

**UNIVERSITY OF DENVER  
DRAFT  
TITLE IX SEXUAL HARASSMENT PROCEDURES**

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

- A. The University of Denver (“the University”) is committed to affirmative action and equal opportunity. The University is committed to enforcing non-discrimination policies and making the University a non-discriminatory work and education environment in which all individuals are treated with respect and dignity.
- B. The University provides equal opportunity in employment, educational activities, and other programs to all employees, students, and applicants. The University shall not discriminate against any person in the University’s education or employment programs and activities on the basis of race, color, national origin, ancestry, age, religion, creed, disability, sex, sexual orientation, gender identity, gender expression, marital status, pregnancy, military enlistment, veteran status, or genetic information.
- C. Pursuant to Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-88, and its implementing regulations, 34 C.F.R. Part 106 (“Title IX”), the University does not discriminate on the basis of sex in the educational programs and activities that the University operates, including admissions, employment, extracurricular activities, athletics, or other programs. The University will promptly and equitably respond to reports of Sexual Harassment, prevent its recurrence, and address its effects on any individual or the community.

**II. Purpose**

- A. The Office of Equal Opportunity & Title IX has established these Procedures to assist in carrying out its responsibilities in the administration and enforcement of the University’s policies related to non-discrimination and in facilitating the University’s compliance with Title IX, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), as amended by the Violence Against Women Reauthorization Act of 2013 (“VAWA”), and the laws of the State of Colorado with respect to its application to sex-based misconduct; and other applicable law and regulations. The University policies and these Procedures are intended to comply with the requirements of these laws.

- B. Consistent with federal, state and local law, and University policies related to non-discrimination, the University, through the Office of Equal Opportunity & Title IX, takes action to provide a prompt and equitable resolution of student and employee complaints alleging:
1. Sexual Harassment, as defined by the U.S. Department of Education's Title IX regulations and Section IV.A.1 of these Procedures;
  2. Retaliation against any individual or group of individuals involved in an investigation and/or resolution of a report under these Procedures, provided that the University will address allegations of Retaliation pursuant to the Office of Equal Opportunity & Title IX General Discrimination and Harassment Procedures.
- C. The Office of Equal Opportunity & Title IX is responsible for administering the Procedures. Any inquiries about the Procedures should be referred to the University's Title IX Coordinator or the Assistant Secretary of the U.S. Department of Education for the Office of Civil Rights, who may be contacted as follows:
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| Erika Hollis, J.D.<br>Interim Title IX Coordinator<br>University of Denver<br>Mary Reed Building, 4 <sup>th</sup> Floor<br>2199 South University Blvd.<br>Denver, CO 80208<br>Phone: 303-871-7016<br><a href="mailto:TitleIX@du.edu">TitleIX@du.edu</a> | Assistant Secretary of the U.S.<br>Department of Education for the<br>Office of Civil Rights<br>Lyndon Baines Johnson<br>Department of Education Building<br>400 Maryland Avenue, SW<br>Washington, DC 20202-1100<br>Phone: 800-421-3481<br>Fax: 202-453-6012<br><a href="mailto:OCR@ed.gov">OCR@ed.gov</a> |
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- D. The Office of Equal Opportunity & Title IX will consider, recommend, and implement Supportive Measures for the parties involved and the community, conduct prompt and equitable investigations, promote accountability for violations of policies and procedures, and recommend other remedies designed to eliminate Sexual Harassment, prevent its recurrence, and address its effects.

### III. Scope and Jurisdiction

- A. These Procedures apply to all reported instances of alleged Sexual Harassment where the following conditions are met:

1. The Sexual Harassment conduct is alleged to have been perpetrated against a person in the United States;
  2. The Sexual Harassment conduct is alleged to have taken place within the University's programs and activities; and
  3. At the time of filing or signing the Formal Complaint, the Complainant is participating in or attempting to participate in the University's Education Programs or Activities.
- B. The University may address alleged incidents of discrimination or other misconduct on the basis of race, color, national origin, ancestry, age, religion, creed, disability, sex, sexual orientation, gender identity, gender expression, marital status, pregnancy, military enlistment, veteran status, or genetic information that are not covered by these Procedures using other University policies, including but not limited to:
1. Office of Equal Opportunity & Title IX General Discrimination and Harassment Procedures
  2. Honor Code with the Student Rights & Responsibilities Policies and Procedures
  3. [Policy on Protection of Minors on Campus](#)
  4. [Procedures for the Protection of Minors on Campus](#)
- C. These Procedures supersede any conflicting information in any other University policy with respect to the definitions and procedures applicable to alleged Sexual Harassment. These Procedures provide the exclusive University remedy for alleged Sexual Harassment.
- D. All members of the University of Denver community are subject to these Procedures, including students, faculty, staff, administrators, board members, consultants, vendors, and others engaged in business with the University.
1. Members of the community are responsible for conducting themselves in accordance with these Procedures and other University policies and procedures.
  2. For students, these Procedures apply to conduct that takes place from the date on which the student enrolls at the University and continues until the student withdraws or graduates, including periods during any leaves of absence, term breaks and between terms.
  3. For faculty and staff, these Procedures apply to the conduct that takes place from the date on which the individual accepts an offer of employment with the University until their employment ceases.
  4. If a student graduates or withdraws or an employee voluntarily resigns prior to final resolution of any matter, the Office of Equal Opportunity & Title IX retains jurisdiction and the discretion to address the matter as necessary to fulfill the University's obligations under Title IX.

E. Visitors and Guests

1. Visitors to and guests of the University are both protected from and subject to the restrictions on Sexual Harassment, as defined in these Procedures. However, visitors and guests do not have any contractual rights pursuant to these Procedures. Visitors and guests may initiate a report of Sexual Harassment committed against them by members of the University community, but visitors and guests are limited in their rights pursuant to these Procedures.
2. The University can trespass visitors and guests who have been alleged to have engaged in Sexual Harassment without any rights to the resolution processes described in these Procedures. Members of the University community who host guests may be held accountable for the misconduct of their guests pursuant to applicable University policies.

IV. Definitions

A. Definitions of Conduct Prohibited by these Procedures:

1. Sexual Harassment: conduct on the basis of sex that satisfies one or more of the following:
  - a) A University employee (including a faculty member) conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct. Also known as quid pro quo sexual harassment;
  - b) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a University Education Program or Activity; or
  - c) Sexual assault, which means any sexual act directed against another person, without the Consent of the victim, including instances where the victim is incapable of giving Consent. Sexual assault can occur between individuals of the same or different sexes and/or genders. Sexual Assault includes the following:

- (1) Rape means the carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- (2) Sodomy means oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- (3) Sexual Assault with an Object means to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- (4) Fondling means the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- (5) Incest means sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
- (6) Statutory Rape means sexual intercourse with a person who is under the statutory age of consent.

- d) Domestic violence, which means a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Colorado, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Colorado.
  - e) Dating violence, which means an act of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship is determined based on a consideration of the (1) length of the relationship, (2) type of relationship, and (3) frequency of interaction between the persons involved in the relationship.
  - f) Stalking, which means a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for their safety or the safety of others, or (2) suffer substantial emotional distress.
2. Retaliation means an adverse action or other form of negative treatment, including but not limited to intimidation, threats, coercion, discrimination or harassment, carried out in response to a good-faith reporting of or opposition to Sexual Harassment; an individual's or group's participation, including testifying or assisting in the University's Title IX process, serving as an Investigator, Hearing Officer, Decision-Maker for Disciplinary Action, Outcome Council Member, Appellate Officer, Title IX Coordinator, a facilitator of the Informal Resolution Process, or otherwise exercising authority under these Procedures; an individual's or group's refusal to participate in the University's Title IX process; or other form of good faith opposition to what an individual reasonably believes to be Sexual Harassment under these Procedures.
- a) Individuals are also protected from Retaliation for making good faith requests for accommodations on the basis of religion or disability.

- b) To be a violation of these Procedures, the challenged actions or treatment must be sufficient to discourage a reasonable person from further reporting, participation, or opposition.
- c) Charging an individual with a violation of these Procedures for making a materially false statement in bad faith in the course the University's Title IX process does not constitute Retaliation. The exercise of rights protected under the First Amendment also does not constitute Retaliation prohibited under these Procedures.

B. Additional Definitions that apply throughout these Procedures:

1. Complainant means an individual who is alleged to have experienced conduct that could constitute Sexual Harassment and who is participating or attempting to participate in a University Education Program or Activity.
2. Consent means mutually understandable, clear, knowing and voluntary affirmative permission given through words or action regarding the willingness to engage in each sexual activity and the conditions thereof. An individual who is not the age of consent, is Incapacitated, or under a threat cannot grant consent. Consent must be affirmative and cannot be inferred from silence, passivity, or lack of active resistance alone.
3. Disciplinary Action means any action levied by the University against an employee who is found responsible for Sexual Harassment under these Procedures.
4. Education Program or Activity includes locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.

5. Formal Complaint means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent or unknown party and requesting that the University investigate the allegation of Sexual Harassment. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, by email, or using the online portal on the Title IX website.
6. Incapacitated means that an individual is impaired to such a level that they lack the ability to make informed, rational judgments about whether or not to engage in sexual activity.
7. Investigator means the individual who is designated by the Title IX Coordinator to be responsible for gathering evidence and drafting an investigative report.
8. Responsible Employee means an employee who has the obligation to report alleged Sexual Harassment and alleged Retaliation to the Title IX Coordinator.
9. Outcomes means the University statutes and educational opportunities, restrictions, and/or expectations for a student found responsible for Sexual Harassment.
10. Outcome Council means a body composed of University staff and faculty convened by the Office of Student Rights & Responsibilities to determine the Outcomes for a student who is a Respondent found responsible for Sexual Harassment.
11. Party means Complainant or Respondent.
12. Preponderance of the Evidence means the standard of proof applied under these Procedures in which, an allegation is proven if, based on the information acquired during the investigation and provided at the hearing, it is more likely than not the Respondent engaged in the alleged conduct.
13. Remedies means the measures provided to a Complainant, following a grievance process pursuant to these Procedures in which a Respondent is found responsible for Sexual Harassment.

14. Respondent means an individual who has been reported to have engaged in conduct that could constitute Sexual Harassment.

15. Supportive Measures means non-disciplinary, non-punitive individualized services offered to the Complainant or Respondent.

## V. Reports of Alleged Sexual Harassment

- A. At any time, any person may report Sexual Harassment (whether or not the person reporting is the person alleged to have experienced Sexual Harassment), in person, by mail, by telephone, by electronic mail or other electronic submission to the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.
- B. The University encourages Complainants to report incidents of Sexual Harassment directly to the Office of Equal Opportunity & Title IX by contacting the Title IX Coordinator:

Erika Hollis, Title IX Coordinator  
University of Denver, Mary Reed Building, 4<sup>th</sup> Floor  
2199 South University Blvd.  
Denver, CO 80208  
Phone: 303-871-7016  
[TitleIX@du.edu](mailto:TitleIX@du.edu)  
<https://www.du.edu/equalopportunity/titleix/index.html>  
[Title IX Online Report Form](#)

Molly Hooker  
Deputy Title IX Coordinator  
University of Denver, Mary Reed Building, 4<sup>th</sup> Floor  
2199 South University Blvd.  
Denver, CO 80208  
Phone: 303-871-7016  
[TitleIX@du.edu](mailto:TitleIX@du.edu)

- C. Upon receiving a report of alleged Sexual Harassment, the Title IX Coordinator must promptly:
1. Inform the Complainant in writing of their right to simultaneously or subsequently file a Formal Complaint pursuant to these Procedures and the process for doing so.
  2. Contact the Complainant to discuss the availability of Supportive Measures with or without the filing of a Formal Complaint.
  3. Consider the Complainant's wishes with respect to Supportive Measures
  4. Offer Supportive Measures as provided in Section VI below.
- D. Individuals may also report alleged Sexual Harassment to other departments identified below, which must promptly inform Office of Equal Opportunity & Title IX of the report:

Division of Campus Safety  
University of Denver  
2130 S. High St., MSC 6200  
Denver, CO 80208  
General Reports: 303-871-2334  
Anonymous Reports: 303-871-3130  
Emergencies: 911 and 303-871-3000  
<https://www.du.edu/campussafety/contact-us/index.html>

Office of Student Rights & Responsibilities  
Driscoll Student Center  
2050 E. Evans Ave.  
Denver, CO 80208  
303-871-2150  
[srr@du.edu](mailto:srr@du.edu)  
<https://www.du.edu/studentlife/studentconduct/rightsresponsibilities.html>

Student Outreach & Support (SOS) Referral  
University of Denver  
Driscoll Student Center South, Suite 30  
2050 E. Evans Ave.  
Phone: 303-871-2400  
[SOS@du.edu](mailto:SOS@du.edu)  
[SOS Referral Online Report Form](#)

Housing and Residential Education Staff, including Resident Assistants (RAs, GRDs)

Housing and Residential Education  
University of Denver  
Nagel Hall, First Floor  
2055 E. Evans Ave. Suite 200  
Denver, CO 80208  
Phone: 303-871-2246  
[housing@du.edu](mailto:housing@du.edu)  
<https://www.du.edu/housing/>

Another Responsible Employee, which includes, but is not limited to:

- Members of the Board of Trustees
- Chancellor
- Provost
- Vice Chancellors
- Vice and Associate Provosts
- Deans
- Directors
- Department Chairs
- Campus Safety personnel
- Athletics personnel (including paid and unpaid coaches)
- Campus Life & Inclusive Excellence personnel (including Resident Assistants)
- Faculty and Staff (including Graduate Teaching Assistants), and
- Advisors to student groups (including those who are not otherwise employees of the University; e.g. fraternity or sorority advisors)

- E. To promote timely support for all Parties and an effective and consistent University response, any Responsible Employee who receives a report of alleged Sexual Harassment must promptly report the alleged Sexual Harassment, including all known details of the incident (including the date, time, location, names of individuals, and details), to the Title IX Coordinator, along with whether the incident has been previously reported to the Office of Equal Opportunity & Title IX.
- F. Anonymous Reporting
1. Any other individual can make a report without disclosing one's own name, identifying the Respondent, or requesting any action.
  2. Anonymous reports are referred to Division of Campus Safety and the Title IX Coordinator for review for appropriate action.
  3. The University will review all anonymous reports, and where there is sufficient information, include applicable information in Clery Act reporting.
  4. Depending on the level of information available about the incident or the individuals involved, the University may not be able to fully respond or take further action in response to an anonymous report.

- G. Individuals have several reporting options within and outside the University. Individuals may pursue these options simultaneously or any one of them separately. The University has resources to support a Complainant regardless of the course of action chosen. The University encourages Complainants to contact local law enforcement to report incidents of Sexual Harassment 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 encourages all individuals to seek assistance from a medical provider, as needed, and/or law enforcement immediately after an incident of Sexual Harassment, whether or not the individual plans to pursue criminal action. This facilitates preservation of evidence and a timely response by law enforcement and/or the University.
- H. Timeliness and Location of Incident
1. Although there is no time limit on reporting Sexual Harassment, the University encourages Complainants and other individuals to promptly report allegations of Sexual Harassment. Delays in reporting can prevent the University from gathering evidence sufficient to reach a determination as to the allegations and may result in a dismissal of a Formal Complaint.
  2. If the Respondent is no longer a student or employee, the University may not be able to impose Outcomes and/or Disciplinary Action against the Respondent. Nevertheless, the University will still seek to provide Supportive Measures for a Complainant and take steps to end the Sexual Harassment, prevent its recurrence, and address its effects.
  3. The University also encourages the reporting of off-campus conduct, including online or electronic conduct, that occurred in the context of an employment or Education Program or Activity of the University, or that has continuing adverse effects on campus or on an off-campus employment or Education Program or Activity, so that the University may address such conduct under these Procedures or other University policies and procedures, as applicable.

- I. Amnesty for Personal Use of Drugs or Alcohol:
  1. The University recognizes that students may be reluctant to seek assistance from a University official or emergency services after experiencing Sexual Harassment, or may be reluctant to seek assistance for others who may have experienced Sexual Harassment, because they fear being held responsible by the University for an alcohol or drug violation under the Honor Code related to the incident.
  2. The University generally will not pursue disciplinary action against a student who makes a good faith report to an University official, contacts emergency services, or who participates as a Party or witness in the grievance process related to Sexual Harassment, for personal consumption of alcohol or other drugs that would otherwise be a violation of the Honor Code, provided the misconduct did not endanger the health or safety of others.
  3. The University may, however, engage in an assessment or educational discussion or pursue other non-disciplinary options regarding alcohol or other drug use.
  
- J. Protection of Minors and Mandatory Reporting of Suspected Child Abuse
  1. The University promptly reports 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.
  2. All University employees must report suspected child abuse and neglect to the Title IX Coordinator or Division of Campus Safety.
  3. For the purposes of this reporting obligation, a child is any person 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.
  4. The duty to report is triggered by reasonable suspicion or belief and does not require actual evidence of abuse. An employee, student, or volunteer is not responsible for investigating suspected child abuse.
  5. Individuals should make these report as follows.
    - a) If a child is in immediate danger, call 911
    - b) If there is no immediate danger, call
      - University Division of Campus Safety: 303-871-3000
      - University Title IX Coordinator: 303-871-7016
  6. The Division of Campus Safety and Title IX Coordinator will assist in making the mandated child protective services report to Denver Police Department: 720- 913-2000, and Denver Child Protective Services: 720-944-3000.

## VI. Supportive Measures

- A. Supportive Measures are available regardless of whether the matter is reported to the University for purposes of initiating any formal grievance proceeding and before, after, and regardless of whether a Formal Complaint is filed.
- B. Supportive Measures are designed to restore or preserve equal access to the University's Education Program or Activity without unreasonably burdening the other Party.
- C. Supportive Measures are not punitive in nature and designed to protect the safety of all Parties or the University's educational environment, as well as to deter sexual harassment, and may include, but are not limited to:
  - 1. Counseling
  - 2. Extensions of deadlines or other course-related adjustments
  - 3. Modifications of work or class schedules
  - 4. Campus escort services
  - 5. Mutual restrictions on contact between the Parties
  - 6. Leaves of absence
  - 7. Change in student on-campus housing
  - 8. Any other remedy which can be tailored to the involved individuals to achieve the goals of these Procedures
  - 9. Increased security and monitoring of certain areas of the campus
  - 10. Other similar measures
- D. Upon receiving a report of Sexual Harassment, the Title IX Coordinator will contact the Complainant to offer Supportive Measures. The Title IX Coordinator will offer or arrange that Supportive Measures are offered to the Complainant and that the Complainant's wishes with respect to appropriate Supportive Measures are considered. In addition to the Complainant, the Respondent and other witnesses may also receive Supportive Measures, as appropriate and reasonably available, without fee or charge.
- E. A Complainant who requests Supportive Measures retains the right to file a Formal Complaint, either at the time the Supportive Measure is requested or at a later date.

**Commented [A1]:** The University is exploring options for making counseling through University-provided resources available to Parties for no co-pay.

- F. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.
  - 1. The Title IX Coordinator will contact the Complainant after receiving notice of possible Sexual Harassment to discuss the possibility of Supportive Measures and to explain that Supportive Measures are available with or without the filing of a Formal Complaint.
  - 2. Supportive Measures may also be requested by and made available to Respondents, witnesses, and other impacted members of the University community. The Title IX Coordinator will serve as the point of contact for any individual requesting Supportive Measures.
- G. Supportive Measures do not include Disciplinary Actions or Outcomes. The University shall not impose Disciplinary Actions or Outcomes on a Respondent unless and until after the Formal Resolution Process, as detailed in Section IX below, is completed.
- H. The University may remove a Respondent from its Education Program or Activity on an emergency basis if the University:
  - 1. Undertakes an individualized safety and risk analysis;
  - 2. Determines that an immediate threat to the physical health or safety of the Parties or any other student or other individual arising from the allegations of Sexual Harassment justifies removal; and
  - 3. Provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.
- I. The University may place a non-student employee Respondent on administrative leave during the pendency of the Formal Resolution Process set forth in Section IX below. The University will not place a non-student employee Respondent alleged to have committed Sexual Harassment on administrative leave due solely to the Sexual Harassment allegations unless and until a Formal Complaint has been filed with the University. The University, in its discretion and based on the circumstances, will determine whether any administrative leave imposed is to be imposed with or without pay or benefits.
- J. The University will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the Supportive Measures.

## VII. Fair and Equitable Process

- A. Any individual designated as a Title IX Coordinator, Deputy Title IX Coordinator, Investigator, Hearing Officer, Decision-Maker for Disciplinary Action, Outcome Council Member, Appellate Officer, or person designated to facilitate an Informal Resolution Process must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.
1. The University will provide training to the Title IX Coordinator, Deputy Title IX Coordinator, Investigators, Hearing Officers, Decision-Maker for Disciplinary Action, Outcome Council Members, Appellate Officers, and any person who facilitates the Informal Resolution Process. The University will make the training materials publicly available on the Title IX website.
  2. The University will provide training to Hearing Officers on the following:
    - a) How to conduct a hearing;
    - b) Issues of relevance, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant;
    - c) The definitions in the Procedures, including but not limited to Consent;
    - d) How to serve impartially by, among other things, avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and other relevant issues;
    - e) The effects of trauma on individuals involved in allegations of Sexual Harassment; and
    - f) Any technology that might be used during a hearing.
  3. The University will provide training to all Investigators and the staff of the Office of Equal Opportunity & Title IX on the following:
    - a) These Procedures, including:
      - (1) Issues of relevance;
      - (2) The definitions in the Procedures, including but not limited to Consent;
      - (3) The scope of the University's Education Program or Activity.
    - b) How to conduct an investigation;
    - c) How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
    - d) An explanation of relevant state and federal laws concerning sexual misconduct;
    - e) Options for involving law enforcement; and
    - f) The effects of trauma on individuals involved in allegations of Sexual Harassment.

- B. All Complaints are presumed to be made in good faith and all Complainants have the right to be taken seriously.
- C. A Respondent is presumed not responsible for alleged conduct until a determination regarding responsibility is made at the conclusion of the Formal Resolution Process set forth in Section IX below.
- D. The University will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence.
- E. The University will not make credibility determinations based on a person's status as a Complainant, Respondent, or witness.
- F. The University will endeavor to complete the processes set forth in these Procedures, including any appeals and any Informal Resolution Process if selected, within a reasonably prompt timeframe. The University may extend these timeframes for good cause with written notice to the Parties of the delay or extension and the reason for such delay or extension. Good cause may include considerations such as the absence of a Party, a Party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

#### **VIII. Informal Resolution Process**

- A. Informal Resolution is an alternative resolution process that does not include a full investigation or hearing. Informal Resolution is typically a spectrum of facilitated, or structured, and adaptable processes between the Complainant, the Respondent, and/or other affected community members that seeks to identify and meet the needs of the Parties, acknowledge harm and seek to repair the harm (to the extent possible) experienced by the Complainant and/or the University community.
- B. Availability of Informal Resolution Process

1. The University will not require that the Parties participate in the Informal Resolution Process.
2. The Title IX Coordinator may offer the Informal Resolution Process to the Parties in certain circumstances. The Title IX Coordinator reserves the right to determine whether the Informal Resolution Process is appropriate in a specific case.
  - a) The Informal Resolution Process is only available after a Formal Complaint is filed and only if all Parties voluntarily consent, in writing, to the Informal Resolution Process.
    - (1) However, any time prior to agreeing to a resolution, any Party has the right to withdraw from the Informal Resolution Process and resume the Formal Resolution Process described in Section IX below.
  - b) The Informal Resolution Process is not available to resolve allegations of Sexual Harassment in which the Complainant is a student of the University and the Respondent is an employee of the University.
3. If the Parties voluntarily consent, the University may implement the Informal Resolution Process any time prior to reaching a determination regarding responsibility.

C. Notice of Availability of Informal Resolution Process

1. If the Informal Resolution Process is available, the Title IX Coordinator will issue written notice to the parties disclosing:
  - a) The allegations;
  - b) The requirements of the Informal Resolution Process, including the circumstances under which it precludes the Parties from resuming a Formal Complaint arising from the same allegations;
  - c) Any consequences resulting from participating in the Informal Resolution Process, including the records that will be maintained or could be shared;
  - d) That either Party may withdraw from the Informal Resolution Process and resume the Formal Resolution process prior to agreeing to a resolution.

- D. After the Parties have agreed to an Informal Resolution Process, reached a resolution, and the Title IX Coordinator has accepted the result of that process, the resolution is binding and the Parties generally are precluded from resuming or restarting the Formal Resolution Process related to the Formal Complaint. No Party can appeal a binding resolution.

E. Timeframe

The University will make a good faith effort to complete the Informal Resolution Process within an average of sixty (60) to ninety (90) days, without jeopardizing the rights of a Party.

**IX. Formal Resolution Process**

A. Formal Complaint

1. A Complainant has the option to file a Formal Complaint against a Respondent alleging Sexual Harassment and requesting that the University investigate those allegations. To file a Formal Complaint, the Complainant should contact the Title IX Coordinator and sign and submit the University's Formal Complaint form online, in person, or by email by contacting the Title IX Coordinator as follows:

Erika Hollis, JD  
University of Denver  
Mary Reed Building, 4<sup>th</sup> Floor  
2199 South University Blvd.  
Denver, CO 80208  
303-871-7016  
[TitleIX@du.edu](mailto:TitleIX@du.edu)

2. When a Complainant does not wish to file a Formal Complaint on their own behalf, the Title IX Coordinator may, in their discretion, prepare and file a Formal Complaint by signing the Formal Complaint form. When the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not the Complainant or otherwise a Party. While the Complainant may choose to not participate in the grievance process initiated by the Title IX Coordinator's signing of a Formal Complaint of Sexual Harassment, the Complainant will still be treated as a Party entitled to inspect and review evidence and to receive all notices, including the notice of allegations, the notice of hearing, and the notice of Outcome. At no time will the University coerce or retaliate against a Complainant in order to convince the Complainant to participate in the grievance process.

- B. Dismissal of a Formal Complaint
1. The Title IX Coordinator will dismiss a Formal Complaint, and the University shall not conduct any investigation under these Procedures, if:
    - a) The conduct alleged in the Formal Complaint would not constitute Sexual Harassment as defined by these Procedures even if proved; or
    - b) The conduct alleged in the Formal Complaint did not occur within the Scope and Jurisdiction of these Procedures, as described in Section II above.
  2. The Title IX Coordinator, in their discretion, may dismiss a Formal Complaint, or any allegations therein, at any time during the investigation or hearing, if:
    - a) The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein; and/or
    - b) The Respondent is not enrolled or employed by the University; and/or
    - c) Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.
  3. The dismissal of a Formal Complaint under Section IX.B.1 of these Procedures does not preclude the University from conducting an investigation or taking action under other applicable University policies and procedures with regard to conduct that is not subject to these Procedures.
  4. Upon dismissal of the Formal Complaint or any allegations therein, the Title IX Coordinator will promptly send written notice of the dismissal and the reasons therefor simultaneously to the Parties.
  5. Either Party may appeal the decision to dismiss a Formal Complaint.

- C. Consolidation
1. The Title IX Coordinator may consolidate Formal Complaints as to allegations of Sexual Harassment where the allegations of Sexual Harassment arise out of the same facts or circumstances.
  2. The Title IX Coordinator may, in consultation with other University administrators, consolidate Formal Complaints as to allegations of Sexual Harassment with complaints of violations of University policies where the allegations arise out of the same facts or circumstances.
  3. Consolidation may involve a single Complainant or multiple Complainants, a single Respondent or multiple Respondents, and allegations of conduct that is temporally or logically connected.
  4. If Formal Complaints involving multiple Complainants and/or multiple Respondents are consolidated, each Party will have access to all of the information being considered, including information provided by all involved Complainants, all involved Respondents, and all involved witnesses.
  5. The decision to consolidate Formal Complaints is not subject to appeal.
- D. Timeframe for Conclusion
1. The University will make a good faith effort to complete the Formal Resolution Process, including the hearing but excluding appeals, within an average of sixty (60) to ninety (90) days, without jeopardizing the rights of a Party.
  2. The timeframe for resolution will depend on the availability of witnesses, University breaks or vacations, complexities of a case, including the number of witnesses and volume of information provided by the parties, as well as other considerations.
  3. The University will strive 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 the timeframes specified herein, or failure to provide notice of the extension of these timeframes, shall not be grounds for dismissing any matter and shall not be the basis of an appeal of any matter; nor shall any such failure limit the University's ability to complete the Formal Resolution Process, impose Outcomes, enact Disciplinary Actions, or limit the University's ability take any other required administrative action under these Procedures.
  4. The University will provide regular updates to the Parties of the status of the Formal Resolution Process.

E. Written Notice

1. Upon receipt of a Formal Complaint, the Title IX Coordinator will issue written notice of allegations to the Respondent and Complainant, if known. The written notice will be provided to each Party with sufficient time to prepare a response before any initial interview.
2. If, during the course of an investigation, the University decides to investigate additional allegations about the Complainant or Respondent relating to the same facts or circumstances, but that were not included in the earlier written notice, the University will provide notice of the additional allegations to the Parties whose identities are known.

F. Advisor

1. Throughout the Title IX process, each Party has the right to have one (1) advisor of their choice. A Party may have the same advisor throughout the process or may choose to have a different advisor at various stages of the process, such as during interviews, meetings with the Title IX Coordinator, or the hearing.
2. The University establishes the following restrictions on the extent to which the advisor may participate in the process, and these restrictions apply equally to Complainants and Respondents.
  - a) Advisors may not:
    - (1) Present information on behalf of the Party;
    - (2) Submit documents on behalf of the Party;
    - (3) Discuss any matter directly with University administrators or Investigator in the absence of the Party.
  - b) Except as specifically set forth in Section IX below, a Party's advisor may not speak on behalf of the Party or otherwise actively participate in any proceeding.
3. If a Party does not have an advisor present during the hearing, the University will appoint an advisor of its choice for the Party for the purposes of conducting cross-examination.
4. Although the advisor may be, but need not be, an attorney, their participation in the process is subject to the limitations described herein.
5. The advisor may be present at any proceedings that are part of the Formal Resolution Process. If a Party wishes to have an advisor present at a proceeding, the University will work within reason to schedule the proceeding so the advisor may attend, without unreasonably delaying the progress of the Formal Resolution Process. The advisor may consult directly with the Party whom they are advising in a manner that does not disrupt or delay the proceeding.
6. The University may exclude advisors who act in a manner contrary to these limitations or otherwise disrupt any proceeding from that proceeding and/or future proceedings.

#### G. Investigation

1. The University will investigate the allegations in a Formal Complaint.
2. The University, and not the Complainant or the Respondent, has the burden of gathering evidence sufficient to reach a determination regarding responsibility.
3. The University will not restrict the ability of either Party to discuss the allegations under investigation or to gather and present relevant evidence.
4. The University encourages Parties to raise all issues or allegations that may arise out of the same facts or circumstances at the outset of the investigation.
5. The University cannot access, consider, disclose, or otherwise use a Party's records that are made or maintained by a health care professional acting in their professional capacity, and which are made or maintained in connection with the provision of treatment to the Party, unless the University obtains that Party's voluntary written consent to do so for the resolution process.
6. During the investigation, each Party has an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence to the Investigator.
7. The Investigator will provide written notice of the date, time, location, participants, and purpose of any investigative interview or other meeting to any Party whose participation is invited or expected with sufficient time for the Party to prepare to participate.
8. Prior to conclusion of the investigation, the Investigator will make available via the University's chosen cloud storage platform to each Party and to each Party's advisor, if any, all evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint whether or not the University intends to rely on such evidence in reaching a determination regarding responsibility. The Parties and each Party's advisor may not download, photograph, copy or otherwise duplicate, share or transmit the evidence provided by the Investigator.
  - a) Each Party may submit a written response, which the Investigator will consider prior to conclusion of the investigation and completion of the investigative report.
  - b) The written response, if any, must be submitted to the Investigator by the deadline designated by the investigator, which will be at least ten (10) days after the Investigator makes the evidence available to the Party, unless the deadline is extended for good cause.
9. The Investigator will create an investigative report that fairly summarizes relevant evidence.

- a) The investigator must conduct an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence.
  - b) Any information not provided to the investigator prior to the final investigative report will not be allowed during the hearing unless the Party offering the evidence can clearly demonstrate that such information was not reasonably available to the parties at the time of the investigation through the exercise of reasonable diligence or that the evidence has significant relevance to a material fact at issue in the investigation.
  - c) If, after the final investigative report is issued, a Party provides or identifies evidence that they did not previously provide or identify despite that evidence being reasonably available to them during the investigation process, the Hearing Officer may, at their discretion, draw a negative inference from the Party's delay in providing or identifying the evidence.
10. At least ten (10) days prior to the scheduled hearing, the Title IX Coordinator will make available via the University's chosen cloud storage platform to each Party and to each Party's advisor, if any, the investigative report.
- a) Each Party may submit a written response, which the Title IX Coordinator will submit to the Hearing Officer for consideration at the hearing.
  - b) The written response, if any, must be submitted to the Title IX Coordinator by the deadline designated by the Title IX Coordinator, unless the deadline is extended for good cause.
11. After the investigative report is issued but no later than five (5) days before scheduled hearing, either Party may request an Informal Resolution Process subject to the provisions set forth in Section VIII.

#### H. Hearing

- 1. General Conduct of the Hearing
  - a) The University will appoint a Hearing Officer to serve as the Decision-Maker at the hearing.
    - (1) The University will notify both Parties of identity of Hearing Officer at least seven (7) days prior to the hearing. The Parties have two (2) days from receipt of the names to raise any objection to the participation of the Hearing Officer based on a perceived conflict of interest, bias, or prejudice.
  - b) The Hearing Officer will conduct a live hearing, with all questioning conducted in real time. Prior to the hearing, the Hearing Officer will review the investigative report and the written responses provided by the Parties, if any.

- c) The hearing may occur in person or virtually in a manner allowing the participants to simultaneously see and hear the Party or witness answering questions. If either Party submits a request for a virtual hearing no later than five (5) days prior to the scheduled hearing, the hearing will occur virtually.
  - d) The University will record the hearing and make a transcript of the hearing available to the Parties for inspection and review via the University's chosen cloud storage platform.
  - e) Both Parties must be accompanied by an advisor to the hearing. If a Party does not have an advisor for the hearing, the University will provide without fee or charge to that Party an advisor of the University's choice for that Party.
  - f) Each Party's advisor must conduct any cross-examination of the other Party and any witnesses. Apart from conducting cross-examination, the parties' advisors do not have a speaking role at the hearing; an advisors' participation is limited to conferring with the Party at intervals set by the Hearing Officer.
  - g) The University has the authority to establish standards of decorum for the hearing that apply equally to each Party, witness or advisor.
2. Standard of Evidence
- a) The Hearing Officer will make a determination of responsibility using the preponderance of the evidence standard.
3. Relevant Evidence Considered
- a) In making a determination of responsibility, the Hearing Officer may only consider relevant evidence.
  - b) In making a determination of Outcomes or Disciplinary Action, the Outcomes Council and Decision-Maker for Disciplinary Action may only consider relevant evidence.
  - c) Relevant evidence is evidence having any tendency to make the existence of any fact that is of consequence to the determinations to be made more probable or less probable than it would be without the evidence.
  - d) The Hearing Officer will not consider:
    - (1) Evidence about the Complainant's sexual predisposition or prior sexual behavior, except that the Hearing Officer may consider:
      - (a) Evidence about the Complainant's prior sexual behavior, when offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or
      - (b) Evidence concerning specific incidents of the Complainant's prior sexual behavior with respect to the Respondent, when offered to prove Consent.

- (2) Any statement of a Party or witness, if the Party or witness does not submit to cross-examination at the hearing, in reaching a determination regarding responsibility.
    - (a) The Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.
    - (b) "Statements" for purposes of this section means factual assertions made by a Party or witness that do not themselves constitute alleged verbal harassment. Statements might include factual assertions made during an interview or conversation, written by the individual making the assertions (including those found in a Formal Complaint), and memorialized in the writing of another (e.g. in an investigative report, police report, or medical record).
    - (c) Where evidence involves intertwined statements of both Parties (e.g. a text message exchange or an email thread) and one Party refuses to participate in the hearing or submit to questioning about the evidence while the other does participate and answer questions, the statements of only the participating Party may be relied on by the Hearing Officer.
  - (3) Information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.
  - e) The Hearing Officer will conduct an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence.
    - (1) Any information not provided to the investigator prior to the final investigative report will not be allowed during the hearing unless the Party offering the evidence can clearly demonstrate that such information was not reasonably available to the Party through the exercise of reasonable diligence at the time of the investigation or that the evidence has significant relevance to a material fact at issue in the investigation.
    - (2) If, after the final investigative report is issued, a Party provides or identifies evidence that they did not previously provide or identify despite that evidence being reasonably available to them during the investigation process, the Hearing Officer may, at their discretion, draw a negative inference from the Party's delay in providing or identifying the evidence.
4. Witness Examination
- a) The Hearing Officer may ask questions of any Party or witness.

- b) The Hearing Officer will allow each Party's advisor to examine witnesses by asking all relevant questions and follow up questions, including those challenging credibility.
- c) Cross examination may not be conducted by either Party. Cross examination must be conducted by an advisor acting on a Party's behalf.
  - (1) If a Party wishes to ask cross examination questions of a Party or witness and does not have an advisor, the University will select and provide an advisor to the Party, free of charge, for the limited purpose of conducting cross examination.
- d) Before a Party or witness answers a question, the Hearing Officer will determine whether the question is relevant and explain any decision to exclude a question as not relevant.
- e) After the Party's advisors have completed their cross-examination, the Hearing Officer will again have an opportunity to ask any additional questions or any Party or witness.

I. Written Determination

1. After considering the investigative report, including any Party's written response to the investigative report, and all relevant evidence presented at the hearing, the Hearing Officer will issue a written determination.
2. Before the Hearing Officer issues the written determination, if the Hearing Officer has made a finding of responsibility, the Hearing Officer will provide the Outcome Council and Decision-Maker for Disciplinary Action with the written determination for purposes of determining Remedies, Outcomes and Disciplinary Action, respectively.
3. The Title IX Coordinator will provide the written determination simultaneously to the Parties.
4. The written determination will include:
  - a) Identification of the allegations potentially constituting Sexual Harassment;
  - b) A description of the procedural steps from the receipt of the Formal Complaint through the determination, including any notifications to the Parties, interviews, site visits, methods used to gather other evidence, and hearings held;
  - c) Findings of fact supporting the determination;
  - d) Conclusions regarding the application of these Procedures to the facts;
  - e) A statement of, and rationale for, the result as to each allegation, including:
    - (1) A determination regarding responsibility;
    - (2) Any Disciplinary Actions or Outcomes imposed on the Respondent;
    - (3) Whether any remedies will be provided to the Complainant;
  - f) Procedures and permissible bases for the Parties to appeal.
5. The written determination becomes final five (5) days after it is sent to the Parties unless an appeal is filed.

J. Remedies/Outcomes/Disciplinary Actions

1. Remedies are designed to restore or preserve equal access to the University's Education Program or Activity. Remedies may be disciplinary or punitive.
2. In the event the Hearing Officer finds the Respondent responsible for Sexual Harassment,
  - a) If the Respondent is a student, the Outcome Council will determine the appropriate Outcomes for the Respondent and Remedies for the Complainant.
    - (1) The University will notify both Parties of identity of the members of the Outcome Council at least seven (7) days prior to the Outcome Council meeting. The Parties have two (2) days from receipt of the names to raise any objection to the participation of the member based on a perceived conflict of interest, bias, or prejudice.
    - (2) In determining Outcomes, the Outcome Council has the following primary objectives:
      - (a) Promoting safety or deterring individuals from similar future behavior;
      - (b) Protecting the University community;
      - (c) Ending discriminatory conduct;
      - (d) Taking steps reasonably calculated to prevent the future reoccurrence of the discriminatory conduct;
      - (e) Restoring the Complainant to their pre-deprivation status, to the extent practical and possible.
    - (3) The Outcome Council considers the following criteria in determining Outcomes to meet those objectives:
      - (a) Nature and severity of the action;
      - (b) Number of Complainants;
      - (c) Number of impacted individuals;
      - (d) Prior Student Rights & Responsibilities history of the Respondent;
      - (e) The impact the act or policy violation has had on the Complainant(s), University Community, community members, University and community safety, and University environment.
    - (4) The range of Outcomes include:
      - (a) Status Outcomes, including Warning, Probation, Deferred Suspension, Suspension, and Dismissal;
      - (b) Educational Outcomes, including but not limited to Written Assignments, Worksheets, Programs & Activities; Interventions; Restrictions; and Referrals.
  - b) If the Respondent is not a student, then the Decision-Maker for Disciplinary Action is as follows:

- (1) For employees who are staff, the Respondent's supervisor or other responsible administrator will determine the appropriate Disciplinary Action in consultation with the Division of Human Resources & Inclusive Community. The Respondent's supervisor, or the Division of Human Resources & Inclusive Community, shall also notify the Title IX Coordinator of the Disciplinary Action imposed.
- (2) For employees who are faculty, the Vice Provost for Faculty Affairs will determine the appropriate Disciplinary Action in consultation with the dean of the applicable college or school. The Vice Provost for Faculty Affairs shall also notify the Title IX Coordinator of the Disciplinary Action imposed. Disciplinary Action involving faculty is further subject to the Policies and Procedures Relating to Faculty Appointment, Promotion and Tenure.
- (3) The University will notify both Parties of identity of the Decision-Maker for Disciplinary Action at least seven (7) days prior to the meeting. The Parties have two (2) days from receipt of the name to raise any objection to the participation of the member based on a perceived conflict of interest, bias, or prejudice.
- (4) In determining Disciplinary Action, the Decision-Maker for Disciplinary Action will consider whether the nature of the conduct at issue warrants removal from the University, either permanent (termination) or temporary (suspension). The Decision-Maker for Disciplinary Action will also consider other factors including, but are not limited to, the nature of the conduct at issue, prior disciplinary history of the Respondent (shared only upon a finding of responsibility for the allegation), previous University response to similar conduct, and University interests (e.g., in providing a safe environment for all).
- (5) Disciplinary Action for employees may vary, up to and including termination of employment, based on the circumstances of the matter, and includes but is not limited to:
  - (a) Prohibition from various academic or managerial responsibilities involving the Complainant or others;
  - (b) A letter of reprimand placed in a Respondent's personnel file;
  - (c) Restrictions on a Respondent's access to University programs or facilities;
  - (d) Limitations on merit pay or other salary increases for a specific period; or

- (e) Demotion, suspension, or dismissal/termination from the University, or a recommendation that a separate process required to impose such action be commenced. Such a process shall rely on the written determination pursuant to these Procedures and may only address appropriate Disciplinary Action.

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## K. Appeal

1. Appealable Issues
  - a) Either Party may appeal:
    - (1) Dismissal of a Formal Complaint or any allegations therein; or
    - (2) A determination regarding responsibility.
  - b) No other issue may be appealed.
2. Bases for Appeal
  - a) A Party may only appeal on one or more of the following bases:
    - (1) Procedural irregularity that affected the outcome of the matter;
    - (2) New evidence not reasonably available at the time the determination regarding responsibility or dismissal of the Formal Complaint was made that could affect the outcome of the matter;
      - (a) This basis for appeal is not satisfied simply because evidence was not presented during the proceedings if the evidence was reasonably available at the time the determination was made.
    - (3) The Title IX Coordinator, Investigator, or Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that affected the outcome of the matter.
    - (4) Where the Respondent is a student, the Outcomes imposed are substantially disproportionate to the severity of the violation.
  - b) Mere disagreement with the decision is not grounds for appeal under these Procedures. The appellate process shall not re-hear a matter in part or in its entirety.
3. Filing an Appeal
  - a) If a Party wishes to file an appeal, the Party must notify the Title IX Coordinator in writing no later than five (5) days after:
    - (1) The notice of dismissal of the Formal Complaint; or
    - (2) Written determination is sent to the Party.
  - b) The written appeal must state with specificity:
    - (1) The issues being appealed; and
    - (2) The bases for the appeal.
4. Timeframe for Completion of Appeal
  - a) The University will make a good faith effort to complete the appeal within five (5) days.

The timeframe for completion of appeal may be extended for good cause. If the timeframe for completion of appeal is extended, the Title IX Coordinator will notify both Parties in writing of the delay or extension and the reasons for the delay or extension.

5. Appeal Procedure

- a) After receiving a timely written appeal, the Title IX Coordinator will notify the Parties in writing:
    - (1) That the appeal was submitted;
    - (2) The opportunity for the Party who did not submit an appeal to review the appeal statement of the other Party; and
    - (3) The process for submitting a written statement in support of, or challenging, the issues being appealed.
  - b) The Appellate Officer shall not be the same person as the decision-makers that reached the determination regarding responsibility or dismissal of the Formal Complaint, the investigator(s), or the Title IX Coordinator.
    - (1) The Appellate Officers are as follows:
      - (a) For students, the Vice Chancellor for Student Affairs or designee;
      - (b) For employees who are staff, the Vice Chancellor for Human Resources or designee; and
      - (c) For employees who are faculty, the Provost & Executive Vice Chancellor or designee.
    - (2) The University will notify both Parties of the identity of the Appellate Officer, and the Parties will have two (2) days from receipt of the name to raise any objection to the participation of the member based on a perceived conflict of interest, bias, or prejudice.
  - c) The Appellate Officer will consider the appeal, including any written statements submitted by the Parties.
  - d) The Appellate Officer may also consider the investigative report, including any Party's written response to the investigative report, all relevant evidence presented at the hearing, and the transcript of the hearing.
  - e) The Appellate Officer will issue a written determination of appeal, which will describe the result of the appeal and the rationale for the result.
  - f) The Title IX Coordinator will provide the written determination of appeal simultaneously to the Parties.
  - g) The result of the appeal is final.
6. Grievance of Disciplinary Action for Employees. In addition to the appellate rights set forth in Section IX.K.5 above, employees may file a grievance in accordance with the following procedures:
- a) Faculty members may pursue their applicable rights pursuant to the Policies and Procedures Relating to Faculty Appointment, Promotion, & Tenure;
  - b) Staff may pursue a grievance pursuant to the Employee Grievance procedures outlined in the Employee Handbook; and

- c) Employees who are subject to a collective bargaining agreement must pursue their grievance rights pursuant to that agreement.

**X. Recordkeeping, Privacy, Confidentiality**

- A. The University shall retain for a period of seven (7) years after the date of case closure:
  - 1. The official file relating to a formal resolution, including any investigation hearing, sanctioning, and/or appeals processes involving allegations of Sexual Harassment.
  - 2. In cases in which a Respondent was found to have violated the Policy and was dismissed or terminated, the University may retain such official case files indefinitely.
  
- B. The Office of Equal Opportunity & Title IX documents each report or investigation, requests for assistance, and resolutions under these Procedures.
  - 1. Consistent with University's Records Management Policy, the Office of Equal Opportunity & Title IX will maintain separate, secure records in order to track patterns and systemic behaviors.
  - 2. Records related to the investigation of any allegations of Sexual Harassment will not be stored in personnel files of employees reporting alleged conduct, and instead the Office of Equal Opportunity & Title IX shall retain such records in a separate, secure location. The University will keep such records confidential to the extent permitted by law.
  
- C. The Office of Equal Opportunity & Title IX is not a confidential resource. For any report of Sexual Harassment, the University will respect and safeguard the privacy interests of all individuals involved in a manner consistent with the need for a careful assessment of the allegation and any necessary steps to eliminate the conduct, prevent its recurrence, and address its effects. Confidentiality means that a client or patient (including students, staff, and faculty) sharing information with a designated campus or community professional can expect that the professional will only disclose such information 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](#).

- D. Information related to a specific report under these Procedures will only be shared with those University employees who have a “need to know” in order to Supportive Measures, assist in the active response, review, investigation, or resolution of the report. Information regarding a report will not be shared with the Complainant’s or Respondent’s parents, guardians, or any third party unless permissible under the Family Educational Rights and Privacy Act (FERPA).
  
- E. If a report of Sexual Harassment discloses a serious and immediate threat to the University community, the University’s Department 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 the Complainant’s name. Pursuant to the Clery Act and VAWA, the Office of Equal Opportunity & Title IX will provide anonymous statistical information regarding reported criminal incidents to the University’s Division of Campus Safety for inclusion in the Daily Crime Log and in the University’s Annual Security Report. The University may also share aggregate data about reports, Outcomes, and/or Disciplinary Action without including personally identifiable information.

#### **XI. Revision & Amendment**

Pursuant to University’s Discrimination and Harassment Policy, Section 3.10.010, the University may update these Procedures at any time as necessary to comply with applicable local, state, and federal laws and regulations and/or directives from relevant government agencies. The University will make such updates subject to approval from the Provost & Executive Vice Chancellor and the Vice Chancellor for Business and Financial Affairs and effective upon publication to the University community.