

I. INTRODUCTION

The University is committed to creating and maintaining a community in which people are treated with dignity and respect. The environment of the University should be characterized by mutual trust, freedom of inquiry and expression, and the absence of intimidation, oppression, and exploitation. People in this community should be able to work and learn in a safe atmosphere. The accomplishment of this goal is essential to the academic mission of the University.

Consistent with this commitment, the University will not tolerate any unlawful discrimination, harassment, or gender-based violence of any kind. When the University becomes aware that a member of the University community may have been subjected to or affected by discrimination, harassment, or gender-based violence, the University will take prompt, appropriate action to enforce this policy. The University's Office of Equal Opportunity & Title IX ("EOIX") is responsible for enforcing this policy pursuant to the University's Comprehensive Discrimination and Harassment

programs and activities in a manner consistent with applicable federal law and regulations.

B. Equal Opportunity

The University also provides equal opportunity in employment, educational activities, and other programs to all employees, students, and applicants. The University prohibits discrimination against in any condition of employment or opportunity because of race, color, national origin, ancestry, age, religion, creed, disability, sex, sexual orientation, gender identity, gender expression, marital status, pregnancy, genetic information, military enlistment, or veteran status.

C. Pay Transparency

For purposes of this policy and the Comprehensive Discrimination and Harassment Procedures and Title IX Sexual Harassment Procedures (collectively, the "Procedures"), Students are defined as any individual registered for or auditing classes at the University; admitted to or enrolled in any University program; or on University premises for any purpose related to the same regardless if and whether on a degree program ("Students"). An individual is also considered a Student under this definition if they have completed time and part-time faculty, University staff, student employees, wage (including temporary employees), professional research staff, and postdoctoral fellows ("Employees").

Third parties are defined under this policy as the procedures as defined by the University.

1. Quid Pro Quo Harassment

Quid Pro Quo Harassment is conduct where an Employee of the University conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct.

Quid Pro Quo Harassment can occur regardless of whether the condition proposed by the Employee is communicated expressly or impliedly. Examples of *Quid Pro Quo* Harassment include but are not limited to:

- A professor offers a student a higher grade in a class in exchange for having sex with or going on a date with the professor.
- An employee offers a student an employment opportunity in exchange for having sex with or going on a date with the employee.
- A student is offered a research opportunity by an employee in exchange for a sexual relationship.

2. Sexual Harassment

Sexual Harassment is unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's educational programs and activities.

b. Sodomy

Sodomy means (1) oral or anal sexual intercourse with another person,
(2) without the

- a. A person who is incapacitated is unable, temporarily or permanently, to give Consent because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that the sexual activity is taking place.
 - b. A person may be incapacitated as a result of the consumption of alcohol or other drugs, or due to a temporary or permanent physical or mental health condition.
 - c. Consent cannot be gained by taking advantage of the incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated.
 - d. A person may also lack capacity because of their age.
- ii. Force, which means, physical violence involving a person exerting control over another person through the use of physical force. Examples of physical violence include hitting, punching, slapping, kicking, restraining, strangling, and brandishing or using any weapon.
 - iii. Threats, which are words or actions that would compel a reasonable

and (3) frequency of interaction between the persons involved in the relationship.

5. Domestic Violence

Domestic Violence is a felony or misdemeanor crime of violence by a current or former spouse or intimate partner of the victim, by a person with whom the individual shares a child in common, by a person who is cohabitating with or has cohabitated with the individual as a spouse or intimate partner, by a person similarly situated to a spouse of the individual under the domestic or family violence laws of the State of Colorado, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Colorado.

6. Stalking

Stalking³ is engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for their safety or the safety of others; or (2) suffer substantial emotional distress.

- a. Course of conduct means two or more acts, including, but not limited to, acts in which a person directly, indirectly, or through third parties, by any actions, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person's property.
- b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- c. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

B. Discrimination/Harassment Prohibited Conduct

Discrimination/Harassment Prohibited Conduct includes the following specifically defined forms of alleged conduct when such conduct does not meet the definition of Title IX Prohibited Conduct and when the conduct (a) occurred on University Premises; (b) occurred in the context of employment or an education program or activity of the University; (c) had (or could reasonably be expected to have) continuing adverse effects on University premises, including posing a reasonable risk of harm to the community; or (d) had (or could reasonably be expected to have) continuing adverse effects in employment or an education program or activity off University premises.

³ The Title IX regulation at 34 C.F.R. § 106.30(a) defines Stalking as defined in 34 U.S.C. 12291(a)(30).

such that a reasonable person (as defined above) would consider the environment intimidating, hostile, or abusive.

4. Harassment under the POWR Act

- a. For purposes of the University's compliance with the Colorado Protecting Opportunities and Workers' Rights ("POWR") Act, for an allegation by a University employee of harassment, the University defines harassment under the POWR Act as any unwelcome physical or verbal conduct or any written, pictorial, or visual communication directed at an individual or group of individuals because of that individual's or group's membership in, or perceived membership in, a protected class listed in the POWR Act (disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, religion, age, national origin, or ancestry), which conduct or communication is:
 - i. Subjectively offensive to the individual alleging harassment; and
 - ii. Is objectively offensive to a reasonable individual who is a member of the same protected class.
- b. The conduct or communication need not be severe or pervasive to constitute a discriminatory act or unfair employment practice under the POWR Act if:
 - i. Submission to the conduct or communication is explicitly or implicitly made a term or condition of the individual's employment;
 - ii. Submission to, or objection to, or rejection of the conduct or communication is used as a basis for employment decisions affecting the individual; or
 - iii. The conduct or communication has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment.
- c. The nature of the work or the frequency with which harassment in the workplace occurred in the past is not relevant to whether the conduct or communication is a discriminatory or an unfair employment practice under the POWR Act.
- d. Petty slights, minor annoyances, and lack of good manners do not constitute harassment unless the slights, annoyances, or lack of manners, when taken individually or in combination and under the totality of the circumstances, meet the standards set forth in Section 4.a above.
- e. Because the scope of the POWR Act is limited to allegations by a University employee of harassment, the standard set forth above does not apply to allegations by a student of harassment outside of the context of their employment by the University.

5. Non-Consensual Sexual Contact

Non-Consensual Sexual Contact is (1) any intentional (not incidental or accidental), (2) sexual, touching, (3) however slight, (4) with any object or body

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