



Office of Institutional Equity

UNIVERSITY OF COLORADO **COLORADO SPRINGS**

Office of Institutional Equity Procedures

Effective January 1, 2019

The University of Colorado Colorado Springs does not discriminate on the basis of race, color, national origin, sex, pregnancy, age, disability, creed, religion, sexual orientation, gender identity, gender expression, veteran status, political affiliation or political philosophy in admission and access to, and treatment and employment in, its educational programs and activities.

The information contained within the Office of Institutional Equity Procedures is intended to provide general information to members of the University community and is not intended to, nor does it, create a contract between the Office of Institutional Equity or University of Colorado Colorado Springs and community members. The Office of Institutional Equity reserves the right to change or eliminate any of the language herein at its discretion and without notice.

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I. Overview and Mission Statement of the Office of Institutional Equity

The Office of Institutional Equity (OIE) was created to address all complaints of sexual misconduct and protected class harassment and discrimination, whether against a student, employee, or third-party. The OIE's mission is to create and foster a safe, inclusive, and accessible environment. The Director of Institutional Equity is also the campus Title IX Coordinator and reports directly to the Chancellor. The OIE implements and enforces the following policies:

- 1) University of Colorado (CU) Administrative Policy Statement (APS) 5014: Sexual Misconduct, Intimate Partner Abuse and Stalking
- 2) University of Colorado Colorado Springs (UCCS) Policy 300-017: Discrimination and Harassment
- 3) University of Colorado (CU) Administrative Policy Statement (APS) 5015: Conflict of Interest in Cases of Amorous Relationships

The University of Colorado Colorado Springs (UCCS or University) is committed to preventing discrimination or harassment based on race, color, national origin, pregnancy, sex, age, disability, creed, religion, sexual orientation, gender identity, gender expression, veteran status, political affiliation, or political philosophy. The OIE is responsible for addressing allegations of any form of related retaliation as prohibited by University policies, state laws, and federal laws.

To achieve this mission, the OIE conducts fair and unbiased investigations and treats all individuals who seek our assistance with respect and dignity. We also make referrals for remedial or protective measures as necessary, and provide educational trainings for all members of the University community.

II. Purpose and Scope

The OIE Procedures (Procedures) are intended to comply with the related requirements of the following federal and state laws, their implementing regulations, and related agency guidance, including:

- Equal Pay Act of 1963
- Civil Rights Act of 1964
- Title IV o Title VI o Title VII
- Title IX of the Education Amendments (1972)
- Rehabilitation Act (1973) (Sections 503 and 504) 4
- Vietnam Era Veterans Readjustment Assistance Act (1974)
- Age Discrimination Act (1975)
- Age Discrimination in Employment Act (1976)
- Pregnancy Discrimination Act (1978)
- Americans with Disabilities Act of 1990 (Amendments Act of 2008)
- The Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (1991)
- Violence Against Women Act (1994)
- Uniformed Services Employment and Reemployment Rights Act (1994)
- The Violence Against Women Reauthorization Act of 2013
- Colorado Anti-Discrimination Act (1979)

The Procedures are also intended to be the “campus investigation/adjudication process” pursuant to the University of Colorado Sexual Misconduct, Intimate Partner Abuse and Stalking Policy; the University of Colorado Conflict of Interest in Cases of Amorous Relationships Policy; and the University of Colorado Colorado Springs Discrimination and Harassment Policy. This document should be read in conjunction with those policies. The Procedures are also sometimes referred to as “grievance procedures.”

III. Jurisdiction

- 1) The OIE Procedures govern all students, faculty, staff, contractors, patients, volunteers, affiliated entities and other third parties. For specific jurisdiction provisions, please see the Applicable Policies.¹
- 2) The University has jurisdiction to conduct at least a preliminary inquiry to determine whether the alleged conduct occurred in the context of, or has continuing effects on (as provided for example, in APS 5014 Section III(H)(2)-(3)), a University program, activity or employment (as provided for example, in APS 5014 Section III(H)(2)-(3)).
- 3) Actions taken under the Procedures are separate and apart from any law enforcement or other court process or proceeding, such as a civil lawsuit or criminal prosecution, that may relate to the same underlying factual incident. The OIE’s jurisdiction does not depend on whether criminal charges are filed. Formal adjudications or other case resolutions conducted by the OIE are not postponed while criminal or civil proceedings are pending unless there are extenuating circumstances, as determined by the OIE. Dismissal of criminal charges or acquittal in a criminal case does not prevent the OIE from resolving an incident.
- 4) There is no time limitation for reporting a concern to the OIE or for the OIE to address matters described within this document. If the alleged conduct is reported to have occurred prior to the effective date of the current Applicable Policies, the OIE will apply the policy that was in effect at the time the alleged conduct reportedly occurred, to the extent the policies differ in defining prohibited conduct. However, regardless of the policy in force at the time the conduct is alleged to have occurred, the OIE’s procedural response to the report will be governed by the current Procedures.
- 5) After proper notice as provided for in this document, the failure of an individual to appear and/or respond to the OIE does not prevent the OIE from proceeding with or completing the applicable process.
- 6) For employees, any matters falling outside the scope of the Applicable Policies shall be addressed by the appointing/disciplinary authority. For students, the Office of the Dean of Students (DOS) has jurisdiction for all other student conduct matters not listed herein. In the event that there are multiple potential charges or alternative investigation/resolution options, OIE and the disciplinary authority shall have the discretion to jointly determine the most appropriate way to proceed. Options include concurrent investigations, joint investigations, deferring to the findings of one office, or using the investigation and findings of one office as the basis of further investigation by the other.
- 7) When an alleged violation involves more than one University of Colorado campus, the complaint shall be resolved by the campus with the disciplinary authority over the respondent. The campus responsible for the resolution process may request the involvement or cooperation of any other affected campus and should advise appropriate officials of the affected campus of the progress and results of the resolution process.

¹ Applicable Policies: Conflict of Interest in Cases of Amorous Relationships (APS 5015); Sexual Misconduct, Intimate Partner Abuse and Stalking (APS 5014); UCCS Policy 300-017 Discrimination and Harassment Policy.

- 8) University employees and students sometimes work or study at the worksite or program of another organization affiliated with the University. When a violation is alleged by or against University employees or students in those circumstances, the complaint shall be addressed as provided in the affiliation agreement between the University and the other entity. In the absence of an affiliation agreement or a provision addressing this issue, the University may, at its discretion, choose to 1) conduct its own resolution process; 2) conduct a joint resolution process with the affiliated entity; 3) defer to the findings of a resolution process by the affiliated entity where the University has reviewed the resolution process and is satisfied that it was fairly conducted; 4) use the resolution process and findings of the affiliated entity as a basis for further investigation or adjudication; or 5) take other action as determined appropriate by the Director of Institutional Equity or designee.
- 9) Conduct alleged to have occurred before an individual became a student, faculty, staff, contractor, patient, volunteer, or affiliated entity with UCCS may be addressed through applicable support and/or educational measures as determined by the Director of Institutional Equity or designee, if the alleged conduct adversely effects equal access to employment or education for any current UCCS community members.

IV. Reporting

Call 911 or Campus Police (719-255-3111) in an emergency or if you have an immediate safety concern.

Please note, many University employees, including some student employees, are considered responsible employees (See Section VI). Please see reporting options below for University, law enforcement, and confidential reporting options.

For a full list of reporting options, please refer to our website at: www.uccs.edu/equity

Reporting Options

A. University/OIE

To notify the University and initiate the OIE resolution process regarding any of the prohibited conduct as listed in Section VII you may:

- Call OIE: (719) 255-4324
- Email OIE: equity@uccs.edu
- Contact us directly at:

Amanda Allee
Director of Institutional Equity
Title IX Coordinator
aallee@uccs.edu
719-255-3834

Laura Emmot
Investigator
Office of Institutional Equity
lemmot@uccs.edu
719-255-3725

To encourage student reporting, minor infractions, by the student complainant, the student respondent, or student witnesses, will not be subject to disciplinary action under the Student Code of Conduct. The goal of this policy is to remove potential barriers to student reporting.

Even if a complainant chooses not to report formally and/or chooses not to participate in the process (through OIE or law enforcement), the complainant can contact the OIE for information and assistance accessing on- or off- campus support services as set forth in Section X and to access available remedial and/or protective measures as set forth in Section VIII.

B. Law Enforcement

- UCCS Police Department
 - Location: 2nd floor of Gateway Hall
 - Phone: 719-255-3111
 - Website: <http://www.uccs.edu/pusafety>
- Colorado Springs Police Department
 - Location: 705 S. Nevada Avenue, Colorado Springs, CO 80903
 - Phone: 719-444-7000 (non-emergencies)
 - Website: <https://coloradosprings.gov/police-department>
- El Paso County Sheriff's Department
 - Location: 27 E Vermijo Avenue, Colorado Springs, CO 80903
 - Phone: 719-520-7100
 - Website: <http://shr.elpasoco.com/>

Individuals are not required, but do have the right, to file a criminal complaint with law enforcement and the University/OIE simultaneously. The OIE can assist in reporting to law enforcement for complainants alleging misconduct that is also a criminal offense.

Please note that it is important to preserve evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order. Regardless of whether or not an individual wants to report an incident(s), it is important to preserve any evidence of the sexual assault (or other misconduct) so that if an individual decides at any point in time to report the incident, that evidence is still available. Examples of evidence to preserve include, but are not limited to: the clothing the individual was wearing, bedding, text message correspondence discussing the assault (either with the accused or with friends or family), photographs, screenshots, emails, social media correspondence/posts (Facebook, Tinder, Snapchat, Instagram, Grindr, etc.), correspondence via other messaging applications (Whatsapp, Kik, GroupMe, WeChat etc.), video surveillance², and/or names of witnesses and contact information.

Regardless of an individual's intent to report the assault to the police, a medical exam can be done to preserve evidence. The Sexual Assault Nurse Exam (SANE) program at the Emergency Room at UHealth Memorial Central (1400 E Boulder St, Colorado Springs, CO 80909) is

² Please note that the University's ability to collect video surveillance from University cameras and/or student ID access card swipes may be limited due to the timeframe in which the allegation is reported to OIE. If you do not want to report an allegation, but you believe there is relevant video footage that you would like the University to preserve, please contact the OIE to discuss this option.

available to conduct a SANE exam, ideally within five days of the sexual assault. It is best if the individual does not bathe, shower, eat, drink, douche, or change clothes. However, evidence can be collected if you have done any or all of these things. More information about the SANE exam can be found here: [Wellness SANE Website](#).

Please note that if some or all this evidence is unavailable or does not exist, you are still encouraged to report a sexual assault. The lack of evidence does not preclude an investigation from taking place.

Reporting to the UCCS Police will constitute notice to the University/OIE and may result in an OIE resolution process, subject to applicable state law. In some instances, the OIE is obligated to report the alleged conduct to the appropriate law enforcement agency. In those instances, the OIE will make a reasonable effort to notify potential complainants prior to reporting to law enforcement.

C. Confidential Reporting

If an individual is not sure about initiating a University resolution process or making a police report, the person can receive free, confidential information and services through the following resources:

Students:

The University Wellness Center at the University of Colorado Colorado Springs at (719) 255-4444.

For more information about the Wellness Center, please visit:
<https://www.uccs.edu/recwellness/wellness>

Staff

All employees of UCCS can obtain confidential services through the Colorado State Employee Real Help Hotline: (833) 533-CHAT (2428). Additionally, some staff may be eligible for the state Employment Assistance Program (EAP).

Visit <https://www.uccs.edu/hr/resources> or contact Human Resources for additional information on EAP.

V. Support Services and Assistance

When an individual notifies the OIE (either directly or through a responsible employee, advocate, third party or other) that they have experienced conduct prohibited by the Applicable Policies, the OIE will provide referral information as needed (whether or not there is a formal report or participation in a formal adjudication) in accessing on- and off-campus services, including but not limited to counseling, health services, mental health services, victim advocacy, visa and immigration services, and/or forensic sexual assault nurse exams (“SANE”). For a written summary of options and resources available to any complainant of sexual misconduct, please refer to our website: www.uccs.edu/equity

If a student or employee requires an accommodation to participate in an investigation (such as an accessible meeting location or a sign language interpreter) under the UCCS Disability Access and Accommodation Policy 300-021, that student or employee should contact the OIE to request such accommodation.

A. Orders of Protection, No Contact Orders, Restraining Orders, or Similar Lawful Orders

Individuals who are interested in obtaining an Order of Protection, or any other order issued by a court, must pursue those options on their own behalf. Restraining orders are obtained through the El Paso County Courthouse. More information on obtaining a restraining order in Colorado is located at <http://www.courts.state.co.us/userfiles/File/Media/Brochures/restraining.pdf>. UCCS complies with Colorado law in recognizing orders of protection. Any person who obtains an order of protection from Colorado or any other state should provide a copy to the UCCS Police Department and the OIE.

The University may issue a “no-contact” order to a participant in an OIE resolution process. These “no-contact” orders are separate from an Order of Protection issued by a court. OIE is responsible for determining if a no-contact order has been violated and will make referrals to the disciplinary authority for disciplinary action. The OIE may also inform University Police. The University also may issue exclusion orders, pursuant to Regent Law Article 14.B.6. UCCS Police also may issue advisements to limit contact with a specific individual(s). UCCS Police are responsible for enforcing all exclusion orders and advisements.

VI. Privacy, Confidentiality, and University Obligation to Provide a “Safe and Non-Discriminatory Environment”

**Privacy and confidentiality have distinct meanings.*

A. Privacy

Privacy generally means that information related to a report of prohibited conduct will be shared with a limited number of individuals who “need to know” in order to assist in the active review, adjudication, resolution of the report, and related issues. All University employees who are involved in a potential response receive specific training and guidance about safeguarding private information in accordance with applicable laws.

The privacy of student education records will be protected in accordance with the University’s policy for compliance with the Family Educational Rights and Privacy Act (FERPA) and state law protections. Access to personnel records is restricted in accordance with University policy and state law.

B. Confidentiality

Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other person without express permission of the individual, or as otherwise permitted or required by law. Those campus and community professionals who have the ability to maintain confidential relationships include health care providers, mental health professionals, designated victims’ advocates, attorneys, and ordained clergy, all of whom

normally have privileged confidentiality that is recognized by Colorado state law. These individuals are prohibited from breaking confidentiality unless 1) given permission to do so by the person who disclosed the information; 2) there is an imminent threat of harm to self or others; 3) the conduct involves suspected abuse of a minor under the age of 18; or 4) as otherwise required or permitted by law or court order.

The University supports the use of confidential resources as listed in Section IV so that complainants can provide information confidentially and still receive remedial and/or protective measures as necessary through the Director of Institutional Equity or designee. Communications with these confidential resources are confidential to the extent permitted by statutory law. Confidential resources are not considered “responsible employees” for mandatory reporting purposes.³

C. Responsible Employees

If an individual discloses an incident to a Responsible Employee who by definition is a mandatory reporter, but the individual wishes to maintain privacy and requests that no resolution process be pursued, that no disciplinary action be taken, or that the allegation not be reported to law enforcement, the responsible employee remains required to report all relevant information to the OIE, who will explain that the University prohibits retaliation and that the University will not only take steps to prevent retaliation, but will also take strong responsive action if it occurs. A Responsible Employee does not satisfy the reporting obligation by reporting to supervisor or University personnel other than the OIE or a designee approved by Director of Institutional Equity. Any Responsible Employee who witnesses or receives a written or oral report alleging that a member of the University community has been subjected to or has committed an act of sexual misconduct must promptly report the allegations to the Title IX Coordinator or designee.

D. Determination Regarding Obligation to Provide a Safe and Non-Discriminatory Environment and Consideration of “Override Factors”

If an individual has disclosed an incident of misconduct, but wishes to maintain privacy or requests that no investigation be conducted or disciplinary action taken, the Director of Institutional Equity or designee will explain that the University prohibits retaliation, explain the steps the University will take to prevent retaliation if the individual participates in a resolution process, and that the University will take responsive action if it occurs.

If, having been informed of the University’s prohibition of retaliation and its obligations to prevent and respond to retaliation, the individual would still like to maintain privacy or requests that no investigation be conducted or disciplinary action taken, the Director of Institutional Equity or designee will weigh that request against the University’s obligation to provide a safe, non-discriminatory environment for all students, faculty, and staff. In making that determination, the Director of Institutional Equity or designee will consider a range of potential overriding factors that would cause the campus to address the alleged conduct, formally or informally, despite complainants request or without the complainants participation.

³ Also see Administrative Policy Statement (APS) 5014: Sexual Misconduct, Intimate Partner Abuse and Stalking, Sections III.E.3.e-f.

Override Factors

- 1) The risk that the alleged perpetrator will commit additional acts of misconduct or other violence;
- 2) The seriousness of the alleged misconduct, including risk of repeat incident, whether the respondent threatened further misconduct or other violence against the complainant or others, whether the alleged misconduct was facilitated by the incapacitation of the complainant, or whether the respondent has been found responsible in legal or other disciplinary proceedings for acts of misconduct or other violence;
- 3) Whether the alleged misconduct was perpetrated with a weapon;
- 4) Whether the complainant is a minor;
- 5) Whether the University possesses means other than the complainant's testimony to obtain relevant evidence of the alleged misconduct (e.g., security cameras, personnel records, or physical evidence); or
- 6) Whether the alleged misconduct reveals a pattern of perpetration at a given location or by a particular group.

The decision to proceed with a resolution process or other action despite the complainant's request that no resolution process or action proceed, will be conducted on a case-by-case basis after an individualized review.

Nothing in this section limits the Director of Institutional Equity or designee from responding to the alleged conduct in a manner other than adjudication, that the Director of Institutional Equity or designee may determine is appropriate under the circumstance, for example with informal resolution, referral to other offices, or consulting with other University officials as appropriate, including, but not limited, to the UCCS Police Department, the Student Response Team, or the Faculty/Staff Response Team. Additionally, nothing in the override analysis limits the authority of a disciplinary authority to initiate or impose disciplinary action as necessary.

If the University honors the complainant's request for privacy, the University's ability to meaningfully investigate the incident and pursue disciplinary action, if appropriate, may be limited.

The Director of Institutional Equity or designee may also determine that a report to the police may be warranted given the factors above despite a complainant's request for privacy. The OIE will consider the range of factors listed above in making the determination to report to law enforcement. In those instances, the OIE will make a reasonable effort to notify potential complainants prior to reporting to law enforcement.

VII. Prohibited Conduct

- 1) **Sexual Misconduct, Intimate Partner Abuse and Stalking Policy⁴**, which prohibits sexual assault – non-consensual sexual intercourse, sexual assault – non-consensual sexual contact, sexual exploitation, intimate partner abuse (domestic and dating violence), stalking, and sexual harassment.

⁴ [Sexual Misconduct, Intimate Partner Abuse and Stalking Policy \(APS 5014\)](#).

- 2) **Discrimination and Harassment Policy**⁵, which prohibits discriminating and/or harassing on the basis of one or more protected classes of race, color, national origin, sex, age, disability, creed, religion, sexual orientation, gender identity, gender expression, pregnancy, veteran status, political affiliation and/or political philosophy.
- 3) **Conflict of Interest in Cases of Amorous Relationships Policy**⁶, which requires that direct evaluative authority not be exercised in cases where amorous relationships exist or existed within the last seven years between two individuals, whether faculty members, students, administrators, or staff, whether of the same or opposite sex.

Under the Sexual Misconduct, Intimate Partner Abuse and Stalking Policy and the Discrimination and Harassment Policy, the OIE may also address the following allegations:⁷

- 4) **Failure to Report:** The University will administer the applicable policies in a manner that promotes the reporting of misconduct and avoids disciplinary actions when Responsible Employees conscientiously discharge their reporting obligations. A failure to report an allegation of misconduct shall result in a violation of the Applicable Policies only if the Responsible Employee(s) received information that a member of the University community was subjected to or committed an act of misconduct and intentionally, knowingly, or recklessly disregarded the obligation to report, thus resulting in harm to a member of the University community.
- 5) **Retaliation:** The University of Colorado will not permit retaliation against a member of the University community who has indicated intent to file or has filed, supported, or provided information in connection with a complaint of misconduct. Retaliation means adverse educational or employment actions, including direct or indirect intimidation, threats, and harassment, taken against a member of the University community because of their protected activities. An adverse educational or employment action is any conduct that would dissuade a reasonable person from reporting an allegation of misconduct or participating in a resolution process.
- 6) **Providing False or Misleading Information:** Providing false or misleading information related to misconduct is contrary to the purposes of the Sexual Misconduct, Intimate Partner Abuse and Stalking Policy and the Discrimination and Harassment Policy. Members of the University community must provide reports of misconduct in good faith. A person who knowingly or recklessly alleges a false complaint of misconduct or knowingly or recklessly provides false information during the course of an investigation violates the Applicable Policy. Making a report or providing information in good faith, even if the facts alleged in the report are not later substantiated, will not constitute providing false or misleading information.
- 7) **Interference with Reporting:** No member of the University community may prohibit or interfere with a Responsible Employee or any other person reporting misconduct to the Director of Institutional Equity or a designee.

⁵ [UCCS Discrimination and Harassment Policy](#)

⁶ [Conflict of Interest in Cases of Amorous Relationships \(APS 5015\)](#).

⁷ These provisions are already contained with the Sexual Misconduct, Intimate Partner Abuse and Stalking Policy (APS 5014).

- 8) **Failure to Comply with Orders and Sanctions:** Subject to any rights of appeal, members of the University community must comply with orders of the OIE or other appropriate University officials related to the Applicable Policy, including but not limited to University issued No-Contact Orders, exclusion orders, and summary suspension. Subject to any rights of appeal, members of the University community must abide by and complete sanctions related to the applicable misconduct.

VIII. OIE Resolution Procedures

The University will be responsive to any report or complaint of “Prohibited Conduct” as listed in Section VII and is committed to providing prompt, fair, impartial, and equitable resolutions of any complaint that the University knows, or in the exercise of reasonable care, should have known about. The primary concern is the safety of all University community members. The University will take steps to prevent recurrence of any prohibited conduct and remedy discriminatory effects on the complainant and others, if appropriate. The following procedures will apply to resolution of all reports or complaints of prohibited conduct.

A. Overview of Resolution Process:

The University has jurisdiction to conduct at least a preliminary inquiry upon receiving a report or complaint alleging prohibited conduct. A preliminary inquiry may include, but is not limited to, evaluating whether the complaint implicates a policy enforced by the OIE, whether the complaint and parties are within the jurisdiction of the OIE, and whether the complaint presents a safety threat such that OIE must report the concern to law enforcement. The OIE shall then determine the most appropriate means for addressing the report or complaint. Options include, but are not limited to:

- 1) Formal Adjudication. See Section VIII. Subsection D.
- 2) Informal Resolution. See Section VIII. Subsection H.
- 3) Threshold Not Met. Determining that the OIE does not have jurisdiction based on policy or procedural guidelines, or determining the facts of the complaint or report, even if true, would not constitute a violation of the Applicable Policies, and closing the matter following a preliminary inquiry. When determining a complaint does not fall within the jurisdiction of the applicable policies, the complainant will be referred to appropriate office(s) on campus best situated to address the reported concerns.
- 4) Informational. At complainant request, or based on information available through preliminary inquiry, the OIE may close a case by documenting the incident and providing the appropriate resource referrals and remedial or protective measures.
- 5) No Limitation on Existing Authority. Referring the matter to an employee’s disciplinary authority or supervisor does not limit the authority of a disciplinary authority to initiate or impose disciplinary action as necessary.

B. Remedial and Protective Measures

The University will implement reasonably available measures to protect parties and facilitate the parties’ continued access to University employment or education programs and activities at any stage of the process as applicable and determined by the appropriate University official.

Such measures may be both **remedial** (designed to address well-being and continued access to educational opportunities or employment) or **protective** (actions taken to ensure safety of the parties and/or community).

Whether remedial and/or protective measures are appropriate is determined after an individualized assessment, making every effort to avoid depriving any student of educational access.

Remedial measures are available regardless of the resolution process pursued or level of participation by the parties. Protective measures, which may involve restricting access or the rights of a respondent, require sufficient factual basis to impose and may require a formal adjudication.

The Director of Institutional Equity or designee will maintain oversight of remedial and protective measures. The Director of Institutional Equity or designee will make appropriate referrals for determination and implementation of remedial or protective measures based on all available information. The OIE will maintain records regarding the provision of any such measures. The University will address any violations of remedial or protective measures.

Remedial or protective measures, which may be available, include but are not limited to:

- Academic services, such as arranging for a party to re-take a course, excuse related absences, or withdraw from a class without penalty
- Accessing medical services
- Accessing counseling services
- Employment modifications
- Transportation changes
- No-Contact Orders enforced by the University
- Discussing options for obtaining criminal or civil protection or restraining orders
- Residential relocations for students currently residing on-campus
- Interim exclusion orders (for parts of or entire campus)
- Summary student suspension. See Student Code of Conduct
- Administrative leave for employees in consultation with Executive Director of Human Resources or designee and appointing/disciplinary authority
- Temporary suspension of supervisory or evaluative authority for employees in consultation with Executive Director of Human Resources or designee and appointing/disciplinary authority

The University will maintain the parties' respective privacy regarding any remedial or protective measures provided to the extent practicable and will promptly address any violation of the support measures. These measures may be kept in place until the end of an adjudication, may be lifted or modified as additional information is presented, or may be extended permanently as appropriate.

C. Investigators

Investigations will be conducted by staff who are appropriately trained and have qualifications and experience that will facilitate a prompt, fair, equitable and impartial investigation. The OIE investigators shall receive annual training on issues related to sexual assault, intimate partner abuse, stalking, sexual harassment, protected class discrimination and harassment, and retaliation.

1. Outside Investigators:

The OIE may also designate other individuals (either from within the University, including an administrator, or from outside the University) to conduct or assist with an investigation or to manage an alternative dispute resolution process. Circumstances which may warrant such outside resolutions include, but are not limited to, conflict of interest, allegations of bias, or workload. The Director of Institutional Equity or designee retains the discretion to determine whether the use of outside investigator(s) is warranted and reasonable given the circumstances and information available and known at the time. Outside investigators shall have adequate training, qualifications and experience that will, in the judgment of the OIE, facilitate a prompt, fair, and impartial investigation or alternative resolution. Any outside investigator designated to address an allegation must adhere to the requirements of the Procedures and confer with the Director of Institutional Equity or designee on a regular basis about the progress of the investigation.

D. Formal Adjudication

The OIE may resolve a report of alleged misconduct through the Formal Adjudication process when the alleged misconduct, if true, would be prohibited under the Applicable Policies. The OIE may decline to pursue a formal adjudication if 1) a complainant has requested that a formal adjudication not be pursued, and 2) the OIE has determined that the complainant's request can be honored consistent with the University's obligation to provide a safe and non-discriminatory environment (see Section VIII. Subsection A).

1. Overview and Participant Rights

The OIE is committed to providing a prompt, fair and impartial resolution of all complaints referred for formal adjudication. A formal adjudication can include three stages: Investigation, Sanction, and Appeal, as applicable and described below.

Investigators interview the complainant(s) and the respondent(s) separately and provide each party the opportunity to be heard and to respond. Investigators also review additional evidence as available including, but not limited to, conducting witness interviews, gathering documentation, and reviewing video surveillance footage.

The complainant(s) and the respondent(s) shall each have the right to:

- 1) An adjudication conducted by trained officials who do not have a conflict of interest or bias for or against the complainant(s) or respondent(s). An official shall recuse from participating in an adjudication in those instances where the official believes that their impartiality might reasonably be questioned by an independent, neutral observer due to the official's personal bias or prejudice against the complainant(s) or respondent(s), or where the official has a personal or professional relationship with one of the parties that would adversely affect the official's ability to serve as an impartial finder of fact;

- 2) Remedial or protective measures to be provided before adjudication or while adjudication is pending. These measures, when determined to be appropriate and reasonably available are intended to maintain the educational or employment environment as described in section VIII. Subsection B;
- 3) Receive notice before they participate in an interview with sufficient time to prepare for meaningful participation;
- 4) A process with reasonably prompt timeframes, with extensions for good cause, as discussed further below;
- 5) Present relevant information to the Investigator(s), including evidence and identifying witnesses;
- 6) Have an advisor of their choosing, including an attorney, advocate, or other person who is not a potential witness in the investigation or could otherwise compromise the investigation, provide support and advice to the individual throughout the Formal Adjudication process. This includes, but is not limited to being present for any meetings with OIE personnel. The advisor may not engage in any conduct that would constitute harassment or retaliation against any person who has participated in an investigation, and may be denied further participation for harassing or retaliatory conduct;
- 7) Timely and equal access to any relevant information, including witness identities (when applicable) and relevant information provided by complainant(s), respondent(s), witnesses, and other documentation gathered during the investigation, unless the University is legally prohibited from disclosing the information to a party;
- 8) Submit questions to the Investigator(s) to be asked of the other party or witnesses. Parties will be allowed *five (5) days* from the date of their interview to submit questions. Investigators will address all relevant questions and provide an explanation as to any decision to exclude questions as not relevant. (See Section VIII. Subsection D.);
- 9) Review and respond to a Written Evidence Summary (see Section VIII. Subsection D.2.c) of the relevant and material facts gathered during the Information Collection Stage prior to any investigative findings or conclusions;
- 10) Inspect the case file, which contains all information or evidence, unless prohibited or confidential under law, gathered as part of the investigation, including information the OIE does not intend to rely on in reaching a determination, prior to any investigative findings or conclusions;
- 11) Receive written notice of the investigation outcome and a summary of factual finding and analysis completed by the investigator(s) related to the investigation at the conclusion of the Investigation stage;
- 12) A copy of the final, redacted, investigative report shall be made available for in-person review by the Complaint(s) or Respondent(s);
- 13) Provide information about aggravating or mitigating factors prior to any sanction being imposed, if applicable;
- 14) Receive notice of any sanction, if applicable, in writing, including a statement of the basis upon which any sanction was imposed
- 15) Appeal the investigative findings or sanction imposed as described in Section VIII. Subsection F as applicable;

2. Major Steps of the Investigation Stage

a. Notice of Investigation (NOI)

If a formal adjudication is commenced, the OIE shall send the respondent and the complainant a Notice of Investigation (NOI) that will:

- Provide a copy of the OIE Resolution Procedures;
- Identify the complainant(s) and respondent(s);
- Identify the Investigator(s) who will conduct the investigation;
- Identify the conduct allegedly constituting the potential violation, including the date and location of the alleged incident to the extent known and available;
- Identify the specific section of the Applicable Policy alleged to have been violated;
- Include a statement that no determinations have been made or will be made until the conclusion of the investigation;
- Identify any remedial or protective measures;
- Require that the respondent contact the OIE within *three (3) business days* to schedule a meeting.

The NOI may be sent to the respondent(s) and the complainant(s) by email, or sent via U.S. mail to the permanent addresses appearing in the University's information system or the address appearing in a police report, or may be hand delivered. Notice will be considered furnished on the date of hand-delivery or on the date emailed. For employee respondents,⁸ the appropriate division Vice Chancellor, the Department Director or Executive Director, the hiring authority, and Human Resources will receive a copy of the NOI.

For student respondents, the Office of Dean of Students will be notified of the investigation. Other staff, such as the Director of Residence Life, Athletic Director, Student Government Advisor, or student employment supervisor may be notified of an investigation, if a finding of a policy violation would affect their eligibility to participate in the program.

If the respondent chooses not to participate in the adjudication process, the OIE may complete the adjudication based on the totality of information obtained during the Investigation Stage, which may include police investigation reports and other relevant documents or information, and/or Sanctioning and Appeal stages, as applicable.

b. Collection of Information

The OIE follows an investigation model whereby investigators interview the complainant(s) and the respondent(s) separately and provide each party the opportunity to be heard and to respond. Investigators also provide the opportunity for the complainant(s) and respondent(s) to suggest witnesses. Investigator(s) may also request additional information and documentation from complainant or respondent, such as phone records, emails, screenshots of text or social media messages, etc. Investigator(s) may also seek police reports, incident

⁸ If the respondent is a student employee and the alleged misconduct occurs outside the employment capacity, the OIE may determine that the respondent's supervisory upline has a legitimate need to know information related to the case resolution.

reports, security footage, and any other reasonably obtained information relevant to the investigation.

Both the complainant(s) and respondent(s) will also have an opportunity to submit questions for the Investigator(s) to ask of the other party and of witnesses. The Investigator(s) may decline to ask a question when the question is not reasonably calculated to lead to the discovery of probative evidence, when the probative value of the information is outweighed by the danger of unfair prejudice or confusion of the issues, or in consideration of undue delay or needless presentation of cumulative evidence. Questions about any party's prior sexual history are normally not probative and will be asked only when directly relevant to the incident where the alleged sexual misconduct occurred.

c. Disclosure of Written Evidence Summary

Following the Collection of Information, the Investigator(s) shall allow the complainant(s) and respondent(s) to review a Written Evidence Summary of the relevant and material facts. The Written Evidence Summary must be reviewed and responded to in the OIE office or other location designated by OIE, and no party may obtain a copy. The parties must review the Written Evidence Summary within *five (5) business days* of the email from OIE notifying the parties of their opportunity to do so.

d. Investigative Report

Following the Collection of Information and the Written Evidence Summary, the Investigator(s) shall prepare a written Investigative Report that will include a description of procedural steps taken, including any notifications to the parties, interviews, and methods for gathering evidence, a statement of factual findings, and a determination as to whether or not there was a violation of policy based on the application of the factual findings to the Applicable Policy. If an employee respondent is found not to be responsible for violating the Applicable Policy, the Investigative Report may, if applicable, include a determination that the employee respondent(s) engaged in conduct that was inappropriate or unprofessional. In such cases, the OIE will refer such matters to the disciplinary authority, who will make the final determination on appropriate action or response.

For investigations involving student respondents, the Investigative Report will be provided to the Dean of Students Office for further consideration, which includes sanctioning through the student conduct process when there is a finding of inappropriate behavior or a policy violation. For investigations involving employee respondents, the Investigative Report will be provided to the appropriate division Vice Chancellor, the Department Director or Executive Director, the hiring authority, and Human Resources for further consideration, which may include disciplinary or corrective actions when there is a finding of a policy violation or inappropriate behavior.

Complainant(s) or Respondent(s) may review a copy of the final, redacted, investigative report in-person by submitting a written request to the Director of Institutional Equity.

The OIE may also submit the Investigative Report to University Counsel to review for legal sufficiency.

*e. Notice of Finding (NOF)*⁹

The OIE shall advise the complainant(s) and respondent(s) simultaneously in writing of the result or outcome of any investigation conducted under the Procedures. The NOF shall include a review of the alleged misconduct and finding(s) regarding violation(s) of Applicable Policies. The NOF will include a supplemental summary of the factual findings and determination of policy violations. The Notice of Finding will also notify the parties as to the next step in the process, as applicable.

f. Reopening an Investigation

In rare situations, the OIE has the authority and discretion to re-open an investigation if compelling evidence, such as results from a sexual assault nurse examination (SANE), becomes available that was previously outside of the University's ability to access

3. Timeframes

The University will use its best efforts to complete its investigation and impose sanctions when applicable *within an average of ninety (90) days* of the issuance of a Notice of Investigation, although this time frame may be extended for good cause.

Good cause may exist for a variety of factors, including the complexity of the circumstances of each allegation (for example, employment discrimination cases and some protected-class harassment investigations will typically take longer), the integrity and completeness of the investigation, compliance with a request by law enforcement, or due to concurrent law enforcement activity likely to produce materially relevant evidence, absences by the parties, the necessity to provide translation services or accommodations of a disability, the availability of witnesses. University breaks or vacations, the necessity to access relevant and probative documentation that is not immediately available, or other legitimate reasons.

In order to deliver a reasonably prompt process, the complainant(s) and respondent(s) each have an obligation to meet deadlines as requested by OIE during the investigation and as specified in the Procedures. Extensions of time shall only be granted for good cause shown and the parties will be provided notice of extension as applicable.

E. Standard of Review/Burden of Proof

In all cases, regardless of the allegation(s) or whether the respondent is a student or employee, the OIE applies the "preponderance of the evidence" standard when making findings of fact and conclusions as to whether violations of policy occurred. A preponderance of the evidence exists when the totality of the information demonstrates that an allegation of misconduct is probably more true than not. If the evidence weighs so evenly that the Investigator(s) is unable to say there is preponderance on either side, the Investigator(s) must determine that there is insufficient information to conclude that a violation of the Applicable Policy occurred.

⁹ Findings under the OIE Procedures are not findings pursuant to applicable state and federal legal standards, i.e. a policy violation may not rise to a violation of equal opportunity law.

In applying the preponderance of the evidence standard, the Investigator(s) may consider both direct and circumstantial evidence. The Investigator(s) may determine the credibility of parties and witnesses and the weight to be given to their statements, taking into consideration their means of knowledge, strength of their memory and opportunities for observation, the reasonableness or unreasonableness of their statements, the consistency or lack of consistency of their statements, their motives, whether their statements are contradicted or supported by other evidence, any evidence of bias, prejudice or interest, and/or the person's manner and demeanor when providing statements.

It is the responsibility of the OIE, not the parties, to make a determination based on the totality of the available information to determine whether or not the preponderance of the evidence has been met. Neither party bears a burden of proof.

Evidentiary Standards:

Sexual history in sexual misconduct cases

The OIE will not seek or consider irrelevant information regarding the complainant's or respondent's sexual history. Relevant information may include the shared sexual history between the complainant and the respondent, particularly if there are questions about physical injury or trauma or history that may be relevant to the manner or method of affirmative consent as raised by a respondent.

Respondent's prior acts/pattern evidence

The OIE will review, if available, any prior complaints of misconduct committed by the respondent if they are relevant and probative to the alleged conduct at issue, or if they demonstrate a pattern of behavior. Such prior complaints, if relevant and probative, may be used in the imposition of remedial or protective measures.

F. Appeal of Finding

Upon the conclusion of the Investigation, either the complainant(s) or respondent(s) may file a written appeal. All appeals must be made in accordance with the procedures outlined in this section.

1. How to file an appeal and Timeframe

Appeals must be submitted in writing to the UCCS Director of Compliance within *seven (7) days* after the issuance of the NOF. The appeal should indicate the specific basis for the appeal (see below), supporting arguments and documentation, and any other relevant information the appealing party wishes to include. The appealing party should be aware that all appeals are documentary reviews, no interviews are conducted. Generally, appeals are determined solely on the merits of the documents submitted. Appeal documents therefore should be as complete and succinct as possible. The Director of Compliance, or designee, shall make the determination as to whether these conditions have been met.

2. Basis for Appeal

Appeals must state one or more of the following criteria as the reason for the appeal:

- 1) Whether new evidence has been presented which was unavailable during the initial investigation, and which, if considered, may materially affect the outcome of the investigation; or

- 2) Whether a due process error occurred, such as failure to notice or provide opportunity to respond to allegations, that unfairly and materially affected the outcome of the investigation; or
- 3) Whether the investigator had a conflict of interest or exhibited unfair bias that materially affected the outcome of the investigation.

The appealing party may not present new evidence unless the party can demonstrate that it could not, with reasonable diligence, have been discovered or produced during the course of the investigation.

The Director of Compliance or designee will make the final decision about whether an appeal has articulated one of the three appeal criteria. Any other criteria will not be accepted. If the Director of Compliance or designee decides that appeal criteria are not met, the outcome of the investigation is final.

3. *Appeal Process.*

In the event that the Director of Compliance or designee determines that one or more of the appeal criteria have been met, the Director of Compliance will notify the parties. Upon determination that the criteria for an appeal has been met, the Director of Compliance or designee will notify the other party to the original complaint (complainant(s) or respondent(s)) in writing, and the party will be provided five (5) business days to respond in writing to the appeal. The response should be sent to the Director of Compliance or designee. Neither party is required to respond to an appeal. Not responding to an appeal does not imply agreement with the appeal.

4. *Appeal Decisions.*

Upon review of the appeal, the Director of Compliance may:

- Uphold the decision in its entirety; or
- Send the case back for reconsideration and potentially re-investigation by either the same or different officials.

The Director of Compliance shall not make new findings of fact. The Director of Compliance shall review all documentation submitted, make the final decision upon appeal, and concurrently provide the parties with a written Notice of Appeal Decision within 21 days of its receipt of all final documentation.

5. *Appeals for Employee Respondents.*

Upon the conclusion of the Investigation, either the complainant(s) or respondent(s) may file a written appeal of the Investigation outcome. All appeals must be made in accordance with the procedures outlined in this section. Any rights of appeal of a sanction shall be conducted in accordance with established procedures for appeal, if available to the employee, such as the State Personnel Rules or rules governing proceedings before the Faculty Senate Committee on Privilege and Tenure. Nothing in this section shall be read to create a right of appeal of sanctions for employees that is not otherwise provided for by law or University policy.

G. Sanctioning

Any sanctions imposed by the Dean of Students or disciplinary authority will not be determined or enforced until either the opportunity to appeal has passed, or the appeal has been heard and resolved. Remedial or protective measures shall remain in place during this period.

For employee respondent(s), in the event that no violation of Applicable Policies is found, the case will be forwarded to the disciplinary authority to determine if other inappropriate or unprofessional conduct should be addressed. For student respondent(s), in the event that no violation of Applicable Policies is found, the case will be forwarded to the Dean of Students for possible discipline for other student misconduct under the Student Code of Conduct. The disciplinary authority will notify the Director of Institutional Equity of the sanction imposed within 30 days.

1. Aggravating or Mitigating Factors

In cases where the investigation results in a policy violation, the respondent and complainant will each have an opportunity to meet separately with the respondent's disciplinary authority to present any mitigating or aggravating circumstances related to the incident that may impact sanctioning. If a party would like to participate in this process, it is their duty to contact the disciplinary authority within *seven (7) days* of the NOF date to schedule a meeting. It is the responsibility of the parties to schedule the meeting within the timeframe prescribed. The NOF will contain appropriate contact information for the disciplinary authority. In lieu of an in person meeting parties may submit a written statement. A written statement may be up to three pages in length and must be limited to describing mitigating or aggravating circumstances that may affect sanctioning. Any statement outside of these guidelines will not be considered.

H. Informal Resolutions

The OIE may determine that the most prompt and effective way to address a concern is through the informal resolution process. For example, the OIE may resolve a report or complaint through informal resolution if the alleged conduct, even if true, would not be considered prohibited conduct under the Applicable Policies.

The primary focus during an informal resolution remains the welfare of the parties and the safety of the campus community, but it does not involve a written report or a determination as to whether a policy has been violated. This type of approach provides the University with a "remedies-based" resolution option that allows the University to tailor responses to the unique facts and circumstances of an incident, particularly in cases where there is not a broader threat to individual or campus safety. In these cases, the OIE may do one or more of the following:

- Provide interim or long-term remedial measures to the complaint(s) and respondent(s);
- Provide a referral to other campus-based resolution processes as appropriate for the specific facts of the case;
- Provide targeted or broad-based educational programming or training; and/or

- Meet with the respondent to:
 - Discuss the behavior as alleged and provide an opportunity to respond;
 - Review prohibited conduct under the Applicable Policies;
 - Identify and discuss appropriate future conduct and behavior as well as how to avoid behavior that could be interpreted as retaliatory;
 - Inform the complainant(s) of the respondent's responses if appropriate;
 - Notify the Office of Dean of Students or the respondent's supervisor of the allegations and responses if necessary, who will determine whether any other disciplinary action is appropriate.

Participation in an informal resolution is voluntary by complainants and respondents; however, for allegations that, if proven true, would violate Applicable Policy, failure to participate could result in the OIE deciding to proceed with a formal adjudication.

For allegations that would warrant a formal adjudication, but the OIE proceeded with an informal resolution because the complainant requested privacy or that no investigation or disciplinary action be taken and that request could be honored consistent with the factors and obligations of the OIE as set forth in Section VI. Subsection D, the OIE will notify the complainant(s) of the ability to end the informal resolution process at any time and to commence or resume a formal adjudication.

In all other cases, where the allegations would warrant a formal adjudication, either party may request to commence formal adjudication at any time rather than participate in an informal resolution in any case.

I. Student Disciplinary Hold and Disciplinary Stop

While OIE proceedings are pending, the University may place a disciplinary hold on the student's records. The disciplinary hold is honored by the UCCS campus, including Continuing Education, and prohibits the student from registering for classes until the OIE process has been completed. The transcript hold prohibits the academic transcript from being released until all actions have been completed.

A disciplinary hold may also be placed by the Office of the Dean of Students if a student fails to complete assigned sanctions, which has the same impact on a student's records and registration as described above. The disciplinary hold will not be removed until all sanctions are completed.

A disciplinary stop shall be placed on a student's record if they are suspended as the outcome of the OIE proceeding. A disciplinary stop is honored by all University of Colorado campuses and prohibits a student from being admitted to any of the campuses, and from registering for classes until the suspension period is over and the student has reapplied and has been re-admitted.

J. Student Refund Policy After Disciplinary Action

For current information regarding housing and/or tuition refunds, please go to:
<https://www.uccs.edu/dos/student-conduct>

K. OIE Release of Records and Information Concerning Students

The Family Educational Rights and Privacy Act of 1974 (FERPA), as amended by the Higher Education Amendments of 1998, governs access to records, and information from within those records, pertaining to students that are maintained by the University including OIE. Pursuant to FERPA, the University may disclose records and information pertaining to a student with the student's written consent.

Even in absence of student consent, FERPA authorizes University officials who demonstrate a legitimate educational need to have access to relevant OIE records and information pertaining to students that are necessary to perform their duties for the University.

Even in absence of written consent or a request otherwise from a student, FERPA authorizes the University to provide records and information pertaining to students to parent(s) who provide proof that their child student is a dependent as defined under the Internal Revenue Code. A copy of the last federal income tax return listing the student as a dependent may serve as proof of dependency and allow the University to provide parent(s) with access to such records maintained by OIE, to the extent determined appropriate by the Director of Institutional Equity, or designee. In addition, FERPA authorizes the University to disclose to parent(s) if a student under 21 years of age is found responsible by the Office of the Dean of Students for a violation involving use or possession of alcohol or other drugs.

Except as otherwise specified in this document or a pending health or safety emergency as defined under FERPA, student records and information are confidential and the OIE will not disclose student records or information to any entity or person outside the University without proper written authorization from the student, a court order, subpoena, or as otherwise required by law or authorized government agency.

Under FERPA, students have a right to review and inspect records that directly pertain to them. Students who would like to review such records maintained by OIE must complete and submit a records request through the Office of the Registrar. The OIE will comply with a properly submitted student request within a reasonable time period not to exceed 45 days, as provided by FERPA.

IX. Title IX Coordinator | Director of Institutional Equity

At UCCS, the Director of Institutional Equity is also the Title IX Coordinator. The responsibilities of the Title IX Coordinator pursuant to the University of Colorado Sexual Misconduct, Intimate Partner Abuse and Stalking Policy, which the Title IX Coordinator has the discretion to delegate, include:

- 1) Ensuring that complaints are being handled appropriately and in a timely manner;
- 2) Overseeing adequate, reliable, and impartial investigations of complaints of sexual misconduct;
- 3) Evaluating any complainant request for privacy;
- 4) Referring matters for further action or discipline for inappropriate or unprofessional conduct under other applicable policies or procedures even if a policy violation is not found. No provision of the Applicable Policies shall be construed as a limitation upon the authority of the disciplinary authority to initiate disciplinary action for inappropriate or unprofessional conduct;
- 5) Facilitating reasonable support and interim measures as applicable for all parties;

- 6) Ensuring broad publication of the campus complaint process and procedures including posting the process and procedures on an appropriate campus website and maintaining a current procedure;
- 7) Providing an annual report to the President and the appropriate campus Chancellor documenting: (a) the number of reports or complaints of alleged violations of applicable policies; (b) the categories (i.e., student, employee, or other) of the parties involved; (c) the number of policy violations found; (d) the number of appeals taken and the outcomes of those appeals; and (e) examples of sanctions imposed for policy violations;
- 8) Reviewing and confirming that the relevant policy statements of the campus Annual Security Report pursuant to the Clery Act are consistent with Applicable Policies and campus complaint process and procedures;
- 9) Monitoring campus compliance with Applicable Policies;
- 10) Ensuring there is ongoing training and education regarding reporting and preventing sexual and other discriminatory misconduct, for all students, faculty and staff;
- 11) Maintaining records and related documentation of compliance with Applicable Policies, including, but not limited to, retaining copies of any training documentation, tracking student and employee training participation, documenting each step of the campus complaint process and procedures, including interim measures, accommodations for persons experiencing sexual misconduct, investigation, and sanctioning; and
- 12) Ensuring broad dissemination of the statement that the University shall not discriminate in employment or in its education programs and activities.

X. Resources

1. On Campus Resources

- **Dean of Students Office**, Main Hall Room 201, 719-255-3091
The Office of the Dean of Students helps advocate for students and provides problem solving assistance. The office is also responsible for maintaining and administering the University Code of Conduct.

www.uccs.edu/dos
- **Gallogly Recreation & Wellness Center**, 719-255-4444
The mission of the UCCS Wellness Center is to provide mental health services, health services, nutritional guidance, and educational programming that are collaborative, accessible and meet the needs of a diverse student population. **The Wellness Center is a confidential resource.**

<https://www.uccs.edu/recwellness/health-services> or
<https://www.uccs.edu/recwellness/mental-health-services>

- **Human Resources**, University Office Park, 719-255-3372
 Provides guidance and information to faculty, classified staff and professional exempt employees and supervisors regarding employee relations matters including performance management, progressive discipline, grievance and dispute resolution procedures, and leave issues. Services are not confidential; however, the office attempts to honor requests to keep information confidential to the extent permitted by law and policy.

<https://www.uccs.edu/hr>
- **Office of Institutional Equity**, Main Hall Room 201, 719-255-4324
 The Office of Institutional Equity (OIE) addresses all complaints of Discrimination and Harassment, Sexual Misconduct, and Conflict of Interest in Cases of Amorous Relationships. To achieve a positive environment for all members of the UCCS community, OIE conducts fair and unbiased investigations, while treating all individuals who seek their assistance with respect and dignity.

<https://www.uccs.edu/equity>
- **Ombuds Program**, Cragmor Hall 003, 719-255-3119
 The Ombudsperson offers students and employees informal assistance in resolving disputes or confusion in a neutral environment where they can openly discuss individual or broader issues without having those concerns shared without their consent.

<https://www.uccs.edu/ombuds>
- **Real Help Hotline**, 888-533-2428
 The Real Help Hotline gives you access to professional counselors who can offer assistance finding local resources or provide immediate crisis counseling. It's a free, confidential service available 24/7 to all University of Colorado employees.

<https://www.becolorado.org/program/the-real-help-hotline/>
- **Respect on Campus**
 Respect on Campus (ROC) is the UCCS interpersonal violence awareness program, and offers programs and events throughout the year that promote an awareness and understanding of sexual assault, dating and domestic violence, stalking, and other forms of sexual misconduct. The ROC website also gives resources and information on how to get help.

<https://www.uccs.edu/roc>
- **Public Safety**, Gateway Hall, 719-255-3111
 The UCCS Police Department is a full service police agency that operates 24 hours a day, 7 days a week, and 356 days a year. Officers have full police authority on campus as well as in pre-defined boundaries off-campus within the City of Colorado Springs.

www.uccs.edu/pusafety

2. Off Campus Resources

- **Colorado Civil Rights Division**, 1560 Broadway Suite 110 Denver CO 80202, 303-894-7855
The Colorado Civil Rights Division (CCRD) is charged with enforcing the State's anti-discrimination laws in the areas of employment, housing, and public accommodations. CCRD works to eliminate and prevent discrimination in these areas through investigation, education, mediation, and enforcement.

<https://www.colorado.gov/pacific/dora/civil-rights>

- **Colorado Springs Police Department**, 705 S. Nevada Avenue, 719-444-7000 or 911
This department will respond to reports of off-campus criminal conduct, harassment and assault within the City of Colorado Springs.

<https://coloradosprings.gov/police-department>

- **El Paso County Sheriff Department**, 27 E. Vermijo Avenue, 719-520-7100 or 911

This department will respond to reports of off-campus criminal conduct, including sexual harassment and assault, within El Paso County.

<https://www.epcsheriffsoffice.com/>

- **Memorial Hospital**, 1400 E. Boulder Street, 719-365-5000
For any individual seeking a medical forensic/evidence exam (Sexual Assault Nurse Examination - SANE) after a sexual assault, UC Health Memorial Hospital provides this service. SANE exams are offered through the central location emergency room 24 hours a day 7 days a week.

<https://www.uchealth.org/locations/uchealth-memorial-hospital-central/>

- **TESSA**, 24-Hour Crisis Line 719-633-3819, Main Office 719-633-1462
TESSA is the only provider of confidential services specifically for victims of Domestic Violence and Sexual Assault (DVSA) in El Paso and Teller Counties. TESSA fundamentally does three things: 1) Provide immediate safety at their confidential Safehouse for women, children, and other victims escaping abuse, 2) Empower survivors through programs and support such as advocacy and counseling, 3) Create a safer future through education and outreach to schools, businesses, and other organizations.

<https://www.tessacs.org/>

- **U.S. Department of Education, Office for Civil Rights**, 800-421-3481, ocr@ed.gov
OCR's mission is to ensure equal access to education and to promote educational excellence through vigorous enforcement of civil rights in our nation's schools.

<https://www2.ed.gov/about/offices/list/ocr/index.html>

XI. Definitions

Advisor: An individual designated by the complainant or respondent to be present at interviews.

Affirmative Consent: Means the unambiguous and voluntary agreement to engage in a specific sexual activity. Consent is clear, knowing and voluntary words or actions that create mutually understandable clear permission of willingness to engage in, and the conditions of, sexual activity. Consent must be active; silence by itself cannot be interpreted as consent.

Consent is not effectively given if it results from the use of force, including threats, or intimidation, or if it is from someone who is incapacitated:

- **Force** is the use of physical violence or imposing on someone physically to gain sexual access.
- **Threats** exist where a reasonable person would have been compelled by the words or actions of another to give permission to sexual contact they would not otherwise have given. For example, threats to kill or harm someone, kill or harm themselves, or to kill or harm someone for whom a person cares constitute threats.
- **Intimidation** occurs when someone uses physical presence to menace another, although no physical contact occurs, or where knowledge of prior violent behavior by an assailant, coupled with menacing behavior, places someone in fear as an implied threat.

Consent will be determined using both objective and subjective standards. The objective standard is met when a reasonable person would consider the words or actions of the parties to have manifested an agreement between them to do the same thing, in the same way, at the same time, with one another. The subjective standard is met when a party believes in good faith that the words or actions of the parties manifested an agreement between them to do the same thing, in the same way, at the same time, with one another.

- A person who does not want to consent to sex is not required to resist.
- Consent to some forms of sexual activity does not automatically imply consent to other forms of sexual activity.
- Silence, previous sexual relationships, or the existence of a current relationship do not imply consent.
- Consent cannot be implied by attire or inferred from the giving or acceptance of gifts, money, or other items.
- Consent to sexual activity may be withdrawn at any time, as long as the withdrawal is communicated clearly.
- Withdrawal of consent can be manifested through conduct and need not be a verbal withdrawal of consent.
- In order to give effective consent, the person giving consent must be of legal age under Colorado law for the purposes of determining whether there was a sexual assault.
- A respondent's intoxication resulting from intentional use of alcohol/drugs will not function as a defense to engaging in sexual activity without an individual's consent.

Aggravating Factor: Relevant circumstances accompanying the commission of misconduct or occurring prior to the misconduct as specified in Prohibited Conduct that add to its seriousness. Examples may include the use of violence or force, violation of a trust or duty, premeditation of an incident, and the existence of a previous conduct violation.

Amorous Relationships exist when two individuals mutually and consensually understand a relationship to be romantic and/or sexual in nature.

Appointing/Disciplinary Authority: An appointing authority is the individual with the authority or designated authority to make ultimate personnel decisions concerning a particular employee. A disciplinary authority is the individual or office that has the authority or delegated authority to impose discipline upon a particular employee or student.

Business day: a day that the University is open and functioning as normal. Excludes holidays, weekends, and full-day administrative closures.

Complainant: Within the context of this policy, means a person who is subject to alleged sexual misconduct or other conduct in violation of this policy.

Day: For purposes of these policies and procedures, a day is a calendar day.

Discrimination (Protected Class): occurs when an individual suffers a material adverse consequence on the basis of a protected class. Examples include failure to be hired or promoted or denial of admission to an academic program based on protected class status.

Employee: anyone under the University's control (excluding independent contractors) who receives payment from the University for work performed, including but not limited to regular faculty, research faculty, University staff, classified staff, undergraduate and graduate student employees, or temporary employees.

Harassment (Protected Class excluding sex): means verbal or physical conduct related to one's protected class that unreasonably interferes with an individual's work or academic performance or creates an intimidating or hostile work or educational environment.

Hostile Environment (Protected Class excluding sex. Also see Sexual Harassment Hostile Environment): Hostile environment is a form of protected class harassment. Whether a hostile environment exists is determined from both a subjective and an objective perspective. The subjective perspective evaluates whether or not the complainant experienced unwelcome conduct on the basis of his or her protected class status. The objective perspective evaluates whether or not the unwelcome conduct was, from the perspective of a reasonable person in the alleged complainant's position, sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the University's education or employment programs and/or activities. Simple teasing, offhand comments, isolated incidents (unless extremely severe) or mere offensive conduct, unrelated to protected class, are not enough to create a "hostile environment" as defined in this policy.

Incapacitation: Incapacitation may result from alcohol or other drug use, unconsciousness, or other factors. The use of alcohol or drugs, in and of itself does not render a person incapacitated. Incapacitation is a state beyond drunkenness or intoxication. The impact of alcohol and drugs varies from person to person. Incapacitation is a state where a person cannot make a rational, reasonable decision because they lack the capacity to give affirmative consent (to understand the who, what, when, where, why or how of sexual interaction). Incapacity can also result from illness, sleep, mental disability and other circumstances. Engaging in sexual activity with a person whom you know to be mentally or physically incapacitated, or reasonably should know to be incapacitated, violates this policy

Interim Suspension: immediate and temporary suspension from any University activity or program.

Intimate partner abuse: Means any act of violence or threatened act of violence against a person with whom the individual is or has been involved in a sexual or dating relationship when used as a method of coercion, control, punishment, intimidation, or revenge. This includes, but is not limited to, assault, threats, and intentional property damage. This also includes acts of violence or threatened acts of violence against oneself and/or against the family members, friends, or pets of the sexual or dating partner. This definition includes intimate partner violence, dating violence, and domestic violence.

Acts of violence may be physical, sexual, emotional, economic, or psychological in nature. In determining whether the alleged conduct would constitute violence, the responsible office will consider the severity or pervasiveness of the alleged conduct, including the seriousness of the behavior or whether there is a pattern of conduct taken against the sexual or dating partner used as a method of coercion, control, punishment, intimidation, or revenge.

Mitigating Factor: relevant circumstances accompanying the commission of misconduct or other extenuating circumstances that may be taken into account to reduce a sanction. These factors do not constitute a justification or excuse for the behavior in question.

Participants: Complainant, respondent and any witnesses or other third parties participating in an OIE resolution process.

Party: Complainant or respondent and collectively referred to as “parties.”

Personnel Actions as defined in CU APS 5015 include appointments/hiring, firing/layoffs, promotions/demotions, tenure decisions, salary setting, performance appraisals, grievance and disciplinary procedures.

Preponderance of the evidence: the evidentiary standard of proof used in all OIE procedures, meaning it is “more likely than not” that the alleged behavior occurred.

Protected Classes: for purposes of the Process and Procedures, protected classes refers to race, color, national origin, sex, pregnancy, age, disability, creed, religion, sexual orientation, gender identity, gender expression, veteran status, political affiliation, or political philosophy.

Respondent: Within the context of this policy, means a person who is accused of alleged sexual misconduct, retaliation, or other conduct in violation of this policy.

Responsible employee: Means any employee who: (1) has the authority to hire, promote, discipline, evaluate, grade, formally advise or direct faculty, staff, or students; (2) has the authority to take action to redress sexual misconduct; and/or (3) has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX Coordinator. A Title IX Coordinator may designate in campus procedures that certain individuals who might otherwise not be considered responsible employees are subject to mandatory reporting requirements.

Retaliation: Means any adverse action threatened or taken against a person because an individual has filed, supported, or provided information in connection with an OIE complaint, including, but not limited to, direct and indirect intimidation, threats and harassment. An “adverse action” is any conduct or action that would dissuade a reasonable person from reporting an allegation of sexual misconduct or participating in an investigation of sexual misconduct.

Sanction: Refers to either a sanction imposed by the Director of Institutional Equity or designee for students or discipline as imposed by the appointing/disciplinary authority for employees.

Stalking: Means directly or indirectly through another person, repeatedly following, approaching, contacting, placing under surveillance or making any form of communication with another person, a member of that person’s immediate family, or someone with whom that person has or has had a continuing relationship in a manner that would cause a reasonable person to: (a) fear for the individual’s safety or the safety of others; or (b) suffer substantial emotional distress, including causing a person to respond by altering their activities.

Sexual assault – nonconsensual sexual intercourse: Means any sexual intercourse, however slight, with any object, by any person upon another person that is without affirmative consent. Intercourse includes vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue or finger; and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact. *Also refer to the definitions of affirmative consent and incapacitation.*

Sexual assault – nonconsensual sexual contact: Means any intentional sexual touching, however slight, with any object, by any person upon another person that is without affirmative consent including by force. Sexual contact includes intentional contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or any other intentional bodily contact in a sexual manner. *Also refer to the definitions of affirmative consent and incapacitation.*

Sexual exploitation: Means conduct that takes sexual advantage of another person without that person’s affirmative consent. Examples of behavior that could rise to the level of sexual exploitation include, but are not limited to: prostituting another person; taking possession of the intimate personal property of another person without that person’s affirmative consent; recording images (e.g., video, photograph) or audio of another person’s sexual activity, intimate body parts, or nakedness without that person’s affirmative consent; distributing images (e.g., video, photograph) or audio of another person’s sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not affirmatively consent to such disclosure; and viewing or listening to another person’s sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person’s affirmative consent.

Sexual harassment: Means unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal, or physical conduct of a sexual nature.

Sexual harassment results if one of the following occurs:

Quid Pro Quo (“This for That”)

This type of sexual harassment occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment or participation in a University activity is conditioned upon, either explicitly or implicitly, submission to or rejection of unwelcome sexual advances or requests for sexual favors, or such submission or rejection is a factor in decisions affecting that individual’s employment, education, living environment, or participation in a University program or activity.

Hostile Environment

Hostile environment is a form of sexual harassment. Whether a hostile environment exists is determined from both a subjective and an objective perspective. The subjective perspective evaluates whether or not the complainant experienced unwelcome sexual conduct. The objective perspective evaluates whether or not the unwelcome sexual conduct was, from the perspective of a reasonable person in the alleged complainant’s position, sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the University’s education or employment programs and/or activities. Mere offensive nonsexual conduct is not enough to create a hostile environment. Although repeated incidents increase the likelihood that harassment has created a hostile environment, a single or isolated incident of sexual assault may be sufficient.

Summary Suspension: temporary removal of student from campus through the Office of the Dean of Students, pending the outcome of a case.

Supervisor is defined as any one individual or a member of an evaluative committee or group who has the authority to hire, promote, discipline, evaluate, grade, formally advise or direct faculty, staff or students.

Student: The term student includes all persons taking courses at the University, either full time or part time, pursuing undergraduate, graduate, or professional studies, as well as non-degree seeking students. This also includes individuals who confirm their intent to enroll in programs, those attending orientation sessions, students between academic terms and those that were enrolled at the date of an alleged incident. This also includes persons who are active but not enrolled at the University. Persons who withdraw after allegedly violating University policies or who are not officially enrolled for a particular term but who have a continuing relationship with the University are considered “students.”

University: The University of Colorado Colorado Springs.

University Official: A University employee working in the performance of their duly authorized duties.

Witness: Any individual who may have information relating to a matter being investigated by OIE.