

 <b>UNIVERSITY of DENVER</b>	<b>UNIVERSITY OF DENVER POLICY MANUAL REPORTING BY UNIVERSITY EMPLOYEES OF DISCLOSURES RELATING TO THE UNIVERSITY'S DISCRIMINATION AND HARASSMENT POLICY</b>	
<p><b>Responsible Department:</b> Office of Equal Opportunity &amp; Title IX, Student Affairs &amp; Inclusive Excellence, and Human Resources &amp; Inclusive Community</p> <p><b>Recommended By:</b> Provost, VC for Student Affairs, VC of Human Resources, and AVC for Equal Opportunity &amp; Title IX</p> <p><b>Approved By:</b> Chancellor</p>	<p><b><u>Policy Number</u></b> EOIX 3.10.011</p>	<p><b><u>Effective Date</u></b> 8/15/2022</p>

## I. INTRODUCTION

Consistent with Title IX of the Education Amendments of 1972 (Title IX) and other applicable federal law, this Reporting Policy outlines: (1) the options available to students and employees to report “Prohibited Conduct,” (as defined in [University Policy 3.10.010 – Discrimination and Harassment](#)), to University employees, and (2) the obligations of University employees to respond to such disclosures, including the responsibilities of certain University employees, called “Responsible Employees,” to report such disclosures to the University’s Office of Equal Opportunity & Title IX (EOIX).

All University employees, including student employees, must complete training upon hire and every two years regarding their responsibilities pursuant to this Policy, including how to respond to disclosures of alleged Prohibited Conduct.

## II. POLICY OVERVIEW

The University requires employees who have witnessed or may otherwise have knowledge of Prohibited Conduct to report such conduct to the University unless such employees qualify as Confidential Employees as described below.

The University strongly encourages students who have experienced, witnessed or may otherwise have knowledge of Prohibited Conduct to report such conduct to the University and/or to seek assistance from confidential resources at the University or in the local community. The University also strongly encourages employees who have experienced Prohibited Conduct to report such conduct to the University and/or seek assistance from confidential resources at the University or in the local community.

All students, student employees, faculty, and staff should understand their reporting options and the results of disclosing information about alleged Prohibited Conduct to a Confidential Employee or a Responsible Employee. Reporters who are uncertain whether a particular University employee is a Confidential Employee should ask the employee to clarify their status before disclosing information the Reporter wishes to keep confidential.

### III. PROCESS OVERVIEW

#### A. Employee Responsibilities by Designation

As described below, the University designates all University employees as either “Confidential Employees” or “Responsible Employees,” and each category has respective responsibilities pursuant to this Policy.

Employees who are uncertain whether they are required to report information disclosed to them about an incident of alleged Prohibited Conduct should consult with the Associate Vice Chancellor for Equal Opportunity & Title IX/Title IX Coordinator, Deputy Title IX Coordinator, or Deputy Equal Opportunity Coordinator. For their contact information, visit <http://www.du.edu/equalopportunity>.

##### 1. Confidential Employees

Confidential Employees have certain obligations to protect the confidentiality of information they receive in the performance of their professional duties. (See Definitions, below, for more information.) Except as provided in the limited circumstances set forth below, a Confidential Employee will not disclose information about alleged Prohibited Conduct to the University’s Associate Vice Chancellor for Equal Opportunity & Title IX/Title IX Coordinator or to anyone else without the Reporter or Complainant’s written permission.

The University has published a list specifying where students may access the services of Confidential Employees, including the University’s [Health & Counseling Center](#) (HCC) and [Center for Advocacy, Prevention, and Empowerment](#) (CAPE). Confidential Employees include, but are not limited to, the following, when acting in their professional capacities:

<b>Title</b>	<b>Office</b>
Director, Advocacy Services	CAPE
CAPE Advocate	CAPE
Staff Counselor/Psychologist	HCC
Staff Counselor/Trauma Specialist	HCC

Psychiatrist	HCC
Sports & Performance Psychologist	HCC
Registered Nurse	HCC
Certified Medical Assistant	HCC
Physician Assistant	HCC
Physician	HCC
Nurse Practitioner	HCC
Ombudsperson	Office of the Chancellor

### **a. Limits of Confidentiality**

Confidential Employees must maintain the confidentiality of information shared with them about alleged Prohibited Conduct and will not disclose such information to EOIX or to anyone else, except with the written permission of the Reporter/Complainant or when such disclosures are permitted or required by applicable law (e.g., mandatory reporting of abuse of minors or elder abuse, Clery Act) or court order. For example, Confidential Employees may be required to disclose such information where there is a concern that the individual will likely cause serious physical harm to self or others.

Employees who have questions regarding the validity of any permission given or the applicability or scope of any law or court order requiring disclosure should contact or be directed to contact the Office of General Counsel.

### **b. Responsibilities**

Confidential Employees must:

- Communicate to Reporters or Complainants who are considering disclosing or have disclosed information about alleged Prohibited Conduct that, except as provided in the limited circumstances set forth in this Policy, the information they disclose to a Confidential Employee will not be shared with EOIX and that the University will therefore be unable to use such information to respond to the report or provide supportive measures;
- Understand and provide information about available resources and support services;
- Support individuals who, following an initial confidential disclosure, decide to make a report to the University and/or local law enforcement, by directing such individuals to the appropriate University resources for assistance with such filing or further reporting; and

- Serve as a resource for Responsible Employees regarding the responsibilities with respect to reporting alleged Prohibited Conduct.

### **c. Supportive Measures and Other Services**

Confidential Employees may provide information to students, faculty, and staff where appropriate about how to obtain necessary health services, including mental health services and survivor advocacy services at the University and in the local community. The University provides detailed information about where students and employees may access such services at <http://www.du.edu/sexualassault>.

Students, faculty, and staff may also ask Confidential Employees how to request supportive measures (designed to address a Complainant's safety and well-being and continued access to educational and employment opportunities). Examples of supportive measures include No Contact Directives (prohibiting contact between parties to an incident of alleged Prohibited Conduct), academic modifications and support, or modifications to University housing, employment, and/or parking arrangements.

Confidential Employees should direct students, faculty, and staff who wish to request such supportive measures to the Associate Vice Chancellor for Equal Opportunity & Title IX/Title IX Coordinator. Complainants may be able to access a range of supportive measures with or without disclosing significant details about the alleged Prohibited Conduct.

### **d. Making a Report**

A Reporter who first seeks the assistance of a Confidential Employee always has the right to report an incident of alleged Prohibited Conduct to the University and/or to local law enforcement. In such cases, if the Reporter communicates to a Confidential Employee the desire to make such a report, the Confidential Employee should support this decision and direct the Reporter to the EOIX [reporting form](#) or the Associate Vice Chancellor for Equal Opportunity & Title IX/Title IX Coordinator to make a report. The University provides detailed information about University and law enforcement reporting options at the EOIX website.

Although there is no time limit on reporting Prohibited Conduct,

the University encourages Complainants and other individuals to promptly report allegations of Prohibited Conduct, preferably within 180 days of the last incident of Prohibited Conduct. Delays in reporting can prevent the University from gathering evidence sufficient to initiate an investigation, reaching a determination of responsibility, or implementing disciplinary action against a Respondent found to have engaged in Prohibited Conduct.

## **2. Responsible Employees**

A Responsible Employee must promptly report to the University's Associate Vice Chancellor for Equal Opportunity & Title IX/Title IX Coordinator all relevant details disclosed by a Reporter about an incident of alleged Prohibited Conduct, including the names and all other information that personally identifies the Complainant(s), Respondent(s), any witnesses, and any other relevant information (e.g., the date, time, and specific location of the alleged incident).

Responsible Employees must:

- Communicate to Reporters and/or Complainants who are considering or have disclosed information about alleged Prohibited Conduct that, as a Responsible Employee, they must report such information to the University;
- Report information they receive about alleged Prohibited Conduct promptly (within 24 hours) through the Office of Equal Opportunity & Title IX [reporting form](#) or as described above;
- Complete all applicable University training on reporting requirements;

If Responsible Employees have questions or concerns regarding this Policy, they should contact the Associate Vice Chancellor for Equal Opportunity & Title IX/Title IX Coordinator or designee, the Division of Human Resources & Inclusive Community (HRIC), or the Office of General Counsel, as applicable.

### **a. Disclosures**

Where practicable, before a Reporter discloses any information to a Responsible Employee, the Responsible Employee should explain their reporting obligations under this Policy. If the Reporter indicates a desire to maintain confidentiality and has not yet disclosed information regarding the alleged Prohibited Conduct, the Responsible Employee should instead refer the Reporter to a Confidential Employee or provide them with a Confidential Employee's contact information.

Information disclosed to a Responsible Employee must be treated with discretion and shared only with University employees with a “need to know” (e.g., to assist in providing supportive measures to the Complainant, conduct a health and safety risk assessment, or resolve the report in the event a Formal Complaint is filed or other resolution is pursued).

Disclosures made under the following circumstances are not subject to mandatory reporting requirements:

- (1) in the context of “Public Awareness Events” (e.g., “Take Back the Night,” candlelight vigils, protests, “survivor speak outs,” or other public fora in which students may disclose incidents of Prohibited Conduct),
- (2) during an individual’s participation as a subject in an Institutional Review Board-Approved human subjects protocol (“IRB Research”); or
- (3) to a Confidential Employee.

#### **b. University Actions Following Receipt of a Report**

Upon receipt of a report of alleged Prohibited Conduct, the Associate Vice Chancellor for Equal Opportunity & Title IX/Title IX Coordinator or designee must promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant’s wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures, and explain the resolution options and applicable process of resolution.

#### **c. External Reporting of Prohibited Conduct**

A Responsible Employee should not disclose information to law enforcement without the Complainant’s consent except: (1) where there is an immediate risk to the safety, health or wellbeing of members of the University community; (2) where an incident has already been reported to law enforcement; or (3) as otherwise required by law. If law enforcement contacts a Responsible Employee requesting information from law enforcement, the Responsible Employee should refer law enforcement officers directly to the Associate Vice Chancellor for Equal Opportunity & Title IX/Title IX Coordinator and Director of Campus Safety.

#### d. Anonymous Reporting

Responsible Employees are not permitted to submit an anonymous report to discharge their responsibilities.

Although the University encourages individuals to report Prohibited Conduct, any individual (except a Responsible Employee discharging their reporting obligations) may make an anonymous report by:

- Submitting a report through the Office of Equal Opportunity & Title IX [reporting form](#);
- Mailing or delivering a letter to the Office of Equal Opportunity & Title IX without including identifying information;
- Calling the Office of Equal Opportunity & Title IX using a blocked number; or
- Emailing the Office of Equal Opportunity & Title IX at [titleix@du.edu](mailto:titleix@du.edu) from an anonymous email address.

The Office of Equal Opportunity & Title IX will evaluate an anonymous report in the same manner as a report with an identified Complainant, consistent with the Title IX Sexual Harassment Procedures and/or Comprehensive Discrimination and Harassment Procedures (as applicable).

#### IV. DEFINITIONS

- A. “Complainant”** is any individual who is alleged to have experienced Prohibited Conduct as defined in the University’s [Discrimination and Harassment Policy](#).
- B. “Comprehensive Discrimination and Harassment Procedures”** means the University’s [Comprehensive Discrimination and Harassment Procedures](#) setting forth the procedures for investigating and resolving reports of all Discrimination/Harassment Prohibited Conduct as defined in the University’s [Discrimination and Harassment Policy](#).
- C. “Confidential Employee”** means: (1) Any University employee who is a licensed medical, clinical, or mental health, or other healthcare professional [e.g., physicians, nurses, physicians’ assistants, psychologists, psychiatrists, professional counselors and social workers, and those performing services under their supervision (collectively, health care providers)], when performing the duties of that professional role; (2) any University employee when performing administrative, operational, and/or related support for such health care providers; and (3) any employee providing confidential advocacy services when

performing the duties of that professional role.

- D. **“Education Program or Activity”** means the locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the alleged Prohibited Conduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.
- E. **“Office of Equal Opportunity and Title IX”** means the Office of Equal Opportunity & Title IX is an administrative office within the Office of the Chancellor that includes the staff responsible for administering the University’s [Discrimination and Harassment Policy](#). Staff members include the Associate Vice Chancellor for Equal Opportunity & Title IX/Title IX Coordinator, Deputy Title IX Coordinator, Deputy Equal Opportunity Coordinator, ADA Coordinator, and Equal Opportunity & Title IX Investigator(s).
- F. **“Prohibited Conduct”** means conduct identified in the University’s [Discrimination and Harassment Policy](#) and including *Quid Pro Quo* Harassment (Employee-Student), Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Stalking, Discrimination on the basis of a Protected Status, Discrimination in violation of the Equal Pay Act, Harassment on the basis of a Protected Status, Non-Consensual Sexual Contact, Non-Consensual Sexual Intercourse, Sexual Exploitation, Intimate Partner Violence, Physical Misconduct based on a protected status, Failure to Inform Supervisor of a Consensual Sexual Relationship with a Student or Supervisee, Retaliation, and Obstruction.
- G. **“Reporter”** means any individual, including a student, faculty, staff, or third party, who discloses an incident of alleged Prohibited Conduct to the Associate Vice Chancellor for Equal Opportunity & Title IX/Title IX Coordinator, Deputy Title IX Coordinator, Deputy Equal Opportunity Coordinator, or a Responsible Employee. Reporters may include any individuals who disclose such information, whether as Complainants, Respondents, or witnesses.
- H. **“Respondent”** means an individual who is alleged to have engaged in Prohibited Conduct as defined in the University’s [Discrimination and Harassment Policy](#).
- I. **“Responsible Employee”** means any employee of the University who is not a Confidential Employee.
  - 1. For purposes of a Reporter disclosing alleged acts of Prohibited Conduct involving only University employees, Responsible Employees are any employee of the University who (1) is not a



Confidential Employee; and (2) is a supervisor, manager, human resources professional, or any other University employee who has authority to institute corrective measures.

2. For purposes of a Reporter disclosing alleged acts of Prohibited Conduct involving a student at the University, Responsible Employees are (1) any employee of the University who is not a Confidential Employee; and (2) any advisors to students groups, including those individuals who are not otherwise employees of the University.
3. Responsible Employees include Graduate Teaching Assistants (GTAs), Graduate Research Assistants (GRAs), Resident Assistants (RAs), and all other student-employees when disclosures are made to any of them in the context of their employment/professional duties on behalf of the University.

J. “**Title IX Sexual Harassment Procedures**” means the University’s Title IX Sexual Harassment Procedures setting forth the process for investigating and resolving reports of Title IX Sexual Prohibited Conduct under the University’s [Discrimination and Harassment Policy](#).

## V. RESOURCES

- A. University Policy EOIX 3.10.010 – *Discrimination and Harassment*
- B. University Policy RISK 2.50.060 – *Protection of Minors on Campus*
- C. University Policy SAFE 7.10.010 – *Clery Act Compliance*
- D. Comprehensive Discrimination and Harassment Procedures available on the Office of Equal Opportunity and Title IX [website](#).
- E. Title IX Sexual Harassment Procedures available on the Office of Equal Opportunity and Title IX [website](#).
- F. [Honor Code and Student Rights and Responsibilities](#)

Revision Effective Date	Purpose