

	UNIVERSITY OF DENVER POLICY MANUAL DISCRIMINATION AND HARASSMENT	
<u>Responsible Department:</u> Office of Equal Opportunity & Title IX <u>Recommended By:</u> Provost, SVC for Operations & Strategy Implementation, and AVC for Equal Opportunity & Title IX <u>Approved By:</u> Chancellor	<u>Policy Number</u> EOIX 3.10.010	<u>Effective Date</u> 08/01/2024

I. INTRODUCTION

The University is an institution of higher learning dedicated to open inquiry and the exchange of ideas where community members are curious, speak and listen openly, and learn from the past in order to shape the future. The University has a long history of supporting academic freedom and freedom of expression and providing a forum where competing ideas and perspectives can co-exist.

The University is also committed to creating and maintaining a safe, welcoming, and inclusive learning, living and working environment in which community members are treated with dignity, decency, and respect. The accomplishment of this goal is essential to the academic mission of the University.

This Policy is consistent with the University’s deep commitments to both protecting individuals and groups from identity-based discrimination and harassment and preserving freedom of thought and expression. Discrimination, harassment, gender-based violence, and retaliation against members of the University community in violation of this Policy do not constitute protected expression or the proper exercise of academic freedom.

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 Univ

discrimination, on the basis of sex, including discrimination on the basis of sex stereotypes, sex characteristics, sexual orientation, or gender identity; parental, family, or marital status; or pregnancy or related conditions in its education program or activity, including with respect to applications for enrollment and/or employment. The University has adopted Procedures to implement this Policy, which provide for the prompt and equitable resolution of complaints alleging any action which would be prohibited by this Policy or by Title IX of the Education Amendments of 1972 ("Title IX"), which provides:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

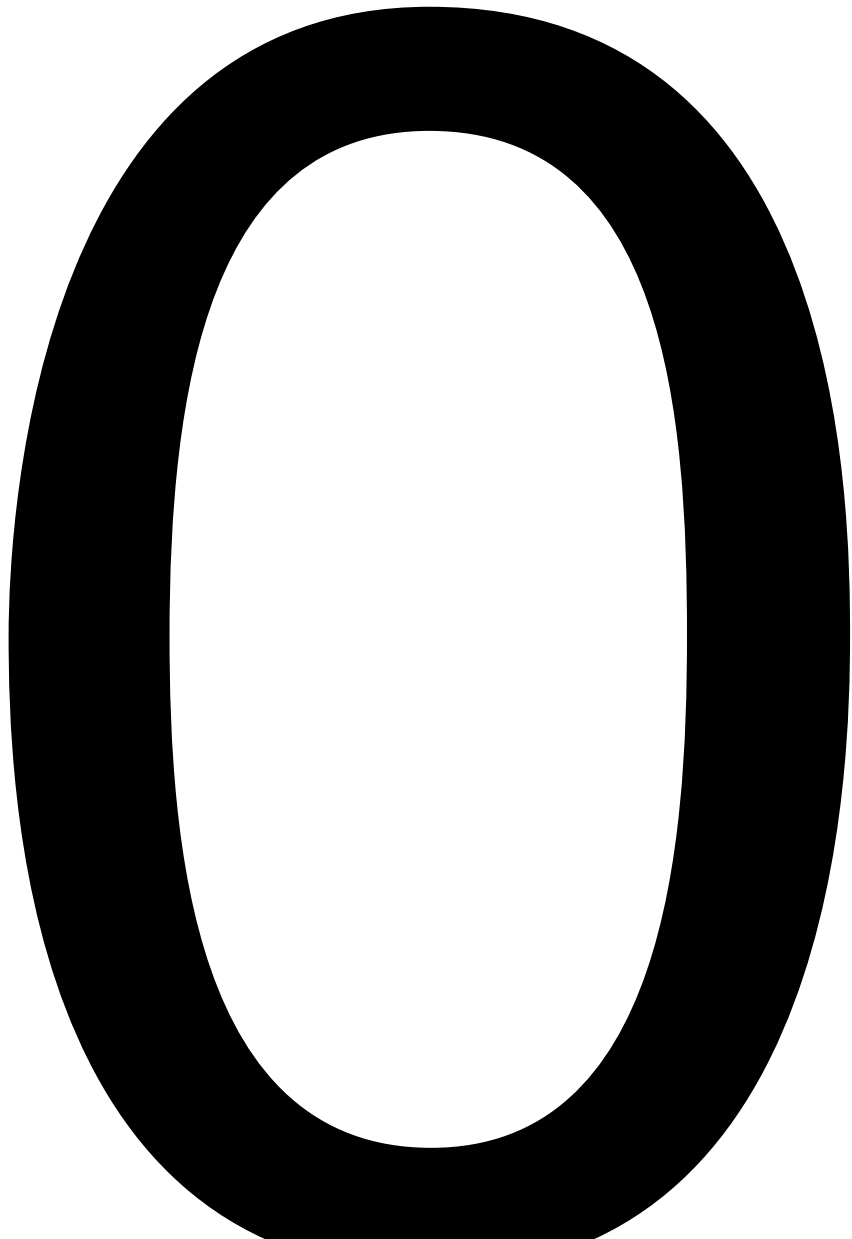
Sex Discrimination is also prohibited by Title VII of the Civil Rights Act of 1964 and state law.

B. Equal Opportunity

complaint or charge, (b) in furtherance of an investigation, proceeding, hearing,

employment, alumni, or other third parties (“Third Parties”).

F. Scope and



person authorized by the University to provide an aid, benefit, or service within a University education program or activity explicitly or impliedly conditions the provision of that aid, benefit, or service on an individual's participation in unwelcome conduct.

2. Hostile Environment Harassment

Hostile Environment Harassment is unwelcome conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the University's education program or activity or, in the context of employment, is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

C. Sex-Based Harassment

Sex-based Harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex that satisfies one or more of the following:

1. Quid Pro Quo Sex-Based Harassment

Quid Pro Quo Sex-based Harassment occurs when an Employee, agent, or other person authorized by the University to provide an aid, benefit, or service under a University education program or activity explicitly or impliedly conditions the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

e. Consent

For all forms of Sexual Assault set forth above under this Policy, Consent is (1) mutually understandable, clear, knowing and voluntary affirmative permission (2) given through clear words or actions (3) regarding the willingness to engage in and the conditions for sexual activity.

Consent cannot be obtained by:

- *Incapacitation*, which means that a person is impaired to such a level that they lack the ability to make informed, rational judgments about whether or not to engage in sexual activity.
 - 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.
 - 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.
 - 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.
 - A person may also lack capacity because of their age.
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- the intensity of the pressure,
 - the degree of isolation of the person being pressured, and
 - the duration of the pressure.
- *Abuse of Power*, which occurs when an individual in a position of authority, whether that authority is real or perceived, induces another individual to engage in activity that would otherwise be nonconsensual based on the need for a specific performance or duty (e.g., grading, performance evaluation).

4. Dating Violence

Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For

- a.** Submission to the conduct or communication is explicitly or implicitly made a term or condition of the individual's employment;
- b.** Submission to, or objection to, or rejection of the conduct or communication is used as a basis for employment decisions affecting the individual; or
- c.** The conduct or communication has the purpose or effect of unreasonably interfering with the individual's work

person would have a reasonable expectation of privacy);

6. Endangering the health and safety of another without the knowledge and agreement of the other party (such as knowingly exposing another individual to a sexually- transmitted infection);
7. Exposing one's private parts (including breasts, buttocks, or genitals) in a non-consensual circumstance or inducing another to expose such private parts;
8. Causing the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give Consent to sexual activity; or
9. Using a fake or stolen identity for an online persona to deceive or manipulate another person into a romantic or sexual relationship (i.e., catfishing).

G.

investigation);

2. Another person from reporting allegations of Prohibited Conduct; or
3. Another person from participating in any process under this Policy or the Procedures.

IV. RECORDS

- A. Consistent with its obligations under Title IX, the University will maintain for a period of at least seven (7) years:
 1. For each complaint of sex-based discrimination, records documenting the resolution process and, if applicable, the resulting outcome; and
 2. For each notification received by the Title IX Coordinator of information about conduct that reasonably may constitute sex-based discrimination, records documenting the actions the University took to meet its obligations under applicable law.
- B. Consistent with its obligations under the POWR Act, the University will preserve any personnel or employment records made, received, or kept for at least five (5) years after the later of:
 1. The date the University made or received the record; or
 2. The date of the personnel action about which the record pertains or the final disposition of a charge of discrimination or related action, as applicable.

The University will maintain an accurate repository of all written or oral complaints of discriminatory or unfair employment practices under the POWR Act, including the date of the complaint, the identity of the complaining party (if the complaint was not made anonymously), the identity of the alleged perpetrator, and the substance of the complaint.

- C. The University will maintain records related to the reporting, review, investigation, and resolution of other alleged Prohibited Conduct reported pursuant to this Policy consistent with the applicable federal and/or state laws and regulations.

V. PROCESS OVERVIEW

The Associate Vice Chancellor for Equal Opportunity & Title IX/Title IX Coordinator shall develop and publish procedures that describe the rights and obligations under the Policy as well as clarify definitions and scope within this Policy. The Associate Vice Chancellor for Equal Opportunity & Title IX/Title IX Coordinator submits recommendations for substantive changes to this Policy to the Senior Vice Chancellor for Operations and Strategy Implementation and to the Provost and Executive Vice Chancellor for their review and approval.

VI. DEFINITIONS

A. **Complainant** means an individual who is alleged to have experienced conduct that could constitute Prohibited Conduct as defined in this Policy. "Complainant" also refers to the University when it exercises the right to initiate a complaint under the Procedures.

B. **"Protected Status"** means race, color, national origin (including shared ancestry or ethnic characteristics)⁴, ancestry, age, religion, creed, disability, sex (including stereotypes, sex characteristics, sexual orientation, gender identity, and gender expression), marital, family, or parental status, pregnancy or related conditions, genetic information, military enlistment, or Veterans status.