



**UNIVERSITY OF
DENVER**



**Office of Equal Opportunity & Title IX
(EOIX) Discrimination and Harassment
Procedures
2024-2025**

**Effective August 1, 2024
University of Denver**

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I. Purpose

Consistent with the University's [Non-Discrimination Statement](#) and the [University's Discrimination and Harassment Policy](#) (the "Policy"), the University has adopted these Procedures to take prompt and effective action through its Office of Equal Opportunity & Title IX ("EOIX") to address and resolve reports of Prohibited Conduct within the University's education program and activities.

The University has designated the Associate Vice Chancellor for Equal Opportunity & Title IX/Title IX Coordinator ("AVC for EOIX") to coordinate the University's compliance with all federal, state, and local laws within the scope of the Policy.¹ The University's AVC for EOIX is

Marti McCaleb, JD
Associate Vice Chancellor for Equal Opportunity & Title IX/Title IX Coordinator
Office of Equal Opportunity & Title IX
Driscoll Commons, Suite 30
2050 E. Evans Avenue
Denver, CO 80208
[\(303\) 871-7016](tel:(303)871-7016)
<https://www.du.edu/equalopportunity/index.html>
Marti.McCaleb@du.edu
Equalopportunity@du.edu or TiitleIX@du.edu

The University complies with all federal and state laws that protect individuals with disabilities from discrimination based on their disability or perceived disability status. As such, the University makes available reasonable accommodations and auxiliary aids and services to individuals with disabilities when such modifications and services are necessary to access the University's programs and services. The University's ADA/504 Coordinator is

Joshua Kaufman
ADA Coordinator
Office of Equal Opportunity & Title IX
Driscoll Commons, Suite 30
2050 E. Evans Avenue

¹ The AVC for EOIX may, in their discretion, designate responsibilities to the Deputy Title IX Coordinator, Deputy Equal Opportunity Coordinator, or other appropriately trained personnel within the University. In these Procedures, when the term "AVC for EOIX" is used, it should be understood to include any of the AVC for EOIX's designees.

Denver CO 80208

[\(303\) 871-3941](tel:(303)871-3941)

<https://www.du.edu/equalopportunity/index.html>

ADACoordinator@du.edu

The ADA Coordinator oversees the provision of reasonable accommodations for University Employees, applicants for employment or admission, visitors, and guests. The University has designated Accessible DU: Student Disability Services (“SDS”) to manage the process for granting reasonable accommodations to qualified students with documented disabilities to facilitate equal opportunity and full participation in University programs for undergraduate and graduate students. SDS is the only office on campus authorized to review a student’s self-disclosure of a disability, medical, and/or mental health condition and determine the student’s eligibility for requested accommodations.

Inquiries about the University’s prohibitions against discrimination and harassment and related retaliation under the Policy may be directed to the AVC for EOIX (for all forms of discrimination or harassment based on Protected Status) or the ADA/504 Coordinator (for disability-related questions or requests for reasonable accommodations from University Employees, applicants for employment or admission, visitors, and guests).

An individual who believes that they have been subjected to Prohibited Conduct has the right to file a complaint with an appropriate local, state, or federal agency, such as the U.S. Department of Education Office for Civil Rights (“OCR”), the Equal Employment Opportunity Commission (“EEOC”), or the Colorado Civil Rights Division (“CCRD”), identified below. In addition, any person who is dissatisfied with the University’s internal procedures for handling complaints or with the result of an Informal Resolution or Formal Resolution or the Outcomes and/or Disciplinary Action imposed pursuant to these Procedures may seek redress through these means to the extent allowed by law.

Equal Employment Opportunity
Commission
Denver Field Office
950 17th St., Suite 300
Denver, CO 80202
Telephone: (800) 669-4000
FAX: 303-866-1085
TTY: (800) 669-6820
ASL Video: 844-234-5144

U.S. Department of Education
Office for Civil Rights
Denver Office
Cesar E. Chavez Memorial Building
1244 Speer Boulevard, Suite 310
Denver, CO 80204-3582
Telephone: 303-844-5695
FAX: 303-844-4303
TDD: 800-877-8339
OCR.Denver@ed.gov

Colorado Civil Rights Division

1560 Broadway, Suite 825
Denver, CO 80202
Telephone: 303-894-2997
Fax: 303-894-7830
TTD: 711
DORA_CCRD@State.co.us

Any person who believes the University as a federal contactor has violated nondiscrimination or affirmative action obligations may contact the Office of Federal Contract Compliance Programs (“OFCCP”) at

OFCCP
U.S. Department of Labor
200 Constitution Ave. NW
Washington, D.C. 20210
www.dol.gov
Telephone: (800) 397-6251 or (202) 693-0103
TTY: (877) 889-5627 or (202) 693-1337

II. Application

As stated in Section II.E of the Policy, these Procedures apply to Prohibited Conduct that allegedly occurred on or after August 1, 2024. For Prohibited Conduct that allegedly occurred before August 1, 2024, and for matters pending within EOIX as of August 1, 2024, the AVC for EOIX in their discretion shall determine whether to apply these Procedures or a prior version.

All members of the University of Denver community are subject to these Procedures, including Students, Employees, and Third Parties, subject to the following limitations. Third Parties may initiate a report or, consistent with Section X of these Procedures, a Complaint, that a member of the University community engaged in Prohibited Conduct against them, but Third Parties alleged to have themselves engaged in Prohibited Conduct are limited in their rights pursuant to these Procedures, at the discretion of the AVC for EOIX. For example, the University may “trespass” (restrict campus access to) Third Parties who have been alleged to have engaged Prohibited Conduct without any rights to the resolution processes described in these Procedures.

III. Definitions

A. Associate Vice Chancellor

The Associate Vice Chancellor of Equal Opportunity & Title IX/Title IX Coordinator (“AVC for EOIX”) or their designee.

B. Business Days

Any weekday Monday through Friday in which the University is in operation, including days when the University is in operation, but classes are not in session. For example, University holidays are not Business Days.

C. Complainant

As stated in Section VI of the Policy, an individual who is alleged to have experienced conduct that could constitute Prohibited Conduct. For the purposes of these Procedures, Complainant may also be used to refer to the University when it exercises the right to initiate a Complaint under these Procedures, although in such cases, the individual affected by the alleged Prohibited Conduct that is the subject of the Complaint remains the Complainant and the AVC of EOIX does not actually become the Complainant. For purposes of the University's Title IX obligations, a Complaint can be brought by (1) a Student or Employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or (2) a Third Party who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX and who was participating or attempting to participate in the University's education program or activity at the time of the alleged sex discrimination. With respect to allegations of sex discrimination other than sex-based Harassment, a Complaint may be brought by any Student or Employee, or any other person who was participating or attempting to participate in the University's education program or activity at the time the alleged Prohibited Conduct took place.

D. Complaint

An oral or written request made to the University that objectively can be understood as a request for the University to investigate and make a determination about alleged Prohibited Conduct pursuant to these Procedures.

E. Disciplinary Action

Any action levied by the University against an Employee found responsible for Prohibited Conduct under these Procedures.

F. Employee(s)

As stated in Section II.E of the Policy, all full-time and part-time faculty, University staff, student workers, temporary employees, professional research staff, and post-doctoral fellows.

G. Investigator

The individual or individuals designated by the AVC for EOIX to be responsible for gathering evidence, including interviewing Parties and Witnesses, and/or drafting investigation reports.

H. Outcomes

The University statuses and educational opportunities, restrictions, and/or expectations for a Student found responsible for Prohibited Conduct.

I. Outcome Council

A body composed of University staff and faculty convened by the Office of Student Rights & Responsibilities to determine the Outcomes for a Student Respondent found responsible for Prohibited Conduct.

J. Parental Status

For purposes of the University's obligations under Title IX, parental status means the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is: (1) A biological parent; (2) An adoptive parent; (3) A foster parent; (4) A stepparent; (5) A legal custodian or guardian; (6) In loco parentis with respect to such a person; or (7) Actively seeking legal custody, guardianship, visitation, or adoption of such a person.

K. Party/Parties

Complainant(s) and/or Respondent(s).

L. Pregnancy or Related Conditions

For purposes of the University's obligations under Title IX, Pregnancy or Related Conditions means: (1) Pregnancy, childbirth, termination of pregnancy, or lactation; (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

M. Preponderance of the Evidence

The standard of proof applied under these Procedures pursuant to which, an allegation is proven if the credible, relevant information acquired during the inquiry or investigation on the one side outweighs the credible, relevant information on the other side, such that it is more likely than not the alleged fact or conduct occurred.

N. Prohibited Conduct

Conduct prohibited by the University as set forth in Section III of the Policy.

O. Protected Status

As set forth in Section VI of the Policy, race, color, national origin (including shared ancestry or ethnic characteristics),² ancestry, age, religion, creed, disability, sex, sexual orientation, gender

² Consistent with the U.S. Department of Education's Office for Civil Rights' ("OCR") interpretation of higher education institutions' obligations under Title VI of the Civil Rights Act of 1964, the University will interpret national origin to include,

identity, gender expression, marital status, pregnancy or related conditions, parental status, genetic information, military enlistment, veteran status, or any other characteristic protected by state or federal law or regulation. The University will determine what constitutes a Protected Status based on the applicable federal and/or state laws or regulations.

P. Reasonable Person

A reasonable person under similar circumstances and with similar identities to the Complainant or Respondent.

Q. Relevant

Related to the allegations of Prohibited Conduct under investigation as part of a Formal Resolution process under these Procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged Prohibited Conduct occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged Prohibited Conduct occurred or in determining the credibility of Parties or Witnesses. As described in Section XI.B below, certain evidence will not be considered as Relevant.

R. Remedies

The measures provided, as appropriate, to a Complainant or any other person that EOIX identifies as having had their equal access to a University education program or activity limited or denied, after EOIX determines, pursuant to these Procedures, that Prohibited Conduct has occurred or that there exists or existed a Hostile Environment.

S. Reporting Party or Reporter

Any individual who has reported allegations of Prohibited Conduct pursuant to these Procedures. The Reporting Party need not be the Complainant.

T. Respondent

As stated in Section VI of the Policy, an individual who is alleged to have engaged in conduct that could constitute Prohibited Conduct. In the event that a Complaint alleges that a University policy or practice discriminates on the basis of Protected Status, the University is not considered a Respondent. In such cases, the University will follow this Policy, including the Formal Resolution process, although the University will, necessarily, not be entitled to certain procedural rights and steps afforded to individual Respondents. In the event a Complaint against an individual Respondent is based on actions the Respondent took in accordance with a

among other categories, shared Jewish, Palestinian, Arab, Muslim, and/or South Asian ancestry or ethnic characteristics. The University will respond to reports of discrimination and harassment involving antisemitism, Islamophobia, or other unlawful discrimination based on actual or perceived shared ancestry or ethnic characteristics or citizenship or residency in a country with a dominant religion or distinct religious identity consistent with this Policy and these Procedures.

University policy or practice, the Complaint may, in the University's sole discretion, be amended to substitute the University as Respondent. This determination will be made after a consideration of factors including, but not limited to, whether the individual was, in fact, following the University policy or practice; what actions the individual took; and whether the individual could be subject to Disciplinary Action or Outcomes.

U. Responsible Employee

All individuals who are obligated to report alleged Prohibited Conduct to the Office of Equal Opportunity & Title IX pursuant to the University's Reporting by University Employees of Disclosures Relating to the University's Discrimination and Harassment Policy.

V. Student(s)

As stated in Section II.E of the Policy, any individual registered for or auditing classes at the University; admitted to or enrolled in any University program; or on University Premises for any purpose related to the same regardless if the class, program, or other education activity is credit earning or part of a degree or non-degree program. An individual is also considered a Student under this definition if they have completed the immediately preceding term and are enrolled for a subsequent term or program; if they are representing the University between terms or programs; or, if they have previously been enrolled, but are on a leave of absence or otherwise have a continuing relationship with the University.

W. Supportive Measures

Individualized measures offered, as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to: 1) restore or preserve that Party's access to the University's education programs or activities, including measures that are designed to protect the safety of the Parties or of the University's educational or employment environment; or 2) provide support during any resolution process under these Procedures.

X. Third Party / Third Parties

As stated in Section II.E of the Policy, contractors, vendors, visitors, guests, prospective students, applicants for employment, alumni, or other third parties.

Y. Title IX Coordinator

Title IX Coordinator means the Associate Vice Chancellor for Equal Opportunity & Title IX/Title IX Coordinator or their designee.

Z. University Premises

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

AA. Witness(es)

A person asked to provide information or a statement under these Procedures.

BB. Written Notice

Notice in writing and delivered (1) via electronic mail to the Party's or Witness's University email address or other email address reported to EOIX; (2) in person; or (3) by other means to a Party's or Witness's permanent mailing address, as reported by the individual to EOIX.

IV. Reporting and the Filing of Complaints

Reporting concerns of potential Prohibited Conduct is critical to the University's ability to respond to potential Prohibited Conduct, to provide appropriate supports and resources to individuals who may have been impacted, and to monitor campus trends and provide appropriate training and prevention education to the University community. The University encourages all individuals to report any incident to the University and, if the incident involves potential criminal conduct, to also report to law enforcement. Individuals have several reporting options within and outside the University. Individuals may pursue these options simultaneously or any one of them separately.

The AVC for EOIX will monitor the University's education program and activity for barriers to reporting information about conduct that may reasonably constitute Prohibited Conduct and will take steps reasonably calculated to address such barriers.

Under these Procedures, a report provides notice to the University about an allegation of or concern about Prohibited Conduct. A report may be made in person, by telephone, in writing, by email or other electronic submission to the Office of Equal Opportunity & Title IX, or by any other means that results in the AVC for EOIX receiving notice of the concern. Reporting allows the University to reach out to the Complainant or Reporting Party to provide information about their legal rights and options and the availability of Supportive Measures or other community resources.

Any individual may make a report of alleged Prohibited Conduct under these Procedures; however, only the Complainant, or in limited circumstances the AVC for EOIX may file a Complaint and request the University initiate a Formal Resolution process. The University's process for assessing Complaints is addressed in Section VIII.A below.

For any individual who has been impacted by conduct that may constitute Prohibited Conduct under the Policy, 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. The University provides support to assist each individual in making these important decisions and will give considerable weight to an individual's preference in deciding how to

proceed. In this process, the University will balance the individual's interest with the University's obligation to provide a safe and non-discriminatory environment for all members of the University community.

The University will review and address all reports by following these Procedures and will treat all individuals involved 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 University community and will take steps necessary to address those risks. These steps may include Supportive Measures to provide for the safety of the individual and the University community. In appropriate cases, the AVC for EOIX may initiate an emergency removal or administrative leave process, as described in Section VIII below.

In addition to the emergency removal and administrative leave processes, if a report of Prohibited Conduct discloses a serious and immediate threat to the University community, the University's Department of Campus Safety will determine whether the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998 (the "Clery Act") requires that the University issue a timely notification to protect the health or safety of the community. The notification will not include the Complainant's name. Pursuant to the Clery Act and the Violence Against Women Act ("VAWA"), the Office of Equal Opportunity & Title IX will provide information regarding reported criminal incidents to the University's Clery and Compliance Coordinator for inclusion in the Daily Crime Log and in the University's Annual Security & Fire Safety Report. The University may also share aggregate data about reports, Outcomes, and/or Disciplinary Action without including personally identifiable information.

A. Reporting Prohibited Conduct to the University

The University encourages Complainants to report incidents of Prohibited Conduct directly to the Office of Equal Opportunity & Title IX by:

- Contacting the Associate Vice Chancellor of Equal Opportunity & Title IX/Title IX Coordinator or a Deputy Coordinator:

Marti McCaleb, JD
Associate Vice Chancellor of Equal Opportunity & Title IX/Title IX Coordinator
Office of Equal Opportunity & Title IX
University of Denver
Driscoll Center South, Suite 30
2050 E. Evans Avenue
Denver, CO 80208
(303) 871-7016
[Equal Opportunity & Title IX website](#)
Marti.McCaleb@du.edu

Equalopportunity@du.edu
TitleX@du.edu

Molly Hooker
Deputy Title IX Coordinator
Office of Equal Opportunity & Title IX
University of Denver
Driscoll Center South, Suite 30
2050 E. Evans Avenue
Denver, CO 80208
(303) 871-7016
[Equal Opportunity & Title IX website](#)
Molly.Hooker@du.edu
TitleX@du.edu

Britt Swett, JD
Interim Deputy Equal Opportunity Coordinator
Office of Equal Opportunity & Title IX University of Denver
Driscoll Center South, Suite 30
2050 E. Evans Avenue
Denver, CO 80208
(303) 871-7016
[Equal Opportunity & Title IX website](#)
Equalopportunity@du.edu

Lin-Chi Wang, JD
Interim Director of Equal Opportunity & Title IX Investigations
Office of Equal Opportunity & Title IX
University of Denver
Driscoll Center South, Suite 30
2050 E. Evans Avenue
Denver, CO 80208
(303) 871-7016
[Equal Opportunity & Title IX website](#)
Equalopportunity@du.edu

B. Responsible Employee Reporting

In order to facilitate the University's ability to respond to Prohibited Conduct and to meet the University's obligations under state and federal law, the University requires employees who have witnessed, have been informed of, or may otherwise have knowledge of Prohibited Conduct to report such conduct to the University, unless such employees qualify as Confidential Employees as defined in the University's Reporting by University Employees on Disclosures Relating to the

University's Discrimination and Harassment Policy If a Responsible Employee fails to timely report incidents of alleged Prohibited Conduct to the Office of Equal Opportunity & Title IX, that employee may be referred to the Division of Human Resources & Inclusive Community for disciplinary action. Individuals may report Prohibited Conduct by submitting a report through the [Office of Equal Opportunity & Title IX online reporting form](#). Individuals may also report Prohibited Conduct to other units identified below, each of which must promptly inform the Office of Equal Opportunity & Title IX: Individuals may also report Prohibited Conduct to other units identified below, each of which must promptly inform the Office of Equal Opportunity & Title IX:

Department 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
[Department of Campus Safety website](#)

Office of Student Rights & Responsibilities
University of Denver
Community Commons
2055 E. Evans Avenue, Suite 3001
Denver, CO 80208
303-871-5724
srr@du.edu
[Office of Student Rights & Responsibilities website](#)

Student Outreach & Support (SOS)
University of Denver
Community Commons
2055 E. Evans Avenue, Suite 3100
Denver, CO 80208
SOS@du.edu
SOS Referral [Online Report Form](#)

Housing and Residential Education (HRE)
HRE staff (including Resident Assistants (RAs), Graduate Resident Director (GRDs))
Dimond Family Residential Village
2020 S. High Street, #P112
Denver, CO 80208
Phone: 303-871-2246

housing@du.edu
[Housing and Residential Education \(HRE\)](#)

Human Resources & Inclusive Community
Mary Reed Building, Room 403
2199 S. University Boulevard
Denver, CO 80208
AskHRPartners@du.edu
[Human Resources & Inclusive Excellence website](#)

- Upon receiving a report of alleged Prohibited Conduct, the AVC for EOIX must take action to promptly and effectively end any Prohibited Conduct, prevent its recurrence, and remedy its effects. The AVC for EOIX will notify the Complainant, or if the Complainant is unknown, the Reporter, of the University's Informal and Formal Resolution procedures. The AVC for EOIX will also offer and coordinate Supportive Measures, as provided in Section VII below.

C. Reporting to Law Enforcement

-
- The University encourages Complainants to contact local law enforcement to report incidents of Prohibited Conduct that may also be crimes under applicable state or federal criminal statutes. At the Complainant's request, the University will assist a Complainant 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 gender-based violence, 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.

The University's definitions, burden of proof, and procedures differ from federal and state criminal law. The University is not bound by law enforcement's determination whether or not to prosecute a Respondent nor by the outcome of any criminal prosecution. The University will independently determine under these Procedures whether Prohibited Conduct has occurred. The University may undertake any process under these Procedures prior to, simultaneously with, or following civil or criminal proceedings.

D. Anonymous Reporting

Any individual other than a Responsible Employee can make a report without disclosing one's own name, identifying the Respondent, or requesting any action. 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 these Procedures; however, 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. The University will review all anonymous reports, and where there is sufficient information, include applicable information in Clery Act reporting, as well as in annual reporting statistics compiled by Office of Equal Opportunity & Title IX.

E. Timeliness and Location of Incident

Although there is no time limit on reporting Prohibited Conduct, the University encourages Complainants and other individuals to promptly report allegations of Prohibited Conduct as soon as reasonably possible after the event(s) occurred.

Delays in reporting can prevent the University from gathering evidence sufficient to initiate an investigation or reach a determination of responsibility. 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 Prohibited Conduct, prevent its recurrence, and address its effects.

The University also encourages the reporting of conduct occurring off University Premises, including online or electronic conduct that occurred in the context of employment or an education program or activity of the University, or that has continuing adverse effects on University Premises 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.

F. Amnesty for Personal Use of Drugs or Alcohol

The University recognizes that Students may be reluctant to seek assistance from a University official or emergency services after experiencing Prohibited Conduct or may be reluctant to seek assistance for themselves or others who may have experienced Prohibited Conduct because they fear being held responsible under the University Honor Code for alcohol or drug violations relating to the incident.

The University generally will not initiate a formal conduct process under the Honor Code if a Student who makes a good faith report to a University official, who contacts emergency services, or who participates as a Party or Witness in any resolution process related to Prohibited Conduct, for personal consumption of alcohol or other drugs that would otherwise be a violation of the Honor Code, provided that the misconduct did not endanger the health or safety of others. However, the University does not extend this amnesty to (1) the distribution or sale of alcohol or other drugs; or (2) the provision of alcohol or other drugs to another individual for the purpose of inducing incapacitation as defined in the Policy.

When granting amnesty for the personal use of drugs or alcohol, the University may, however, refer the Student for an evaluation related to their health status or substance use; engage with the Student in an assessment or educational discussion; or pursue other non-disciplinary options regarding alcohol or other drug use.

The University also provides the Medical Amnesty Process as set forth in the [Honor Code](#).

V. Privacy and Confidentiality

The Office of Equal Opportunity & Title IX is not a confidential resource. However, EOIX will maintain the privacy of Complainants, Respondents, and Witnesses to the extent possible. EOIX may share information related to a report of Prohibited Conduct with those University Employees who have a “need to know” in order to provide Supportive Measures or assist in the active response, review, investigation, or resolution of the alleged Prohibited Conduct. EOIX will not share information regarding a report by a Student or Employee with the Complainant’s or Respondent’s parents, guardians, or any Third Party unless required or permitted by the Family Educational Rights and Privacy Act of 1974 (“FERPA”). The University will not release information, including the identity of the Parties, from proceedings under the Procedures except as required or permitted by federal or state law, regulation (including by the terms of a Federal award, i.e., grant award or other funding agreement), or University policy.

A. Confidential Resources

For purposes of these Procedures, 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).

When a Complainant shares information with a Confidential Employee, the Confidential Employee is not required to disclose that information to the AVC for EOIX. The Confidential Employee must, however, provide the Complainant with the AVC for EOIX’s contact information, assist the Complainant in reporting, if desired, and provide the Complainant with information about how EOIX can assist them. Confidential Employees may also share non-identifiable information about reported incidents for statistical tracking purposes or to assist in the development of education and prevention programs.

The following University offices are designated as Confidential Resources under these Procedures:

Center for Advocacy, Prevention and Education (CAPE)

303-871-3853

Cape@du.edu

[CAPE website](#)

University Ombudsperson

303-871-4712

ombuds@du.edu

Health and Counseling Center (HCC)

2240 E. Buchtel Blvd. 3N

Denver, CO 80208

303-871-2205

Info@hcc.du.edu

[HCC website](#)

B. Unauthorized Disclosure of Information

The University will take reasonable steps to prevent and address a Party's unauthorized disclosure of information and evidence that a Party obtains solely through the resolution process under these Procedures. The restrictions regarding a Party's use of information and evidence are set forth in Section XI.B.2.p below. The Parties are authorized to disclose information and evidence for purposes of administrative proceedings or litigation related to the Complaint.

VI. Requests for Accommodations and/or Language Assistance

A Party or Witness may request reasonable assistance or support (i.e., for disabilities or language barriers) to allow their full participation in any process under these Procedures. Employees or Third Parties should contact the ADA Coordinator at ADACoordinator@du.edu. Students with disabilities who seek accommodations to fully access these Procedures should promptly contact [Accessible DU: Student Disability Services](#) at dsp@du.edu to submit a request for such accommodations. Parties or Witnesses needing language assistance should contact EOIX to request such assistance.

VII. Supportive Measures

Supportive Measures are available to a Complainant regardless of whether the matter is reported to the University for purposes of initiating a resolution process (i.e., regardless of whether a Complaint is filed). A Complainant who submits a report solely to request Supportive Measures retains the right to file a Complaint either at the time the Supportive Measure is requested or at a later date.

Supportive Measures may also be requested by and made available to Respondents, Witnesses, and other impacted members of the University community.

Supportive Measures may vary depending on what the University determines to be reasonably available.

Supportive Measures may include, but are not limited to:

1. Assistance in seeking academic adjustments, including modified class schedules (including transfer to another section), permission to withdraw from and/or retake a class or attend a class via alternative means, and extension of assignment deadlines or other course-related adjustments.
2. Assistance in modifying University employment arrangements, including changes in work schedules, job assignments, work locations, and/or assigned parking.
3. Campus escort services and safety planning through Campus Safety.
4. Mutual restrictions on contact between the Parties.
5. Assistance in requesting leaves of absence.
6. Modifications to University housing arrangements, including immediate temporary relocation to alternative living quarters and/or permanent reassignment of University housing.
7. Assistance in arranging a meeting with law enforcement to discuss reporting or safety planning.
8. Assistance in modifying assigned parking.
9. Increased security and monitoring of certain areas of the campus.
10. Trainings and educational programs
11. Other changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative.
12. Any other mechanism which can be tailored to the involved individuals to achieve the goals of these Procedures.

The AVC for EOIX will offer and coordinate Supportive Measures and may consult with other relevant University administrators to determine whether a particular Supportive Measure is appropriate, not unreasonably burdensome, and reasonably available in a particular matter. The AVC for EOIX may coordinate with [Accessible DU: Student Disability Services](#) regarding

Supportive Measures for Students. The AVC for EOIX is responsible for coordinating the effective implementation of Supportive Measures and will serve as the point of contact for any individual requesting Supportive Measures pursuant to these Procedures.

A Party may request to modify or reverse the University's decision to provide, deny, modify, or terminate Supportive Measures applicable to them by submitting a written request to the AVC for EOIX within five (5) Business Days of notification of the decision. The AVC for EOIX or another appropriate and impartial employee other than the employee who implemented the Supportive Measures will review the request and determine whether the decision to provide, deny, modify, or terminate the supportive measures was inconsistent with the University's definition of Supportive Measures. The University will provide a Party with the opportunity to seek additional modification or termination of Supportive Measures applicable to them if circumstances materially change. The Party must submit such a request in writing to the AVC for EOIX.

Witnesses and other members of the University community who have been impacted by the alleged Prohibited Conduct may request Supportive Measures; however, an individual who is not a Party does not have the right to appeal the AVC for EOIX's decision regarding the appropriateness and reasonable availability of a Supportive Measure.

The University will train employees with the authority to modify or reverse a decision to provide, deny, modify, or terminate Supportive Measures.

The University will not disclose information about any Supportive Measures to persons other than the person to whom the Supportive Measure applies unless: (1) necessary to provide the Supportive Measure; (2) necessary to restore or preserve a Party's access to the education program or activity; or (3) unless permitted or required by federal or state law or regulation. This restriction on disclosure includes informing one Party of Supportive Measures provided to another Party.

VIII. Emergency Removal and Administrative Leave

A. Emergency Removal

The University may remove a Student Respondent who is alleged to have engaged in Prohibited Conduct from all or part of its Education Program or Activity on an emergency basis if the University:

1. Undertakes an individualized safety and risk analysis;
2. Determines that an imminent and serious threat to the health or safety of a Complainant or any Students, Employees, or other individual arising from the allegations of Prohibited Conduct justifies removal; and

3. Provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

B. Administrative Leave

The University may place a Respondent who is an Employee on administrative leave from their employment responsibilities during the pendency of a Resolution Process set forth in Section VIII.B, below. The University, in its discretion and based on the totality of the circumstances, will determine whether any administrative leave imposed is to be imposed with or without pay or benefits.

C. Trespass Notices

The University may trespass Third Parties who have been alleged to have engaged in Prohibited Conduct without any rights to the resolution processes described in these Procedures. Members of the University community who host Third Parties may be held accountable for the misconduct of their Third Parties pursuant to applicable University policies.

IX. Advisor

Throughout the entire resolution process, each Party has the right to be assisted by one (1) advisor (who may also be considered a support person) of their choosing. Although the University does not limit a Party's choice of advisor, the University will only communicate with a Party directly and not through an advisor.

An advisor may not:

1. Present information on behalf of any Party;
2. Submit documents on behalf of any Party;
3. Discuss any matter directly with University administrators or Investigator in the absence of the Party they are assisting;
4. Advocate, argue or otherwise represent any Party or position; or
5. Otherwise actively participate in any proceeding.

EOIX will not consider or accept submissions and information from an advisor. If an advisor attempts to present information or submit documents on behalf of any Party, EOIX will notify the Party and provide the Party a reasonable amount of time to submit the information or documents directly; however, EOIX will not extend procedural deadlines for this reason. If the Party elects not to submit the information or documents, EOIX will not consider such information in the investigation or any resolution process under these Procedures.

Where a Party is a Student, prior to an advisor participating in any meeting or receiving any documents as part of any process under these Procedures, the Party must execute a release

pursuant to the Family Education Rights Privacy Act of 1974 (“FERPA”) permitting the University to allow the advisor to have access to the Party’s education records related to the process. The advisor may accompany and be present at any meeting or interview and may consult directly with the Party whom they are assisting, provided that this occurs in a manner that does not disrupt or delay the meeting or interview.

The University expects that the advisor will arrange their schedules to allow them to attend meetings with the Party they are assisting. The AVC for EOIX may grant a request to reschedule a meeting based on an advisor’s schedule if such rescheduling does not create an unreasonable delay.

The University will not allow advisors the opportunity to review any document or to attend any meeting in the absence of the Party they are assisting. 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. Although a licensed attorney is permitted to serve as an advisor at any stage in the process under these Procedures, their participation in the process is subject to the limitations described above.

X. Initial Assessment, Intake, and Consolidation

A. Initial Assessment

When the Office of Equal Opportunity & Title IX receives a report of Prohibited Conduct, the AVC for EOIX will, typically within seven (7) Business Days, conduct an initial assessment of the report in order to determine whether the nature or circumstances of the report are within the scope of these Procedures. The initial assessment may include, as applicable:

1. An evaluation of any immediate health or safety concerns raised in the report, in consultation with the Department of Campus Safety, to determine if the Clery Act requires the Department of Campus Safety to include non-identifying information in the University’s Daily Crime Log and/or to make a timely notification to the University community;
2. A determination whether the conduct alleged in the report, if proved, would reasonably constitute Prohibited Conduct;
3. Consideration whether the Complainant has expressed a preferred method of resolution;
4. A determination whether the University has jurisdiction over the reported conduct, as defined in the Policy and these Procedures; and
5. A determination whether any Supportive Measures are appropriate to address the Complainant’s safety, well-being, and continued access to educational and employment opportunities.

In addition, EOIX will assess whether a report, alone or in combination with other reports, constitutes a hostile environment and will evaluate what measures the University may take to redress the effects of the hostile environment on the University community. EOIX will undertake this assessment regardless of whether the Reporting Party or Complainant responds to outreach.

If the AVC for EOIX concludes that the allegations contained in the report do not fall within the scope of Prohibited Conduct under the Policy, the AVC for EOIX will, as appropriate, refer the matter to the applicable administrator or University unit, provide the Complainant with resources, and/or close the matter. Prior to dismissing a Complaint under this section, the University will make reasonable efforts to clarify the allegations with the Complainant.

B. Intake

If, after the initial assessment, the AVC for EOIX determines that the allegations may reasonably constitute a Prohibited Conduct, the AVC for EOIX may request an intake meeting with the Complainant to discuss the Complainant's options for resolution under the Policy and Procedures. The AVC for EOIX may also request an intake meeting with the Complainant if more information or clarification is needed to make an initial assessment whether the allegations may reasonably constitute Prohibited Conduct. The University may use information gathered during the intake process in any future resolution process.

As part of the intake meeting, the AVC for EOIX will generally, as appropriate:

1. Review the Policy and these Procedures, discuss the options, expectations, and responsibilities of a Complainant, and answer any questions that the Complainant may have;
2. Notify the Complainant of the right to make a report (or decline to make a report) with law enforcement if the conduct may also constitute a crime(s) under applicable state or federal criminal statutes and, if requested, assist the Complainant with notifying law enforcement;
3. Notify the Complainant of the availability of medical treatment to address any physical and mental health concerns and to preserve evidence;
4. Provide the Complainant with information about:
 - a. On-and off-campus resources;
 - b. The available range of Supportive Measures;
5. Provide an explanation of the procedural options, including informal resolution and formal resolutions, and the possibility of Disciplinary Action (for Employees) and/or Outcomes (for Students);
6. Discuss the Complainant's expressed preference for the manner of resolution and any barriers to proceeding in that manner;

7. Explain the University's prohibition on Retaliation; and
8. Explain the Complainant's right to be assisted by an advisor of their choice and the role of the advisor in the resolution process.

Although the University will consider a Complainant's request for anonymity, the University may not be able to fully investigate and respond to a report if the Complainant requests that their name not be disclosed to the Respondent or if the Complainant declines to participate in an investigation. The University will consider Complainant's request for anonymity as one of many factors in determining the appropriate means for resolution of the reported conduct. The University may be unable to honor such a request in certain circumstances in order to adequately fulfill the University's obligations to promote a safe and non-discriminatory environment.

C. Evaluation

The AVC for EOIX will consider the Complainant's expressed preference for the manner of resolution and will seek to honor the Complainant's preferences while also balancing the University's obligation to promote a safe and non-discriminatory environment for all members of the University community.

D. When the Associate Vice Chancellor May Initiate a Complaint

In the absence of a Complaint filed by a Complainant, or when the Complainant withdraws any or all of the allegations in a Complaint, the AVC for EOIX will consider whether to initiate a Complaint alleging Prohibited Conduct after considering, at a minimum:

1. The Complainant's request not to proceed with initiation of a Complaint;
2. The Complainant's reasonable safety concerns regarding initiation of a Complaint;
3. The risk that additional Prohibited Conduct would occur if a Complaint is not initiated;
4. The severity of the alleged Prohibited Conduct, including whether the alleged Prohibited Conduct if established, would require the removal of a Respondent from campus or imposition of another Outcome/Disciplinary Action to end the Discrimination and prevent its recurrence;
5. The age and relationship of the Parties, including whether the Respondent is an Employee;
6. The scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing Prohibited Conduct, or Prohibited Conduct alleged to have impacted multiple individuals;
7. The availability of evidence to assist a decisionmaker in determining whether Prohibited Conduct occurred; and

8. Whether the University could end the alleged Prohibited Conduct and prevent its recurrence without initiating a formal resolution process.

If, after considering these and other relevant factors, the AVC for EOIX determines that the alleged Prohibited Conduct presents an imminent and serious threat to the health or safety of the Complainant or another person, or that the alleged Prohibited Conduct prevents the University from providing equal access to its education program or activity, the AVC for EOIX may initiate a Complaint.

When the AVC for EOIX determines that the University's obligation to promote a safe and non-discriminatory environment requires initiating a Complaint over the Complainant's wishes, the AVC for EOIX will notify the Complainant prior to doing so and appropriately address any reasonable concerns about the Complainant's safety or the safety of others, including by providing Supportive Measures consistent with these Procedures.

Regardless of whether the University or a Complainant initiates a Complaint, or if the Complainant participates in resolution process under these Procedures, the AVC for EOIX will take other appropriate prompt and effective steps to end the Prohibited Conduct and prevent its recurrence within the University's education program or activity.

If the AVC for EOIX determines that the allegations, if proven, would not constitute Prohibited Conduct but would contribute to a hostile environment, the AVC for EOIX will address on-going concerns raised by the Complainant to determine whether Supportive Measures and/or other Remedies are appropriate.

In matters alleging Sex-Based Harassment, when the University is the Complainant, a Reporting Party is treated as a complaining Witness and will only see their statement and be informed of the result of the investigation. The University will not coerce or retaliate against a Reporting Party to persuade them to participate in the investigation.

E. Dismissal of a Complaint

The AVC for EOIX may, in their discretion, dismiss a Complaint, at any time during the Resolution process, for any of the following reasons:

1. The University is unable to identify the Respondent after taking reasonable steps to do so;
2. The Respondent is no longer enrolled or employed by the University;
3. The Complainant notifies the AVC for EOIX in writing of the Complainant's wish to voluntarily withdraw any or all of the allegations in the Complaint, the AVC for EOIX declines to initiate a Complaint under Section X above, and the University determines that, without the Complainant's withdrawn allegations,

the remaining allegations in the Complaint, if any, would not constitute Prohibited Conduct, even if proven; and/or

4. The University determines (after reasonable efforts to clarify have been made, as appropriate) that the conduct alleged in the Complaint would not constitute Prohibited Conduct, if proven.

Upon dismissal of the Complaint or any allegations therein, the AVC for EOIX will promptly provide Written Notice of and the basis for the dismissal to the Complainant. If the dismissal occurs after EOIX has notified the Respondent of the allegations, the AVC for EOIX will also provide Written Notice to the Respondent of and the basis for the dismissal. Either Party may appeal the dismissal of a Complaint as set forth in Section X.E below.

F. Consolidation

The AVC for EOIX may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party, into one investigation when the allegations of Prohibited Conduct arise out of the same facts or circumstances.

Except in matters alleging Sex-Based Harassment involving a Student, the AVC for EOIX may also consolidate a single Complainant or multiple Complainants, a single Respondent or multiple Respondents, and allegations of conduct that is temporally or logically connected.

The AVC for EOIX may, in consultation with other University administrators, elect to consolidate the investigation of Complaints of Prohibited Conduct under these Procedures with complaints of violations of other University policies where the allegations arise out of the same facts or circumstances.

1. For purposes of such consolidation, the Investigator may conduct a single investigation.
2. Following the completion of the investigation, the University may decide, in its sole discretion, whether to proceed with all allegations under these Procedures or whether to proceed with the allegations related to violations of other University policies under the applicable procedures (e.g., the Honor Code).
3. If 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.
4. The University will communicate the chosen course of action to the Parties.
5. The decision to consolidate is not subject to appeal.

XI. Resolution Options

The University provides a number of informal or formal resolution procedures for EOIX to resolve reports. With consideration of the Parties' preferences and in consultation with other University administrators as appropriate, the AVC for EOIX will determine, based on the circumstances of each report and the factors set forth in Section X.E above, which resolution procedure(s) are available and appropriate.

A. Informal Resolution

Informal Resolution is an alternative resolution process that does not include a full investigation or, in the case of Sex-Based Harassment involving one or more Students, a hearing. Informal Resolution includes a spectrum of facilitated, or structured, and adaptable processes between the Complainant, the Respondent, and/or other 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 other community members.

1. Availability of Informal Resolution Process

At any time after receiving a report of alleged Prohibited Conduct and prior to a determination of responsibility for Prohibited Conduct, the AVC for EOIX may offer the Complainant options to pursue an Informal Resolution process, so long as such a process does not conflict with federal, state, or local law.

All Parties must voluntarily consent, in writing, to the Informal Resolution process. The University will not require or pressure the Parties to participate in an Informal Resolution process, nor require the Parties to waive their rights to a Formal Resolution process or the determination of a Complaint as a condition of enrollment, continuing enrollment, employment, or continuing employment, or exercise of any other right. If, during the course of a Formal Resolution process, either Party requests Informal Resolution, the Formal Resolution may be paused or terminated in order to initiate Informal Resolution instead.

The AVC for EOIX has the discretion to determine whether it is appropriate to permit an Informal Resolution process in any particular matter and may decline to permit Informal Resolution despite one or more of the Parties' wishes. Circumstances when the AVC for EOIX may decline to allow Informal Resolution include but are not limited to when the AVC for EOIX determines that the alleged Prohibited Conduct would present a future risk of harm to the Complainant or others in the University community. When offering an Informal Resolution Process under these Procedures, the AVC for EOIX will also take other appropriate prompt and effective steps to confirm that Prohibited Conduct does not continue or recur with the University's education program or activity.

The Parties have the right to withdraw from the Informal Resolution process at any time prior to executing an Informal Resolution Agreement and resume the Formal Resolution process. If either Party withdraws from Informal Resolution before a Complaint has been filed, the Complainant retains the right to file a Complaint and initiate the Formal Resolution process described in Section XI below.

The AVC for EOIX also has the discretion to terminate an Informal Resolution process if, at any time, the AVC for EOIX determines that Informal Resolution is not appropriate to resolve a report or to stop Prohibited Conduct, remedy its impact, or prevent its recurrence.

2. Notice Prior to Commencing Informal Resolution

Before initiating an Informal Resolution process, the AVC for EOIX will issue Written Notice to the Parties disclosing:

- a. The nature of the allegations in the report.
- b. The requirements of the Informal Resolution process, including the circumstances under which the process precludes the Parties from initiating or resuming a Formal Resolution process arising from the same allegations.
- c. The Informal Resolution process is only available if the Parties voluntarily consent in writing. If the Parties voluntarily consent, the University may initiate an Informal Resolution process any time prior to reaching a determination regarding responsibility.
- d. That either Party may withdraw from the Informal Resolution process prior to agreeing to a resolution and may initiate or resume the Formal Resolution process.
- e. The potential terms that may be requested or offered in an Informal Resolution agreement, including but not limited to:

- i. Restrictions on contact; and
 - ii. Restrictions on the Respondent's
 - iii. participation in one or more of the University's programs or activities or
 - iv. attendance at specific events
 - v. Restrictions that the University could have imposed as Remedies or Outcomes had EOIX determined at the conclusion of the Formal Resolution Process that Respondent was responsible for Prohibited Conduct
 - vi. That an Informal Resolution Agreement is binding only on the Parties.
 - vii. What information the University will maintain and whether and how the University could disclose such information for use in a Formal Resolution process if initiated or resumed.
- f. The facilitator for the Informal Resolution will:
- viii. not be the same person as the Investigator or Decisionmaker in the Formal Resolution process
 - ix. be free from conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent
 - x. be trained by the University as set forth in Section XV, below.

3. Conclusion and Finality of Informal Resolution Process

After the Parties have engaged in an Informal Resolution process, reached a resolution, and both Parties have signed an Informal Resolution agreement, and the AVC for EOIX has accepted the result of that process, the resolution is binding and the Parties generally are precluded from initiating or resuming a Formal Resolution process relating to the same allegations of Prohibited Conduct. No Party may appeal a binding resolution reached through the Informal Resolution process. However, a Party's failure to complete the terms of an Informal Resolution as set forth in the Informal Resolution agreement may result in the Office of Equal Opportunity & Title IX commencing or resuming a Formal Resolution and/or referral of that Party to the Office of Student Rights & Responsibilities or the Division of Human Resources & Inclusive Community for appropriate action.

g. For Student Respondents

Informal Resolution will not result in Outcomes through the Outcome Council, but rather terms in an Informal Resolution agreement may include education, coaching, mentoring, voluntary withdrawal, or other action steps that the AVC for EOIX deems appropriate, in consultation with

other University administrators as needed. For Informal Resolutions involving Students, the University division, department, unit, or office responsible for taking action or confirming the Student's action regarding the applicable term set forth in the Informal Resolution agreement, if applicable, must inform the Office of Equal Opportunity & Title IX that such action has been taken.

h. For Employee Respondents

Informal Resolution may result in mandatory requirements in the form of education, coaching, mentoring, or other action steps that the AVC for EOIX deems appropriate, in consultation with the Employee's supervisor, the Division of Human Resources & Inclusive Community, and other University administrators as needed. For Informal Resolutions involving mandatory requirements for University Employees, the Employee or the Employee's supervisor, as applicable, must inform the Office of Equal Opportunity & Title IX that the Employee or the supervisor has completed the required action.

4. Timeframe for Informal Resolution

The University will make a good faith effort to complete the Informal Resolution process within ninety (90) Business Days of the Parties' mutual agreement to enter into Informal Resolution, without jeopardizing the rights of a Party.

B. Formal Resolution Processes

Subject to the restrictions set forth below, the University provides the following mechanisms for the formal resolution of Complaints under these Procedures.

1. Administrative Inquiry
2. Formal Investigation
 - a. Formal Investigation with Determination by Hearing
 - b. Formal Investigation with Investigator Determination

The University will resolve Complaints involving allegations of Sex-Based Harassment where any Party is a Student using the Formal Investigation with Determination by Hearing process.

Where a Complaint alleges only 1) Harassment under the POWR Act (except for Complaints alleging harassment on the basis of sex); or 2) Failure to Inform a Supervisor of a Consensual Relationship, the University will resolve the Complaint through the Administrative Inquiry process.

For all other Complaints, the AVC for EOIX will determine the appropriate Formal Resolution Process in their sole discretion. The AVC for EOIX's determination of the appropriate manner of resolution is not subject to appeal.

1. Administrative Inquiry

The Administrative Inquiry process cannot be used to resolve Complaints of Prohibited Conduct on the basis of sex. Otherwise, the AVC for EOIX may initiate an Administrative Inquiry to gather information and attempt to resolve a Complaint at the earliest stage. Such an Inquiry may include a review of applicable University policies or procedures, division, academic unit or departmental policies and procedures. An Inquiry may also be used to address allegations of Hostile Environment Harassment based on a Protected Status (excluding sex) that may be impacting the educational or employment environment of an individual or group within the University community.

i. Initiation and Notice

Upon the initiation of an Administrative Inquiry, the AVC for EOIX will provide Written Notice of the initiation and the scope of the Administrative Inquiry:

- xi. Where a Complainant(s) and a Respondent have been identified, to the Parties;
- xii. Where a Complainant(s) are identified, but no individual Respondent is identified, to the Complainant(s) and to the leader of the involved unit or campus leadership, as applicable.

j. Process and Determination

As part of an Administrative Inquiry, to determine whether Prohibited Conduct has occurred and whether identifiable individuals or groups are responsible for Prohibited Conduct, the Associate Vice Chancellor for EOIX may interview any Parties and/or Witnesses, gather relevant evidence from the Parties, Witnesses, or other University administrators, review University records, and/or interview Witnesses.

Through the Administrative Inquiry, EOIX may establish one or more of the following that:

- xiii. Prohibited Conduct has or has not occurred;
- xiv. identified individual(s) or group(s) is/are responsible for Prohibited Conduct;
- xv. The allegations in the Complaint do not meet the definition of Prohibited Conduct but have impacted the educational or employment environment of an individual or group that share a Protected Status;
- xvi. No identified individual(s) or group(s) is/are responsible for Prohibited Conduct.

k. Conclusion, Referral, and Remedies

At the conclusion of an Administrative Inquiry, the AVC for EOIX may:

- xvii. Consult with other University officials to determine appropriate Remedies based on the findings of the Administrative Inquiry
- xviii. Refer the matter to an appropriate administrator to implement remedies, including
 - (i) connecting impacted community members to available resources

offering awareness and education programs and trainings to the campus community, including programs addressing the presence and effects of bias on campus.

- xix. EOIX will provide any identified Complainant(s) and Respondent(s) with a Written Notice of conclusion that includes a summary of the steps taken in the Administrative Inquiry, the applicable findings, and any recommendations, referrals, and/or Remedial Measures. Unlike in a Formal Investigation, the Complainant and Respondent do not have the right to review all information gathered through the course of an Administrative Inquiry. The AVC for EOIX has the discretion to redact, remove, or summarize, including, but not limited to, personally identifiable information, personnel records, Witness statements, and other evidence that the Associate Vice Chancellor determines necessary or appropriate.
- xx. If the Associate Vice Chancellor determines that an Administrative Inquiry is insufficient to address resolve the Complaint or that the information gathered indicates that a Formal Investigation is warranted, the Associate Vice Chancellor for EOIX may initiate a Formal Investigation. Information gathered as part of an Administrative Inquiry may be included as evidence in a Formal Investigation.

xxi. If the EOIX finds that alleged Prohibited Conduct has otherwise contributed to a climate of systemic discrimination or finds a Hostile Environment that impacts the educational or employment environment of an individual or group based on a Protected Status, the AVC for EOIX may consult with other University administrators to determine appropriate remedial actions needed to address the situation.

l. Inquiry for the POWR Act

xxii. If the alleged Prohibited Conduct in the Complaint involves solely allegation(s) of Harassment under the POWR Act that are not based on sex, the AVC for EOIX will initiate an Administrative Inquiry to address the Complaint. When conducting an Administrative Inquiry into allegation of harassment under the POWR Act, the AVC for EOIX will consider the following factors to determine the totality of the circumstances, including:

- xxiii. The frequency of the conduct or communication, recognizing that a single incident may rise to the level of harassment;
- xxiv. The number of individuals engaged in the conduct or communication;
- xxv. The type or nature of the conduct or communication, recognizing that conduct or communication that, at one time, was or is welcome between two or more individuals may become unwelcome to one or more of those individuals;
- xxvi. The duration of the conduct or communication;
- xxvii. The location where the conduct or communication occurred;
- xxviii. Whether the conduct or communication is threatening;
- xxix. Whether any power differential exists between the individual alleged to have engaged in harassment and the individual alleging the harassment;
- xxx. Any use of epithets, slurs, or other conduct or communication that is humiliating or degrading; and
- xxxi. Whether the conduct or communication reflects stereotypes about an individual or group or individuals in a protected class.
- xxxii. If the Administrative Inquiry determines that a Respondent is responsible for Harassment under the POWR Act, the AVC for EOIX may consult with other University administrators to determine appropriate Disciplinary Action and Remedial Measures and will refer the matter to the appropriate University official to implement such actions and remedies. Complainant and Respondent will receive a written notice of decision that includes a summary of the steps taken in the Administrative Inquiry, the applicable findings and any recommendations, referrals, and/or Remedial Measures.

2. Formal Investigation

If the AVC for EOIX determines to resolve a Complaint through a Formal Investigation, the AVC for EOIX will designate one or more Investigators from the Office for Equal Opportunity and Title IX and/or an experienced external investigator(s) to conduct a prompt and equitable investigation. Any Investigator chosen to conduct the investigation must be free of any conflict of interest or

bias for or against complainants or respondents generally, or a specific complainant or respondent.

The Parties will have two (2) Business Days from receipt of the names of the Investigator to raise any objection to the Investigator based upon conflict of interest or bias. The AVC for EOIX will assess the circumstances and determine whether to assign a different Investigator to the matter. The Party must object in writing, specifically describe the purported conflict of interest or bias, and provide any evidence to support this concern.

m. Written Notice of Investigation

After the AVC for EOIX determines to initiate a Formal Investigation, the Office of Equal Opportunity & Title IX will notify the Parties in writing that EOIX has initiated an investigation.

The Written Notice will:

- xxxiii. Identify the Policy and the applicable Procedures containing information about the informal and formal resolution processes

- xxxiv. Provide:
 - (a) The identities of the Parties involved (the Complainant(s) and Respondent(s)), if known;
 - (b) the alleged Prohibited Conduct;
 - (c) the date(s) and location(s) of the incident(s), if known
- xxxv. State that Retaliation is prohibited
- xxxvi. State the Parties are entitled to an equal opportunity to access the Relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes the evidence as provided in a Formal Investigation process as set forth in Section ___ below; and if EOIX provides access to an investigative report, the Parties are entitled to an equal opportunity to access the Relevant and not otherwise impermissible evidence upon the request of any Party
- xxxvii. State that the Respondent is presumed not responsible for alleged Prohibited Conduct until a determination regarding responsibility is made at the conclusion of the Formal Investigation process described in Sections ___ below;
- xxxviii. State that prior to the determination of responsibility, the Parties will have an opportunity to present Relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker
- xxxix. Inform the Parties that they may have an advisor of their choice to serve the role set forth in Section IX, and that the advisor may be, but is not required to be, an attorney;
 - xl. Inform Parties who are Students that the Honor Code prohibits intentionally giving false or misleading information to a University official;
 - xli. Identify any other potential violations of other University policies that will be consolidated into the Formal Investigation (if any), and the process for informing the Parties of any additional allegations of Prohibited Conduct that may be added to the Formal Investigation;
 - xl.ii. Identify the assigned Investigator(s);
 - xl.iii. Explain how the Parties may challenge the Investigator(s) for actual bias or conflict of interest;
 - xl.iii. Instruct the Parties to preserve any potentially relevant evidence in any format;

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. If during the course of an investigation, the University decides to investigate additional allegations which are consolidated with the ongoing investigation, 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. If the University has reasonable concerns for the safety of any person as a result of providing this Notice, it may reasonably delay in providing it in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

At any time during the investigation, a Party may request an additional informational meeting to review these Procedures and answer any questions that the Party may have about the Procedures.

n. Participation of Parties and Witnesses

EOIX will provide each Party with written notice of the date, time, location, participants, and purpose of all meetings or proceedings in the Formal Investigation with sufficient time for the Party to prepare to participate. No Party or Witness is required to participate in the Formal Investigation, and the Investigator will draw no adverse inference from a decision by any Party or Witness not to participate. However, if either Party declines to participate or limits the extent of their participation, such decision may limit the ability of the University to thoroughly investigate and resolve the Complaint.

In the Written Notice, the AVC for EOIX will invite each Party to an informational meeting to review these Procedures, discuss the rights and responsibilities of a Party, review the resources available to Parties throughout the Investigation process, and answer any questions that the Party may have. Each Party wishing to participate in an informational meeting before the Formal Investigation begins must complete the informational meeting within five (5) Business Days of the date of notice.

After completing the informational meeting, or upon the expiration of the deadline to have an informational meeting, Complainant and Respondent will be invited to complete an initial interview with an Investigator. The initial interview typically will be completed within ten (10) Business Days of the Investigator's request for an interview, or the investigation will move forward without the initial interview.

The Investigator or AVC for EOIX will grant reasonable extensions of timeframes set forth in these Procedures on a case-by-case basis for good cause with Written Notice to the Parties that includes the reason for the delay.

o. Investigation Procedure

The University, and not the Complainant or the Respondent, has the burden of gathering evidence sufficient to reach a determination regarding responsibility. As noted above, the University will take reasonable steps to protect the privacy of the Parties and Witnesses during the Investigation process. However, in doing so, the University will not restrict the ability of either Party to obtain and present evidence; identify and speak to Witnesses; consult with family members, confidential resources, advisor; or otherwise prepare for or participate in the Investigation or hearing, if any. The University will take reasonable steps to prevent and address the Parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the Investigation.

During the investigation, each Party has an equal opportunity to present fact Witnesses and submit other inculpatory and exculpatory evidence (such as documents, communications, photographs, or other information) that are Relevant, and to suggest questions to be posed to the other Party or Witnesses. The Investigator may ask a Party or Witness to describe the relevance of the information submitted or to provide a description of what Relevant Evidence a proposed Witness is expected to provide. The Investigator has the discretion to determine the appropriate scope of the Investigation. 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. The Investigator will review and has discretion to determine the necessity of interviewing potential Witnesses.

The Investigator will record and transcribe (or arrange for transcription of) all interviews. Each Party or Witness will be given the opportunity to review the transcript of their own interview to correct spelling/grammar or any transcription errors by the deadline set by the Investigator.

xliv. Admissibility of Evidence

(d) Evidence must be Relevant in order to be admissible. Questions must be intended to elicit Relevant evidence.

(e) A Complainant's sexual interests or prior sexual history is not Relevant, and the Investigator will not consider such information during an investigation, provided that in a case involving Sexual Assault the Investigator may consider (a) such evidence when offered to provide that someone other than the Respondent committed the alleged Prohibited Conduct; and (b) evidence concerning specific incidents of the Complainant's prior sexual behavior with Respondent, when offered to prove Consent.

(f) A Party's or Witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the Party or Witness are excluded as evidence unless the University obtains that Party's or Witness's voluntary, written consent to use those records in the Formal Resolution process.

(g) Additionally, personnel records are generally confidential; however, the Investigator may review Relevant personnel records.

(h) If Relevant, the Investigator will summarize the information from the confidential records in the preliminary report for both parties to review, and the Investigator will make available the Relevant portions of such records, with appropriate redactions for the non-sharing Party's review.

(i) The Investigator may seek Relevant information from other University offices, such as course evaluations, course syllabi and schedules, course materials, housing records, swipe card data, parking data, campus video records, as appropriate for the investigation. The Investigator may visit Relevant sites or locations and record observations through written, photographic, or other means.

(j) Evidence that is protected under a privilege as recognized by federal or state law or evidence provided to a confidential employee is inadmissible, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.

(k) The Investigator may consult experts who have no connection to the reported incident when expertise on a specific issue or submitted evidence is needed to gain a fuller understanding of the issue or of the relevance or value of the evidence. In instances where the Investigator plans to consult an expert, prior to such consultation, the Investigator will share the expert's identity with both Parties. The Parties have two (2) Business Days from receipt of the name of the expert to raise any objection to the expert based upon conflict of interest or bias. The AVC for EOIX will assess the circumstances and determine whether to consult a different expert to the matter. The Party must object in writing, specifically describe the purported conflict of interest or bias, and provide any evidence to support this concern.

(l) The Investigator will not accept or consider external investigations or reports from privately hired consultants (including, but not limited to, those conducted by private investigators, polygraph examiners, or any person retained to offer opinions on how available evidence should be interpreted). This prohibition does not apply to external investigators or experts hired or consulted by the University pursuant to these Procedures.

In gathering the facts, the Investigator may consider prior allegations, findings of responsibility for, or similar conduct by the Respondent to the extent that such information is relevant.

xlvi. Conclusion of Investigation/Investigative Report

After each Party has been provided the opportunity to be interviewed and to identify potential Witnesses and other information, and the Investigator has completed Witness interviews and the gathering of evidence, the Investigator will prepare an investigative report that accurately summarizes the Relevant Evidence. The Investigator must conduct an objective evaluation of all Relevant Evidence, including both inculpatory and exculpatory evidence. The investigative report will include, as applicable, the interview transcripts for Complainant, Respondent, and any Witnesses, and either a copy or written summary of any other information the Investigator in their discretion deems Relevant.

The Investigator will concurrently provide the Complainant and Respondent with access to review the preliminary report via the University's chosen cloud storage platform. The Complainant and Respondent have five (5) Business Days from the time they are given access to the preliminary report to submit any comments, feedback, additional documents, evidence,

requests for additional investigation, names of additional potential Witnesses, or any other information they deem Relevant to the Investigator. Each Party may meet with the Investigator to provide this additional information in lieu of or in addition to written comments.

The AVC for EOIX may grant the Parties on a case-by-case basis an extension of the time to review and respond to the investigative report, upon written request by either Party and a showing of good cause for the extension, with Written Notice to the Parties that includes the reason for the extension, and recognizing that such an extension may cause resolution process to exceed the timeframes specified in these Procedures.

If the Investigator receives information from a Party in response to the investigative report that warrants further substantive investigation or review, the Investigator, in consultation with the AVC for EOIX, has the discretion to extend the investigation. If the Investigator extends the investigation, the Investigator will notify the Parties in writing, and any additional relevant information will be incorporated as a supplement to the Investigator's report or as part of the Investigators final report and determination.

3. Determination by Hearing

For matters involving allegations of Sex-Based Harassment under the Policy where either Complainant or Respondent is a Student, determination will be by hearing.

p. Pre-hearing Procedures

The University will appoint a Hearing Officer, who may or may not be a University Employee, to serve as the Decision-Maker at the hearing. The AVC for EOIX will notify both Parties and their advisor of the identity of Hearing Officer at least ten (10) Business Days prior to date of the hearing. The Parties will have two (2) Business Days to submit an objection in writing to the participation of the Hearing Officer based on conflict of interest or bias, with a specific description of the purported conflict of interest or bias and evidence to support the objection.

At least ten (10) Business Days prior to the scheduled hearing, the AVC for EOIX will make available the investigative report and the Relevant Evidence to each Party and their advisor, if any, via the University's chosen cloud storage platform. The University prohibits the Parties and their advisors/support persons from downloading, photographing, copying or otherwise duplicating, sharing, or transmitting the material provided; any use contrary to this prohibition constitutes unauthorized disclosure. If a Party and/or their advisor makes an authorized disclosure, the Party will be referred to the Office of Student Rights & Responsibilities (if the Party is a Student) or the Division of Human Resources & Inclusive Community (if the Party is an Employee).

Each Party may submit a written response, which the AVC for EOIX will submit to the Hearing Officer for consideration at the hearing. A Party must submit the written response, if any, to the AVC for EOIX by the deadline designated by the AVC for EOIX, unless the deadline is extended for good cause as provided in these Procedures. The written responses, if any, will be provided to both Parties prior to the hearing.

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.

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.

Prior to the hearing, the Hearing Officer will review the investigative report and the written responses provided by the Parties, if any. The Hearing Officer has discretion to determine whether to hold a pre-hearing conference. The pre-hearing conference may address issues including, but not limited to:

1. The Witnesses a Party will request to call;
2. The questions a Party would like posed to other Parties and/or Witnesses;
3. Decisions regarding relevance of evidence;
4. The Standards of Decorum applicable to the hearing.

q. Conduct of the Hearing

The Hearing Officer will conduct a live hearing, with all questioning conducted by the Hearing Officer in real time. The hearing will occur in a manner allowing the participants to simultaneously see and hear the Parties, Witnesses, Advisors, and the Hearing Officer.

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.

The Parties may be accompanied to the hearing by one (1) advisor of their choice. The advisor may confer quietly with the Party they are assisting, but are not permitted to ask questions or to present argument on their Party's behalf at any point during the hearing.

The University has standards of decorum for the hearing that apply equally to each Party, Witness or advisor. The Office of Equal Opportunity & Title IX will maintain the standards of decorum and provide the standards of decorum to the parties with the Notice of Hearing.

r. Standard of Evidence

xlvi. The Hearing Officer will make a determination of responsibility using the Preponderance of the Evidence standard.

s. Relevant Evidence Considered

- xlvi. In making a determination of responsibility, the Hearing Officer may only consider Relevant Evidence.
- xlvii. In making a determination of Outcomes or Disciplinary Action, the Outcomes Council and Decision-Maker for Disciplinary Action may only consider Relevant Evidence.
- xlviii. In making a determination of responsibility, the Hearing Officer may only consider Relevant Evidence.
- xlix. In making a determination of Outcomes or Disciplinary Action, the Outcomes Council and Decision-Maker for Disciplinary Action may only consider Relevant Evidence.
- l. The Hearing Officer will not consider:
 - (a) Evidence that relates to the Complainant's sexual interests or prior sexual conduct, unless
 - (i) Evidence about the Complainant's prior sexual conduct is offered to prove that someone other than the Respondent committed the alleged conduct; or
 - (ii) Evidence about specific incidents of the Complainant's prior sexual conduct with the Respondent is offered to prove Consent.
 - (b) Evidence that is protected under a privilege recognized by Federal or State law, or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.
 - (c) The Hearing Officer must not draw an inference about the determination regarding responsibility based solely on a Party's or Witness's refusal to answer questions deemed Relevant and not impermissible. However, the Hearing Officer may choose to place less or no weight upon statements by a Party or Witness who refuses to respond to such questions.
 - (d) If a Party or Witness, after being provided notice, does not appear at the hearing, the hearing will take place in their absence. In such a case, or in the event that a Party or Witness appears at the hearing but refuses to answer questions, the decisionmaker will make its determination using the evidence available. The decision-maker may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions deemed Relevant (and not otherwise impermissible).
 - (e) The Hearing Officer will conduct an objective evaluation of all Relevant Evidence, including both inculpatory and exculpatory evidence.

(f) 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.

(g) 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.

t. Party Statements and Witness Examination

- i. Each Party will have an equal amount of time in which to make a statement of their case.
- ii. The Hearing Officer may ask questions of any Party or Witness. The Hearing Officer will question Parties and Witnesses to adequately assess a Party's or Witness's credibility, to the extent credibility is both in dispute and Relevant to evaluating the allegations of Sex-Based Harassment. Any credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.
- iii. The Parties will have an opportunity to suggest questions to be asked by the Hearing Officer. All Relevant and not otherwise impermissible questions will be asked. The Hearing Officer will determine whether the proposed questions are Relevant and not otherwise impermissible and will not permit questions that are irrelevant or otherwise impermissible. The Hearing Officer will not permit questions that are unclear or harassing and may revise a question or request that the Party clarify their request in order to determine whether the question is proper. The Hearing Officer will explain any decision to exclude a question on the record and will make their decision prior to the question being answered.
- iv. If a Party or Witness refuses to respond to questions that have been deemed Relevant and not impermissible, the Hearing Officer may place less weight or no weight upon the Party or Witness's statements. However, the Hearing Officer will not draw an inference about whether the alleged Prohibited Conduct occurred based solely on a Party's or Witness's refusal to respond to such questions.
- v. After all Witness Examinations have concluded, each Party will have an equal amount of time in which to make a closing statement.

u. Written Determination

- i. After considering the investigative report, including any Party's written response to the investigative report, as well as all Relevant Evidence presented at the hearing, the Hearing Officer will issue a written determination.
- ii. 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 or Decision-Maker for Disciplinary Action with the written determination for purposes of determining Remedies, Outcomes and Disciplinary Action, respectively. The Outcome Council or Decision-Maker for Disciplinary Action will communicate the Remedies, Outcomes and Disciplinary Action to the Hearing Officer, in writing.
- iii. Following the determination from the Outcome Council or Decision-Maker for Disciplinary Action, the AVC for EOIX will provide the written determination simultaneously to the Parties.
- iv. The written determination will include:
 - (a) Identification of the allegations potentially constituting Sex-Based Harassment and the Policy applied;
 - (b) Information about the policies and procedures used to evaluate the allegations
 - (c) The Hearing Officer's evaluation of the Relevant and not otherwise impermissible evidence and determination whether Sex-Based Harassment occurred;
 - (d) A determination regarding responsibility and the specific behaviors for which the Respondent was found to be responsible;
 - (e) Any Disciplinary Actions or Outcomes imposed on the Respondent;
 - (f) Whether any Remedies will be provided to the Complainant, or to the extent appropriate, others.
 - (g) Procedures and permissible bases for the Parties to appeal.
- v. The written determination will become final either on the date that the Parties receive written determination of the result of any appeal, or if no Party appeals, the date on which an appeal would no longer be considered timely.

4. Determination by Investigator

For investigations that do not involve allegations of Sex-Based Harassment where either Complainant or Respondent is a Student, the Investigator will make the determination of responsibility. The Investigator will review all relevant (not otherwise impermissible) evidence, both inculpatory and exculpatory, and reach a determination regarding responsibility pursuant to the standard of proof. The investigator will assess the credibility of the Parties and Witnesses, to the extent credibility is both in dispute and Relevant to evaluating the allegations. Any credibility determinations will not be based on a person's status as a Complainant, Respondent, or Witness.

v. Final Investigative Report

After receiving any comments to the investigative report that are submitted by the Complainant and/or Respondent, or after the comment period has lapsed without receiving comments, the Investigator will address any additional relevant issues, pursue any additional investigative steps as needed, then issue a final investigative report.

The final investigative report will contain all information from the preliminary report, any response to the preliminary report submitted by the Complainant and/or Respondent, and any additional information gathered.

The Investigator will make a determination based on a Preponderance of the Evidence whether there is sufficient evidence to support a finding of responsibility for a violation of the Policy (and, where applicable, any other relevant policies). The final investigative report will include the Investigator's determination, and the rationale for such determination. The Investigator's determination will be based solely on the evidence contained within the final investigative report.

The Investigator will deliver the final investigative report and all attached materials to the AVC for EOIX. The AVC for EOIX will review and approve the final investigative report before releasing the report to the Parties.

The AVC for EOIX will issue a determination letter to the Parties simultaneously, indicating whether or not a Respondent was found responsible for Prohibited Conduct, and will provide the Parties with access, via the University's chosen cloud storage platform, to review the final investigative report and all attached materials. The AVC for EOIX will also send a copy of this letter, and may send the final investigative report, if appropriate, to necessary administrators and supervisors. Where there is a determination of responsibility for Prohibited Conduct, the determination letter will contain information regarding the next steps for Disciplinary Action or Outcomes.

w. Time Frames

To help facilitate completion of the investigation in a timely manner, the University has established time frames for certain components of the investigation. The time frame 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. The University will make a good faith effort to address and resolve Complaints, exclusive of appeals, within ninety (90) Business Days, without jeopardizing the rights of a Party. The University will strive to complete the Formal Resolution process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness. The University will provide regular updates to the Parties of the status of the Formal Resolution.

The Parties have the right to determine whether, and to what extent, they will participate in the Formal Resolution process. However, the resolution process will move forward to the next stage regardless of whether a Party or Witness completes the identified component within the applicable time frame.

Based on extenuating circumstances, a Party may seek an extension of time by submitting a written request to the AVC for EOIX showing good cause. The AVC for EOIX will notify the Parties of any extension granted and the reason for the extension. Where a time frame applies to both Parties, the extension will be given to both Parties.

The University's failure to meet any of the time frames outlined within these Procedures, or to provide Written Notice of the extension of these time frames, shall not be grounds for dismissing any allegations of Prohibited Conduct or for an appeal of any matter, nor shall such failure limit the University's ability to complete an investigation, issue a determination, impose Outcomes, enact Disciplinary Actions, or limit the University's ability to take any other required administrative action under these Procedures.

At the request of law enforcement, the University may agree to temporarily defer all or part of its fact-gathering until law enforcement has completed its initial evidence-gathering phase. The University will nevertheless communicate with the Parties about resources and support, procedural options, anticipated timing, and the implementation of any necessary Supportive Measures to protect the safety, well-being, and continued equal access to a University education program or activity.

XII. Outcomes, Disciplinary Action, and Remedies

If a Respondent is found responsible for Prohibited Conduct, or violation of any other University policies, the following processes address the determination of appropriate Outcomes (if the Respondent is a Student), Disciplinary Actions (if the Respondent is an Employee), and

Remedies.

A. Outcomes

If the Respondent is a Student, and is found responsible for Sex-Based Harassment, the Outcome Council will determine Outcomes and communicate them in accordance with Section XI.3.B.u above. For all other matters, the AVC for EOIX will notify the Chair of the Outcome Council in writing when a finding of responsibility requires convening of the Outcome Council. The AVC for EOIX will provide the hearing determination or the investigation report, as well as all related materials to the Outcome Council.

The AVC for EOIX will notify the Parties in writing when a matter is referred to the Outcome Council and will provide the Parties with the names of the Outcome Council members who will hear the matter. The Parties have two (2) Business Days from receipt of the names of the Outcome Council members to raise any objection to the members of the Outcome Council based upon conflict of interest or bias. The Party must object in writing, specifically describe the purported conflict of interest, or bias, and provide any evidence to support this concern. The AVC for EOIX will assess the circumstances and determine whether to assign a different Outcome Council member to the matter.

The Outcome Council will convene within ten (10) Business Days of receipt of the written determination or investigation report and will determine the appropriate Outcomes for the Respondent and Remedies for the Complainant. The Chair of the Outcome Council may submit a written request to the AVC for EOIX for a reasonable extension upon a showing of good cause, and the AVC for EOIX will provide Written Notice to the Parties of any such extension that includes the reason for the extension. The criteria for selection of the Outcome Council are set forth in the [Honor Code](#).

1. Determining Outcomes

- a. In determining Outcomes, the Outcome Council has the following primary objectives:
 - i. Promoting safety or deterring individuals from similar future behavior;
 - ii. Protecting the University community;
 - iii. Ending the Prohibited Conduct;
 - iv. Taking steps reasonably calculated to prevent the future reoccurrence of the Prohibited Conduct;
 - v. Restoring the Complainant to their pre-deprivation status, to the extent practical and possible.
- b. The Outcome Council considers the following criteria in determining

Outcomes to meet those objectives:

- i. Nature and severity of the Prohibited Conduct;
 - ii. The degree of physical violence (if any) associated with the Prohibited Conduct;
 - iii. Number of Complainants;
 - iv. Number of impacted individuals;
 - v. Prior student conduct history or relevant or related criminal convictions (if known) of the Respondent;
 - vi. Whether the Respondent has accepted responsibility
 - vii. The impact the Prohibited Conduct has had on the Complainant(s), University Community, community members, University and community safety, and University environment;
 - viii. The maintenance of a safe, nondiscriminatory, and respectful living, learning, and working environment; and
 - ix. Any other mitigating, aggravating, or compelling factors.

- c. The range of possible Outcomes includes:
 - i. Status Outcomes, including but not limited to Warning, Probation, Elevated Probation, Suspension, and Expulsion;
 - ii. Educational Outcomes, including but not limited to Reflective Activities, Worksheets, Programs & Activities; Interventions; Restrictions; and Referrals.

- d. The Outcome Council will concurrently notify the Complainant, Respondent, their respective advisor (if any), and the AVC for EOIX in writing of the Remedies and Outcomes determined to be appropriate by the Outcome Council. The Outcome Council determination will provide both Parties with information on their right to appeal pursuant to these Procedures.

B. Disciplinary Action

If the Respondent is an Employee, the AVC for EOIX will notify the appropriate Decision-Maker for Disciplinary Action in writing when a finding of responsibility requires the assignment of

Disciplinary Action. The AVC for EOIX will provide the investigation report and all related materials to the Decision-Maker for Disciplinary Action.

The AVC for EOIX will notify the Parties in writing when a matter is referred to a Decision-Maker for Disciplinary Action and will provide the Parties with the name of the Decision-Maker for Disciplinary Action. The Parties have two (2) Business Days to raise any objection to the Decision-Maker for Disciplinary Action based upon conflict of interest or bias. The Party must object in writing, specifically describe the purported conflict of interest or bias, and provide any evidence to support this concern. The AVC for EOIX will assess the circumstances and determine whether to assign a different Decision-Maker for Disciplinary Action to the matter.

1. The following University officials will serve as Disciplinary Authorities who may determine appropriate Disciplinary Actions:
 - a. 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 and the AVC for EOIX.
 - i. The Respondent's supervisor, or the Division of Human Resources & Inclusive Community, shall determine the Disciplinary Action within ten (10) Business days of receipt of the final investigation report and notify the AVC for EOIX of the Disciplinary Action imposed. If the Respondent's supervisor requires additional time, they shall submit a written request for an extension of time to the AVC for EOIX with a showing of good cause. The AVC for EOIX will inform the Parties simultaneously and in writing of any extensions of time and the reason for the extension.
 - b. 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 and the AVC for EOIX.

- i. The Vice Provost for Faculty Affairs shall determine the Disciplinary Action within ten (10) Business Days of receipt of the final investigation report and notify the AVC for EOIX of the Disciplinary Action imposed. If the Vice Provost for Faculty Affairs requires additional time, they shall submit a written request for an extension of time to the AVC for EOIX with a showing of good cause. The AVC for EOIX will inform the parties simultaneously and in writing of any extensions of time and the reason for the extension. Disciplinary Action involving faculty is further subject to the [Policies and Procedures Relating to Faculty Appointment, Promotion and Tenure](#).
2. In determining Disciplinary Action, the Decision-Maker for Disciplinary Action has the following objectives:
 - a. Promoting safety and protecting the University community;
 - b. Assigning sanctions to Respondents for engaging in Prohibited Conduct and deterring them from similar future behavior;
 - c. Ending Prohibited Conduct;
 - d. Taking steps reasonably calculated to prevent the future reoccurrence of the Prohibited Conduct;
 - e. Restoring the Complainant to their pre-deprivation status, to the extent practical and possible.
3. 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 not limited to:
 - a. The nature of the Prohibited Conduct at issue;
 - b. The degree of physical violence (if any) associated with the Prohibited Conduct;
 - c. The impact of the Prohibited Conduct on the Complainant or University community;
 - d. The Respondent's prior disciplinary history and/or relevant or related criminal convictions (if known);
 - e. Whether the Respondent has accepted responsibility for the Prohibited Conduct;
 - f. Previous University response to similar conduct;
 - g. The maintenance of a safe, nondiscriminatory, and respectful living,

- learning, and working environment; and
 - h. Any other mitigating, aggravating, or compelling factors.
4. 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. Informal or formal coaching;
 - c. Training or education;
 - d. A letter of reprimand placed in a Respondent's personnel file;
 - e. Restrictions on a Respondent's access to University programs or facilities;
 - f. Limitations on merit pay or other salary increases for a specific period; or
 - g. 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.

C. Remedies

1. Remedies are designed to restore or preserve equal access to employment and/or the University's education program or activity.
2. Remedies may eliminate a hostile environment for the Complainant and/or provide safety protections for the Complainant or the University community.
3. Remedies may be disciplinary or punitive.
4. Remedies may include arrangements that were provided as Supportive Measures during the investigation.
5. In the event the Formal Resolution process finds the Respondent responsible for a violation of the Policy, the Outcome Council (for Respondents who are Students) or the Decision-Maker for Disciplinary Action (for Respondents who are Employees), in consultation with the AVC for EOIX and/or other appropriate University officials, will determine appropriate Remedies.

XIII. Appeal

A. Appealable Issues

Either Party may appeal:

1. Dismissal of a Complaint or any allegations therein; or
2. A Written Determination regarding responsibility and Outcomes and Disciplinary Actions as set forth below.
3. No other issue may be appealed.

B. Bases for Appeal

A Party may only appeal on one or more of the following bases:

1. Procedural irregularity that would change the outcome of the matter;
2. New evidence that would change the outcome and that was not reasonably available when the determination regarding responsibility or dismissal of the Complaint was made.
 - 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 AVC for EOIX, Investigator, Hearing Officer, Outcome Council, or Disciplinary Authority had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that would change the outcome of the matter; or
4. Where the Respondent is a Student, the Outcomes imposed are substantially disproportionate to the severity of the violation.

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.

C. Filing an Appeal

If a Party wishes to file an appeal, the Party must submit the appeal to the AVC for EOIX in writing no later than five (5) Business Days after the notice of dismissal of the Complaint or the written determination is sent to the Party.

The written appeal must state with specificity both the issues being appealed and the bases for the appeal.

D. Timeframe for Completion of Appeal

The University will make a good faith effort to complete the appeal within fifteen (15) Business Days of the date the appeal and any response is provided to the Appellate Officer. The AVC for EOIX may extend the timeframe for completion of the appeal on a case-by-case basis following a written request and a showing of good cause. If the timeframe for completion of appeal is

extended, the AVC for EOIX will notify the Parties in writing of the delay or extension and the reasons for the delay or extension.

E. Appeal Procedure

1. After receiving a timely written appeal, the AVC for EOIX will notify the Parties in writing:
 - b. That the appeal was submitted;
 - c. The opportunity for the Party who did not submit an appeal to:
 - i. Review the appeal statement of the other Party; and
 - ii. Submit a written statement in support of or challenging the issues being appealed within five (5) Business Days of the date of the Written Notice of appeal
2. The Appellate Officer shall not be the same person as the decision-makers that reached the determination regarding responsibility or dismissal of the Complaint, the investigator(s), or the AVC for EOIX.
3. The Appellate Officers are as follows:
 - d. For Students, the Vice Chancellor for Student Affairs or designee;
 - e. For Employees who are staff, the Vice Chancellor for Human Resources or designee; and
 - f. For Employees who are faculty, the Provost and Executive Vice Chancellor or designee.
4. The University will notify both Parties of the identity of the Appellate Officer, and the Parties will have two (2) business days from receipt of the name to raise any objection to the participation of the member based on conflict of interest or bias.
5. The Appellate Officer will consider the appeal, including any written statements submitted by the Parties.
6. 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 (if any), and the transcript of the hearing (if any).
7. The Appellate Officer may take one of the following actions:
 - g. Deny the appeal based on not satisfying the Appeal Criteria and uphold the written determination issued following the hearing;
 - h. Accept the appeal in whole or in part based on satisfying the Appeal Criteria and either:
 - i. Send the matter back for supplemental investigation or hearing;
 - j. If the defect cannot be cured through supplemental investigation or hearing, then the Appellate Officer may order a new investigation and/or new hearing, as appropriate;
 - k. Dismiss the Complaint; or
 - l. If the Respondent is a Student, and the Appellate Officer determines

that the Outcomes imposed are disproportionate to the violation, the Appellate Officer may return the matter to the Outcome Council with or without recommendations.

8. The Appellate Officer will prepare a written determination of appeal, which will describe the result of the appeal and the rationale for the result and will provide the written determination to the AVC for EOIX. The AVC for EOIX will provide the written determination of appeal simultaneously to the Parties.
9. The result of the appeal is final.

F. Grievance of Disciplinary Action for Employee

In addition to the appellate rights set forth in Section XIII above, Employees may file a grievance with respect to Disciplinary Action imposed pursuant to Section XII.B in accordance with the following procedures:

1. Faculty members may pursue their applicable rights pursuant to the policies and procedures relating to Faculty Appointment, Promotion & Tenure, where applicable, or pursue a grievance pursuant to the Employee Grievance Procedures applicable to faculty;
2. Staff may pursue a grievance pursuant to the Employee Grievance Procedures applicable to staff; and
3. Employees who are subject to a collective bargaining agreement must pursue their grievance rights pursuant to that agreement.

XIV. Bias and Conflicts of Interest

All officials involved in the resolution of reports of Prohibited Conduct pursuant to these Procedures (ex: the Title IX Coordinator, Deputy Title IX Coordinator, Deputy Equal Opportunity Officer, Director of Investigations, Investigators, Hearing Officers, Disciplinary Authorities, Outcome Council Members, Appellate Officers, and/or Informal Resolution facilitators) must serve without bias or conflict of interest. The University provides training to all individuals serving in these capacities. to confirm that they are free from any conflicts of interest and bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

If any Party has concerns that an official involved in the resolution of a matter may be biased or have a conflict of interest, the Party should share the basis for their concerns with the AVC for EOIX within the time frames described in Sections IX.B.2 and XI.B.3 above. Concerns about the AVC for EOIX should be directed to the Senior Vice Chancellor for Operations and Strategic Initiatives. Officials involved in the resolution of a matter will only be removed for conflict of interest or bias. The AVC for EOIX or the Senior Vice Chancellor will review the Party's concern and determine whether the challenged official should remain involved in the matter. The AVC for EOIX or Senior Vice Chancellor's decision is not appealable.

XV. Training and Qualifications of EOIX Officials

The University will provide annual training to the Title IX Coordinator, Deputy Title IX Coordinator, Deputy Equal Opportunity Officer, Director of Investigations, Investigators, Hearing Officers, Disciplinary Authorities, Outcome Council Members, Appellate Officers, and Informal Resolution facilitators. The University will make these training materials available for inspection upon request. Such requests should be made in writing to the AVC for EOIX. Subject to any restrictions of copyright or other contractual obligations preventing the disclosure of third-party proprietary training materials, these materials will be made available for in-person inspection at a mutually agreed time and place.

A. Investigators and EOIX Staff

The University will provide training to all Investigators and the staff of the Office of Equal Opportunity & Title IX on the following:

1. The scope of the University's Discrimination and Harassment Policy, including but not limited to the definitions of all forms of Prohibited Conduct and the scope of the University's Education Program or activity;
2. The University's EOIX Resolution Procedures;
3. How to conduct investigations and resolutions process that are fair and impartial, including information regarding hearings, appeals, and informal resolution process;
4. How to create an investigative report that fairly summarizes Relevant Evidence;
5. Issues of relevance, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant;
6. How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
7. An explanation of relevant state and federal laws concerning Prohibited Conduct;
8. Options for involving law enforcement; and
9. The effects of trauma on individuals involved in allegations of Prohibited Conduct.

B. Hearing Officers

The University will provide training to Hearing Officers on the following:

1. The scope of the University's Discrimination and Harassment Policy, including but not limited to the definitions of all forms of Sex-Based Harassment and the scope of the University's Education Program or activity;
2. How to conduct a hearing;

3. Issues of relevance, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant;
4. How to serve impartially by, among other things, avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and other relevant issues;
5. The effects of trauma on individuals involved in allegations of Sex-Based Harassment; and
6. Any technology that might be used during a hearing.

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C. Other Personnel

The University will provide training to all other officials involved in the resolution of reports of Prohibited Conduct under these Procedures (including Disciplinary Authorities, Outcome Council Members, Appellate Officers, and Informal Resolution facilitators) on the following:

1. The scope of the University's Discrimination and Harassment Policy, including but not limited to the definitions of all forms of Prohibited Conduct and the scope of the University's education program or activity;
2. How to conduct investigations and hearings;
3. Issues of relevance, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant;
4. How to serve impartially by, among other things, avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and other relevant issues; and
5. The effects of trauma on individuals involved in allegations of discrimination, harassment, and gender-based violence.

D. All Employees

The University will also provide training to all University Employees upon hiring, upon change of position that alters their duties under Title IX, and annually thereafter. This training will include the following:

1. The University's obligation to address Discrimination in the University's education program or activity.
2. The scope of the University's Discrimination and Harassment Policy, including but not limited to the definitions of all forms of Prohibited Conduct and the scope of the University's education program or activity;
3. Employee obligations to report known or suspected incidents of Prohibited Conduct in compliance with the [University's Reporting by University Employees of Disclosures relating to the University's Discrimination and Harassment Policy](#); and

4. Employee obligations to promptly inform Students who report Pregnancy or Related Conditions of the Title IX Coordinator's contact information and Title IX Coordinator's ability to coordinate reasonable modifications to provide the Student equal access to the University's education program or activity.

E. Students

The University will provide training to Students through education and prevention programs for all incoming Students that address:

1. An overview of the University's policies and procedures; relevant definitions, including Prohibited Conduct, and related Retaliation;
2. Discussion of the impact of alcohol and illegal drug use; Consent; safe and positive options for bystander intervention;
3. Review of resources and reporting options available for Students, faculty and staff;
4. Information about risk reduction.

The University's Department of Health Promotion within the Health & Counseling Center provides education and prevention programming and can tailor programming to address specific campus needs and climate. Groups can request trainings by completing an [online request form](#).

XVI. Recordkeeping and Recordings

As set forth in Section IV of the Policy, the University maintains records related to the reporting, review, investigation and resolution of alleged Prohibited Conduct by the Office of Equal Opportunity & Title IX consistent with applicable federal, state, and local laws and regulations and applicable University policies.

The University has the right to make electronic recordings of any meeting, interview, or other proceeding under these Procedures. Parties, Witnesses, advisors/support persons are prohibited from making an electronic recording of any meeting, interview, or other proceeding under these Procedures.

XVII. Miscellaneous

A. Responsibilities of Parties

Throughout their involvement in any process under these Procedures, the Complainant, Respondent, Witnesses, as well as Third Parties, have the following responsibilities:

1. Provide the University with truthful information and operate in good faith with University officials.
2. Not engage in Retaliation or Obstruction against any person who is perceived to have participated in any process pursuant to these Procedures.
3. Notify one's advisor/support person of the time, date, and location of any meeting associated with any process pursuant to these Procedures. The Investigator is not required to reschedule meetings to accommodate the schedule of an advisor.
4. Provide the University with accurate address and other contact information so that notifications are not unduly delayed
5. Promptly open and read any communication from the Office of Equal Opportunity & Title IX, the Office of Student Rights & Responsibilities, or any other University administrator involved in any process pursuant to these Procedures.

B. External Agreements

The University will not recognize or enforce agreements between the Parties outside those contemplated by these Procedures. However, the University will recognize any lawful order of a local, state, or federal law enforcement or similar agency or any lawfully issued protective or other order of a court or similar authority with appropriate jurisdiction.

C. Revision and Amendment

Pursuant to the Policy, the University may, in its sole discretion, update these Procedures at any time for any reason, including as necessary to comply with applicable local, state, and federal laws and regulations, and/or directives from relevant government agencies. Where these Procedures are silent on a procedural issue, and no other applicable policy governs the issue, the AVC for EOIX has the discretion to adopt sound practice.

The University will make such updates subject to approval from the Provost and Executive Vice Chancellor and the Senior Vice Chancellor for Operations and Strategy Implementation. Updates or revisions will be effective upon publication to the University community.