

Office of Equal Opportunity & Title IX
Title IX Sexual Harassment Procedures
2020- 2021

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I. Notice of NonDiscrimination and Statement of Compliance with Title IX

A. The University of Denver (the University") is committed to affirmative action and

Title IX processor other form of good faith opposition to what an individual reasonably

Formal Complaint may be filed with the Title IX Coordinator in person, by mail, email, or using the online portal on the Title IX website.

6. Investigator means the individual who is designated by the Title IX Coordinator to be responsible for gathering evidence and drafting an investigative report.
7. Outcomes means the University status and educational opportunities, restrictions, and/or expectations for a student found responsible for Sexual Harassment.
8. Outcome Council means a body composed of university staff and faculty convened by the Office of Student Rights & Responsibilities to determine the Outcomes for a student who is a Respondent found responsible for Sexual Harassment.
9. Party/Parties means Complainant(s) and Responder(s).
10. Preponderance of the Evidence means the standard of proof applied under these Procedures in which an allegation is proven if, based on the credible, relevant information acquired during the investigation and provided at the hearing, one side outweighs the credible, relevant information on the other side, such that it is more likely than not that the alleged fact or conduct occurred.
11. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
12. Remedies means the measures provided to a Complainant and/or the University Community following a grievance process pursuant to these Procedures in which Respondent is found responsible for Sexual Harassment.
13. Respondent means an individual who has been reported to have engaged in conduct that could constitute Sexual Harassment.
14. Responsible Employee means an employee, as identified in Section V below who has the obligation to report alleged Sexual Harassment and alleged Retaliation to the Title IX Coordinator.
15. Supportive Measures means non-disciplinary, non-punitive individualized services offered to the Complainant, Respondent and/or Witnesses, as appropriate and reasonably available.
16. Witness means a person asked to provide information or a statement under these Procedures.

V. Reports of Alleged Sexual Harassment

- A. At any time, any person may report Sexual Harassment (whether or not the person reporting is the

the matter to an appropriate administrator, provide the Complainant with resources, and/or close the matter.

- C. The University encourages Complainants to report incidents of Sexual Harassment directly to the Office of Equal Opportunity & Title IX by contacting the Associate Vice Chancellor

Faculty and Staff (including Graduate Teaching Assistants), and
Advisors to student groups (including those who are not otherwise employees of
the University; e.g. fraternity or sorority advisors)

- G. The Office of Equal Opportunity & Title IX is not a confidential resource. For any ~~re~~Sexual
Harassment, the University will endeavor to respect and safeguard the privacy interests of all
individuals involved balanced with the need for a careful assessment of the allegation and any

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M. Protection of Minors and Mandatory Reporting of Suspected Child Abuse
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9. Increased security and monitoring of certain areas of the campus

- D. Upon receiving a report of Sexual Harassment, the Title IX Coordinator will contact the Complainant to offer Supportive Measures. The Title IX Coordinator will offer or arrange that Supportive Measures are offered to the Complainant and that the Complainant's wishes with respect to appropriate Supportive Measures are considered. In addition to the Complainant, the Respondent and other Witnesses may also receive Supportive Measures, as appropriate and reasonably available, without fee or charge.
- E. A Complainant who requests Supportive Measures retains the right to file a Formal Complaint, either at the time the Supportive Measure is requested or at a later date.
- F. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures.
1. The Title IX Coordinator will contact the Complainant after receiving notice of possible Sexual Harassment to discuss the possibility of Supportive Measures and to explain that Supportive Measures are available with or without the filing of a Formal Complaint.
 2. Supportive Measures may also be requested by and made available to Respondents, Witnesses and other impacted members of the University community. The Title IX Coordinator will serve as the point of contact for any individual requesting Supportive Measures.
- G. Supportive Measures do not include Disciplinary Actions or Outcomes. The University shall not impose Disciplinary Actions or Outcomes on a Respondent unless and until after the Formal Resolution Process, as detailed in Section IX below, is completed.
- H. The University may remove a Respondent from its Educational Program or Activity on an emergency basis if the University
1. Undertakes an individualized safety and risk analysis;
 2. Determines that an immediate threat to the physical health or safety of the Parties or any other student or other individual arising from the allegations of Sexual Harassment justifies removal; and
 3. Provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.
- I. The University may place a non-student employee Respondent on administrative leave during the pendency of the Formal Resolution Process set forth in Section IX. The University will not place a non-student employee Respondent alleged to have committed Sexual Harassment on administrative leave due solely to the Sexual Harassment allegations unless and until a Formal Complaint has been filed with the University. The University, in its discretion and based

4. The University will provide training ~~D~~DecisionMakers for Disciplinary Action and Outcome Council Members on the following:
 - a) The definitions in the Procedures, including but not limited to Consent;
 - b) The scope of the University's Education Program or Activity.
 - c) How to conduct an investigation;
 - d) How to conduct a hearing;
 - e)

- d) That either Party may withdraw from the formal Resolution Process and resume the Formal Resolution process prior to agreeing to a resolution.

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

E. Timeframe

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

IX. Formal Resolution Process

A. Formal Complaint

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

Emily Babb JD
University of Denver
Mary Reed Building, 4th Floor
2199 South University Blvd.
Denver, CO 80208
303-871-7016
TitleIX@du.edu

2. When a Complainant does not wish to file a Formal Complaint on their own behalf, the Title IX Coordinator may, in their discretion, prepare and file a Formal Complaint by signing the Formal Complaint form. When the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not the Complainant or otherwise a Party. While the Complainant may choose to not participate in the grievance process initiated by the Title IX Coordinator's signing of a Formal Complaint of Sexual Harassment, the Complainant will still be treated as a Party entitled to inspect and review evidence and to receive all notices, including the notice of allegations, the notice of hearing, and the notice of O

B. Dismissal of a Formal Complaint

1. The Title IX Coordinator will dismiss a Formal Complaint, and the University shall not conduct any investigation under these Procedures if:
 - a) The conduct alleged in the Formal Complaint would not constitute Sexual Harassment as defined by these Procedures even if proved;
 - b) The conduct alleged in the Formal Complaint did not occur within the Scope and Jurisdiction of these Procedures as described in Section A above.
2. The Title IX Coordinator, in their discretion may dismiss a Formal Complaint, or any allegations therein, at any time during the investigation or hearing, if:
 - a) The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein and/or
 - b) The Respondent is not enrolled or employed by the University and/or
 - c) Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint and allegations therein.

3. The dismissal of a Formal Complaint is final and shall not be subject to appeal. The University shall not be liable for any damages, including reasonable attorney's fees, incurred by the Complainant or Respondent as a result of the University's investigation or hearing process. The University shall not be liable for any damages, including reasonable attorney's fees, incurred by the Complainant or Respondent as a result of the University's investigation or hearing process.

5. The decision to consolidate Formal Complaints is not subject to appeal.

D. Timeframe for Conclusion

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- c) Receiving documents, witness lists, requests to gather documentation or other information from the Complainant, Respondent, Witnesses, or third parties
4. The Un

- f) The University will record the hearing and make a transcript of the hearing available to the Parties for inspection and review in the University's chosen cloud storage platform
 - g) Both Parties must be accompanied by an advisor to the hearing. Party does not have an advisor for the hearing, the University will provide without fee or charge to that Party an advisor of the University's choice for that Party
 - h) Each Party's advisor must conduct any cross-examination of the other Party and any Witnesses. Apart from conducting cross-examination, the parties' advisors do not have a speaking role at the hearing; an advisors' participation is limited to conferring with the Party at intervals set by the Hearing Officer.
 - i) The University has the authority to establish standards of decorum for the hearing that apply equally to each Party, Witness or advisor.
2. Standard of Evidence
- a) The Hearing Officer will make a determination of responsibility using the Preponderance of the Evidence standard.
3. Relevant Evidence Considered
- a) In making a determination of responsibility, the Hearing Officer may only consider relevant evidence.
 - b) In making a determination of Outcomes or Disciplinary Action the Outcomes Council and Decision Maker for Disciplinary Action may only consider relevant evidence.
 - c) Relevant evidence is evidence having any tendency to make the existence of any fact that is of consequence to the determinations to be made more probable or

individual making the assertions (including those found in a Formal Complaint), and memorialized in the writing of another (e.g. in an investigative report, police report, or medical record).

- c. Where evidence involves intertwined statements of both Parties (e.g. a text message exchange or an email thread) and one Party refuses to participate in the hearing or submit to questioning about the evidence while the other does participate and answer

I. Written Determination

1. After considering the investigative report, including any Party's written response to the investigative report, and all relevant evidence presented at the hearing, the Hearing Officer will issue a written determination
2. Before the Hearing Officer issues a written determination, if the Hearing Officer has made a finding of responsibility, the Hearing Officer will

participation of the member based on a perceived conflict of interest, bias, or prejudice.

- iv. In determining Disciplinary Action, the Decision Maker for Disciplinary

2. Bases for Appeal

- a) A Party may only appeal on one or more of the following bases:
 - i.

- b) The Appellate Officer shall not be the same person as the decisioner that reached the determination regarding responsibility or dismissal of the Formal Complaint, the investigator(s), or the Title IX Coordinator.
 - i. The Appellate Officers are as follows:
 - a. For students, the Vice Chancellor for Student Affairs or designee
 - b. For employees who are staff, the Vice Chancellor for Human Resources or designee
 - c. For employees who are faculty, the Provost and Executive Vice Chancellor or designee
 - ii. The University will notify both Parties of the identity of the Appellate Officer, and the Parties will have two (2) days from receipt of the name to raise any objection to the participation of the member based on a perceived conflict of interest, bias, or prejudice
- c) The Appellate Officer will consider the appeal, including any written statements submitted by the Parties
- d) The Appellate Officer may also consider the investigative report, including any Party's written response to the investigative report, all relevant evidence presented at the hearing, and the transcript of the hearing.
- e) The Appellate Officer may take one of the following actions:
 - i. Deny the appeal based on not satisfying the Appeal Criteria and uphold the written determination issued following the hearing
 - ii. Accept the appeal in whole or in part based on satisfying the Appeal Criteria and either:
 - a. Send the matter back for supplemental investigation or hearing
 - b. 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
 - c. Dismiss the Formal Complaint
 - iii. If the Respondent is a student, and the Appellate Officer determines that the Outcome(s) imposed are disproportionate to the violation, the

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

X. Recordkeeping and Recordings

- A. The University shall retain for a period of seven (7) years after the date of case closure for Students seven (7) years from the completion of all Outcomes

- 1. The official file relating to a formal resolution, including any investigation hearing,

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