will be created. Student Conduct will be responsible for maintaining all official University records related to student conduct. A student's record will include copies of all Cases in which a student is charged with violating at least one Student Conduct Policy, which includes Office of Equal Opportunity policies, as well as copies of correspondence and other documentation related to the Case.

The policies regarding the retention of student conduct records are as follows:

- i. Student Conduct files will be maintained for a period of no less than seven years following the most recent finding of violation.
- ii. Student Conduct files of students who have been dismissed from the University will be kept indefinitely.
- iii. The University will retain, as necessary, appropriate statistical information related to policy violations in order to comply with legislative reporting requirements.

Release of Records: Numerous members of the DU faculty and staff receive requests from students or former students to complete forms that include a request for information about student conduct records at the University. These forms typically serve the following purposes: Undergraduate transfer to another institution; Graduate/professional/law school admission; Admission to the Bar (by state); Security clearances for employment (typically federal), etc. Access and release of records of student conduct proceedings are governed by applicable FERPA and other privacy laws.

Public Notification Policy. The University recognizes the shared interest of the greater community in the resolution of Student Conduct matters. Student Conduct will update their website on an annual basis with statistics on the Student Conduct Process. These statistics may include the number of students found responsible for violating each of the Student Conduct Policies, which includes the Office of Equal Opportunity policies, as well as a summary of the outcomes assigned in the Student Conduct Process, including through the Outcome Council.

XIV. Additional Considerations

A. Statement of Expectations for All Parties

Throughout their involvement in the Office of Equal Opportunity's investigative process, the consideration of discipline, and/or appeal proceedings, the Complainant and Respondent, have the rights and responsibilities listed below.

- The right to be treated with dignity and respect.
- The right to be informed of the Discrimination and Harassment Policies and Procedures and other University Policies that are involved.
- The right to a prompt and thorough investigation.
- The right to object to the participation of the assigned investigator, a member

of the Outcome Council, or an appellate authority based on a demonstrable significant bias.

- The right to request reasonable assistance and support (i.e., for disability, language barriers, or location/proximity concerns) to ensure full participation in the process. Requests must be received in a timely manner, 24 hours before any meeting time.
- The right to privacy throughout the process to the extent possible and with the exception of University administrators that legitimately need to know status of the process.
- The right to be free from intimidation and retaliation and, upon request, to have reasonable steps taken by the University to prevent unnecessary or unwanted contact with involved parties.
- The right to written notification of a pending investigation resulting from a report concerning a potential violation of these Procedures. This notice will include the following:
 - A general statement concerning the provision of these Procedures that has allegedly been violated;
 - The consequences and process if a party chooses not to participate in the investigative process; and
 - A copy of his or her rights and responsibilities.
- The right to share information in support of his/her own perspective during the investigative process.
- The right to provide the names of other individuals, during the investigative process, who have information directly relevant to the incident.
- The right to have a Support Person of his or her choice present throughout the process. The Support Person is a non-participating and silent observer.
- The right to seek the advice and assistance of an attorney at his or her own expense. The attorney may accompany the party to any meeting or proceeding under these Procedures as an Advisor, but the attorney is a non-participating and silent observer.
- The responsibility to notify his or her support person of the time, date, and location of any meeting associated with the investigative process. Meetings need not be rescheduled to accommodate a support person.
- The responsibility to provide notification that a support person will be present for meetings no later than 48 hours before the scheduled meeting. Failure to provide names prior to the meeting may be grounds to exclude a support person.
- The responsibility to ensure the University has been provided with accurate address and other contact information so that notification is not unduly delayed.

B. Advisors and Support Persons

Advisor: During any investigation, the Complainant and Respondent have the right to be assisted by an advisor of their choice. The advisor may accompany the Complainant or Respondent to any meeting with an investigator or a University employee or other proceeding. Any person who serves as an Advisor should plan to make themselves available for meetings throughout the process.

Support Person: The Complainant and Respondent have the right to be assisted by a Support Person of their choice. The Support Person is someone who can provide emotional, logistical, or other kinds of assistance. The Support Person may be present at proceedings to assist parties by

taking notes, organizing documentation, or providing emotional support and reassurance

Individuals serving as an Advisor or a Support Person shall meet with the Title IX Coordinator or Office of Equal Opportunity staff in advance of any proceedings to review and understand the expectations of their role, privacy considerations, appropriate behavior, and similar requirements. Advisors and Support Persons may be present at any meeting or proceeding and may consult directly with the individual they are advising or supporting in a way that does not disrupt or delay any proceeding. Advisors or Support Persons may not be a witness, present information on behalf of any person, represent any person or position, or otherwise actively participate in any proceeding. Advisors and Support Persons may not attend a proceeding in the absence of the person they are advising or supporting. Advisors or Support Persons who act in a manner contrary to these guidelines or otherwise disrupt any proceeding may be excluded from that proceeding and/or future proceedings.

C. External Agreements

The University will not recognize or enforce agreements between the parties outside of these procedures. The University will recognize, however, a lawfully issued protective order under Colorado law.

D. External Complaints

An individual who believes that he or she has been subjected to unlawful discrimination, harassment, or retaliation has the right to file a complaint with an appropriate local, state, or federal agency, such as the Department of Education Office of Civil Rights, the Equal Employment Opportunity Commission, or the Colorado Civil Rights Division, within the agency's applicable time limits.

In addition, any person who is dissatisfied with the University's internal procedures utilized for handling complaints or who is dissatisfied with the result of the investigation or the sanctions imposed may seek redress through these means to the extent allowed by law. The Complainant should be aware that filing a complaint with the Office of Equal Opportunity or any other University office does not extend or postpone the deadline for filing with external agencies.

The fact that an investigation has been filed with an external agency will in no way affect an investigation under these procedures. If a complaint is filed with an external agency or court, the University reserves the right to determine, in its discretion, whether University internal dispute resolution processes should be discontinued or continued separately.

XV. Education and Prevention Programs

The University is committed to offering educational programs to promote awareness of discrimination, harassment, sexual harassment, sexual violence, relationship violence, stalking and retaliation. Educational programs include an overview of the University's policies and procedures; relevant definitions, including prohibited conduct, discussion of the impact of alcohol and illegal drug use; consent; safe and positive options for bystander intervention; review of resources and reporting options available for students, faculty and staff; and information about risk reduction. Incoming first year students, new graduate students, and new employees will receive primary prevention and awareness programming as part of their orientation. Returning

students and employees will also have ongoing opportunities for training and education. The University's Equal Opportunity Office, the Title IX Coordinator and the Director of the Center for Advocacy, Prevention and Empowerment maintain an education and prevention calendar and tailor programming to address campus needs and climate.