[1] including conduct prohibited by Title IX and other *sexual misconduct.* This policy also defines and prohibits related misconduct, including *retaliation,* failure to report, providing false or misleading information, and failing to abide with the orders or sanctions of the Title IX Coordinator or other authorized officials.

September 2, 2021

President Todd Saliman

Title IX Coordinators

Offices of Institutional Equity

Offices of Institutional Equity

Sexual Misconduct, Intimate Partner Violence and Stalking, August 14, 2020

September 2, 2021

All campuses. The system administration is considered a campus for the purposes of this policy and is required to adopt any campus requirements stated herein.

This policy and the required campus complaint process and procedures are intended to comply with the requirements of the following federal laws, their implementing regulations, and related federal agency guidance, as well as relevant state laws and the Laws of the Regents:

- Title IX of the Education Amendments of 1972 ("Title IX");
- The Violence Against Women Reauthorization Act ("VAWA");
- The Jeanne Clery Disclosure of Campus Security M Ian.8 7.7 (e)-an.8 7.7 (ur,)23..7 (e)-8.4 (n)(Ca)15.4a.7 (t)16.1 (l)-7-92( )MPi49223

address *Sexual Misconduct* in a manner that ensures all parties receive prompt, fair, and equitable treatment and that safeguards the dignity and rights of all involved. These offices implement this Policy and administer the related campus procedures. Anyone who encounters an issue or seeks guidance related to this Policy should consult with the designated office for their campus. University employees who are mandatory reporters ("*responsible employees*") must promptly report *Sexual Misconduct* or other prohibited conduct.

The faculty, students, and staff of the university enjoy freedom of speech as guaranteed by the United States Constitution, Colorado Constitution, and the Laws of the Regents. This Policy is intended to protect members of the university community from discrimination and harassment, not to regulate protected speech. The University of Colorado also recognizes academic freedom, as defined in Article 5.B – Acad Pl.

4. To initiate a grievance process under this Policy, either the *complainant* or Title IX Coordinator or designee must file and sign a *formal complaint.*

    a. Title IX Sexual Misconduct: To file a *formal complaint,* a *complainant* must be participating in or

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records related to the investigation of *Sexual Misconduct* or finding of *Sexual Misconduct* unless otherwise permitted by law.

D. ***Sexual Misconduct***

1. Purpose of Reporting: All members of the university community may report *Sexual Misconduct*. Reporting not only allows the university to undertake investigations when appropriate, but also allows the university to inform

f. *Responsible employees* who receive information related to *Sexual Misconduct* in the course of providing professional services within a privileged relationship, such as health care providers or counselors, are not required to report to the Title IX Coordinator. These *responsible employees* must report *Sexual Misconduct* disclosed to them when they are not providing professional services within a privileged relationship. These *responsible employees* may also have independent professional obligations to report some forms of criminal conduct to law enforcement officials. Any *responsible employee* may consult with campus legal counsel to determine whether an independent reporting obligation exists.

g. A *responsible employee* does not satisfy the reporting obligation by reporting *Sexual Misconduct* to a supervisor or university personnel other than the Title IX Coordinator or designee.

h. *Responsible employees* are not required to report *Sexual Misconduct* to which they have been personally subjected to the Title IX Coordinator, but they are nonetheless encouraged to report.

3. Reporting by Students and Other Members of the University Community Who are Not *Responsible Employees*: The university encourages all members of the university community, even those who are not defined as *responsible employees*, to report *Sexual Misconduct* to the Title IX Coordinator or designee. To encourage *complainants* and witnesses to make reports of conduct prohibited under this Policy and to allow for a review of these reports, the university will not pursue disciplinary action against an individual who makes a good faith report to the university or who participates in the investigation of an alleged incident of *Sexual Misconduct*, whether as a *complainant, respondent*, or witness, for a violation of the campus Student Code of Conduct's prohibitions upon the personal consumption of alcohol or other drugs. A *respondent*'s intoxication resulting from intentional use of alcohol/drugs, however, will not function as a defense to engaging in *Sexual Misconduct*.

4. *Formal Complaint*: A *complainant* or Title IX Coordinator or designee must file a document alleging *Sexual Misconduct* against a *respondent* for the university to initiate a formal investigation under this Policy. The *formal complaint* must contain the *complainant*

shall be construed as a limitation upon the authority of the disciplinary authority to initiate disciplinary action for inappropriate or unprofessional conduct;

6. Facilitating *supportive measures* for all parties;
7. Ensuring broad publication of the campus complaint process and procedures, including posting the process and procedures on an appropriate campus website;
8. Providing for a timely review of any request for dismissal of a complaint;
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8. The decision-maker for the appeal of a dismissal may not be the same decision-maker that reached the determination regarding dismissal, the investigator(s), or the Title IX Coordinator. The decision-maker for the appeal must be trained.

9. In the appeal, both parties must have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.

10. The appeal decision-maker will issue a written decision describing the result of the appeal and the rationale for the result. The appeal decision must be provided simultaneously to both parties.

B.

Each campus shall establish an investigative process where the university, and not the parties, holds both the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility for *Sexual Misconduct*. When investigating a *formal complaint* and throughout the grievance process, the university must:

1. Provide the parties an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;

2. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;

3. Not use any party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the university obtains that party's voluntary, written *consent* to do so for a grievance process;

4. Provide the parties with the same opportunity to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but does not have to be, an attorney. During the investigation stage, the advisor is not allowed to testify, and must primarily observe and provide support. An advisor who is verbally abusive, disruptive to the investigative process, or persists in trying to substantively interfere with the investigative process after warnings to cease and desist may be asked to leave and may be precluded from attendance at future meetings or conferences;

5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;

6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a *formal complaint*, including the evidence upon which the university does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation;

7. Prior to completion of the *investigative report*, the university must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten business days to submit a written response, which the investigator will consider prior to completion of the *investigative report*. The university must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and

8. Create an *investigative report* that fairly summarizes relevant evidence without reaching any findings of fact or conclusions, and, at least ten business days prior to a hearing or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the *investigative report* in an electronic format or a hard copy, for their review and written response.

15. The university must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on:

    - the date that the university provides the parties with the written determination of the result of the appeal, if an appeal is filed; or,
    - the date on which an appeal would no longer be considered timely, if an appeal is not filed.

16. The Title IX Coordinator is responsible for effective implementation of any remedies.

D.

1. Either party may appeal from a dismissal (mandatory or discretionary) or determination regarding responsibility, on the following bases:

    a. To determine whether there were procedural irregularities that affected the outcome of the matter;
    b. If new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; or
    c. The Title IX Coordinator, investigators, or Hearing Officer had a conflict of interest or bias for or against *complainants* or *respondents* generally or the individual *complainant* or *respondent* that affected the outcome of the matter.

2. The decision-maker for the appeal may not be the same Hearing Officer that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator. The decision-maker for the appeal must be trained.

3. In the appeal, both parties must have a reasonable, equal opportunity to submit a written statement in support of, or (fi)-7.723.4 b not s4 (r)]TJ0 Tw (91.5 8 ((ua)15.0.r4 (de)15.4(i)16.7e)15.4 32.5t (s)16 (u)8 (p)8 (p)8 (o)8 w)-7.723.31.4

3. Providing Materially False Statements: Providing materially false statements related to *Sexual Misconduct* is contrary to the purposes of this Policy. Members of the university community must provide reports of *Sexual Misconduct* in good faith. A person who knowingly or recklessly makes false statements or knowingly or recklessly submits false information during the grievance process violates this 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.

4. Interference with Reporting: No member of the university community may prohibit or interfere with a *responsible employee* or any other person's reporting *Sexual Misconduct* to the Title IX Coordinator or designee.

5. Failure to Comply with Orders and Sanctions: Subject to any rights of appeal, members of the university community must comply with orders of the Title IX Coordinator or other appropriate university officials related to this Policy, including, but not limited to, no-contact orders, exclusion orders, and emergency removal orders. Subject to any rights of appeal, members of the university community must abide by and complete sanctions related to *Sexual Misconduct*.

6. The university may consolidate *formal complaints* of *Sexual Misconduct* with charges of related violations in situations that arise out of the same facts or circumstances and proceed under the grievance process applicable to *formal complaints* described in s APS(a)1 o o (e)15(6 (1Tf1udf6.83 (c)15 (a8.3 pplu)23.8 (Tc4.64

- A *respondent*'s intoxication resulting from intentional use of alcohol or drugs will not function as a defense to engaging in sexual activity without an individual's *consent*.

B. : Within the context of this Policy, means an individual who is alleged to be the victim of conduct that could constitute *Sexual Misconduct*, *retaliation*, or other conduct in violation of this Policy.

C. : means violence committed by a person, on the basis of sex –

1. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
2. where the existence of such a relationship shall be determined based on a consideration of the following factors:
   a. The length of the relationship;
   b. The type of relationship; and
   c. The frequency of interaction between the persons involved in the relationship.

D. The term "domestic violence" includes felony or misdemeanor crimes of violence on the basis of sex, committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, 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 jurisdiction.

E. : Includes locations, events, or circumstances over which the university exercises substantial control over both the *respondent* and the context in which the *Sexual Misconduct* occurs. This includes any building owned or controlled by a student organization that is officially recognized by the university.

F. : means a document filed by a *complainant* or signed by the Title IX Coordinator or designee alleging *Sexual Misconduct* against a *respondent* and requesting that the university investigate the allegation of *Sexual Misconduct*. A *formal complaint* may be filed with the Title IX Coordinator or designee in person, by mail, or by electronic mail. If the *complainant* files the *formal complaint*, the document must contain the *complainant*'s physical or digital signature, or otherwise indicate that the *complainant* is the person filing the *formal complaint*.

G. : Unwelcome conduct determined by a reasonable person to be so severe, pervasive, or objectively offensive that it effectively denies a person equal access to the university's *education program or activity*.

Q. : means unwelcome conduct on the basis of sex that satisfies one or more of the following:

1. "Sexual assault" as defined in 20 U.S.C. § 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. § 12291(a)(10), "domestic violence" as defined in 34 U.S.C. § 12291(a)(8), or "stalking" as defined in 34 U.S.C. § 12291(a)(30);

2. Hostile Environment: 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 *education program or activity*; or

3. Quid Pro Quo Sexual Harassment: An employee of the university conditioning the provision of an aid, benefit, or service of the university on an individual's participation in unwelcome sexual conduct.

R. : Unwelcome conduct, on the basis of sex, 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 *education program or activity*. 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.

S. : An employee of the university conditioning the provision of an aid, benefit, or service of the university on an individual's participation in unwelcome sexual conduct.

T. : Means engaging in any [illegible]

A. Campus *Sexual Misconduct* Policies and Procedures

CU Boulder
CU Colorado Springs
CU Denver
CU Anschutz Medical Campus
CU System Administration

B. APS 5015 - Conflict of Interest in Amorous Relationships

C. Title IX Coordinators

D. Campus Discrimination and Harassment Policies and Procedures

CU Boulder
CU Colorado Springs
CU Denver
CU Anschutz Medical Campus
CU System Administration *(Administered by CU Boulder)*

- Adopted: June 5, 1989 - University Policy on Sexual Harassment.
- Revised: November 14, 1996; July 1, 1999; July 1, 2003 (renamed Sexual Harassment Policy and Procedures); July 1, 2009; July 20, 2012; November 29, 2012 (correction to strike Section IV.G. which was not shown in final version for July 20, 2012); July 1, 2015 (renamed Sexual Misconduct); October 1, 2018 (renamed Sexual Misconduct, Intimate Partner Abuse and Stalking); August 14, 2020 (renamed to Sexual Misconduct, Intimate Partner Violence, and Stalking); September 2, 2021.
- Last Reviewed: September 2, 2021.

Title IX, sexual misconduct, sexual harassment, sexual exploitation, sexual assault, consent, responsible employee, retaliation, intimate partner abuse, dating violence, domestic violence, hostile environment, quid pro quo, incapacitation, reporting, confidential resources.