

Process and Procedures 2017-2018¹

Effective: July 1, 2015

Revised: July 1, 2016

Revised: July 1, 2017²

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.

¹ This document was created by the Office of Institutional Equity and Compliance at the University of Colorado Boulder, and revised and adapted for use by the Office of Institutional Equity at the University of Colorado Colorado Springs.

² This document was updated on 04/13/18 to reflect current names of staff in Office of Institutional Equity

Contents

A. Overview and Mission Statement of the Office of Institutional Equity 3

B. Purpose and Scope 3

C. Jurisdiction 4

D. Reporting Options 5

E. Support Services and Assistance including Protective Orders 6

F. Privacy, Confidentiality, and the University’s Obligation to Provide a “Safe and Non-Discriminatory Environment” 6

G. Prohibited Conduct 8

H. OIE Resolution Procedures 8

I. Definitions 15

J. Resources 19

Appendix 1: Selected Colorado Criminal Definitions 23

Office of Institutional Equity
University of Colorado Colorado Springs
1420 Austin Bluffs Parkway
Main Hall, Room 201
Colorado Springs, CO 80918
Office (719) 255-4324
equity@uccs.edu
www.uccs.edu/equity

A. 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 implements and enforces the University of Colorado APS on Sexual Misconduct, the University of Colorado Colorado Springs Discrimination and Harassment Policy, and the University of Colorado APS on Conflict of Interest in Cases of Amorous Relationships. The Director of the OIE, who is also the campus Title IX Coordinator, reports directly to the Chancellor.

UCCS is committed to preventing and eliminating 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 eliminating and preventing any form of related retaliation as prohibited by University policies, state laws and federal laws including but not limited to The Civil Rights Act of 1964 (Title VI and Title VII), Title IX of the Education Amendments of 1972 and the Americans with Disabilities Act.

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 coordinate the provision of remedial and interim protective measures as necessary, and provide educational trainings and sessions for all members of the University community, including faculty, staff, and students.

B. Purpose and Scope

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

- Equal Pay Act of 1963
- Civil Rights Act of 1964
 - Title IV
 - Title VI
 - Title VII
- Title IX of the Education Amendments (1972)
- Rehabilitation Act (1973) (Sections 503 and 504)
- 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

The Process and Procedures is also intended to be the “campus complaint process and procedures” pursuant to the University of Colorado APS on Sexual Misconduct and the University of Colorado Colorado Springs Discrimination and Harassment Policy and should be read in conjunction with those policies. The Process and Procedures is also sometimes referred to as “grievance procedures.”

C. Jurisdiction

1. The Process and Procedures govern:
 - a. All students, faculty, staff, contractors, patients, volunteers, affiliated entities, and other third parties.
 - b. Conduct that occurs on campus.
 - c. Conduct that occurs off-campus, including online or electronic conduct, if the conduct occurred in the context of University educational programs, activities, or employment,, or (for sexual misconduct only) has continuing adverse effects on campus.
2. Actions taken under the Process and 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. OIE’s jurisdiction does not depend on whether criminal charges are filed. Investigations or inquiries conducted by the OIE are not postponed while criminal or civil proceedings are pending unless otherwise determined by the OIE. Dismissal of criminal charges or acquittal in a criminal case does not prevent the OIE from investigating and adjudicating an incident. There is no statute of limitations for OIE matters.
3. The failure of an individual to appear and/or respond to the OIE does not prevent the OIE from proceeding or completing the applicable process.
4. The University has an obligation and jurisdiction to conduct at least a preliminary inquiry to determine whether the alleged conduct occurred in the context of, or has continuing effects on, a University program, activity or employment.
5. In rare situations, the OIE has the authority and discretion to re-open an investigation if evidence, such as results from a sexual assault nurse examination (SANE), becomes available that was previously outside of the University’s ability to access.
6. For employees, any other matters outside the scope of the Process and Procedures shall be handled 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 potential, multiple charges involving OIE Process and Procedures and the Student Code of Conduct, the OIE and DOS 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 handled by the campus with the disciplinary authority over the respondent. The campus responsible for the investigation 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 investigation.

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 handled 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 investigation; 2) conduct a joint investigation with the affiliated entity; 3) defer to the findings of an investigation by the affiliated entity where the University has reviewed the investigation process and is satisfied that it was fairly conducted; 4) use the investigation and findings of the affiliated entity as a basis for further investigation; or 5) take other action as determined appropriate by the OIE Director or designee.

D. Reporting Options

Call 911 in an Emergency or if you have an immediate safety concern

1. **University/OIE:** To notify the University and initiate the OIE resolution process regarding any of the prohibited conduct as listed in Section G you may:

a. Call OIE: (719) 255-4324

b. Email OIE: equity@uccs.edu

c. Contact us directly at:

(719) 255-4324 Interim Title IX Coordinator, James Duvall

Investigator, Laura Emmot

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

MANDATORY REPORTING: Any faculty or staff member who is considered a responsible employee, as defined in Section I, who witnesses or receives information regarding any possible sexual misconduct or protected class discrimination or harassment (as defined by the CU Sexual Misconduct Policy and the UCCS Discrimination and Harassment Policy, respectively) is required to promptly report to the Title IX Coordinator or designee all known details about the alleged sexual misconduct or protected class discrimination or harassment, including:

(1) Name of the alleged victim;

(2) Name of the alleged perpetrator;

(3) Name of any alleged witnesses; and

(4) Any other relevant facts, including the date, time and specific location of the alleged incident.

All individuals, even if not considered a responsible employee, are highly encouraged to promptly report such information to a responsible employee or directly to the Title IX Coordinator or designee.

Reports, complaints and other information must be provided in good faith. It is a violation of this policy when a person knowingly or recklessly alleges a false complaint of sexual misconduct or protected class discrimination or harassment or provides false information during the course of an investigation, and violators may be subject to disciplinary action, up to and including expulsion or termination of employment, as applicable. **This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.**

To encourage reporting, minor infractions by either the complainant or the respondent (e.g., student use of alcohol or drugs) will be addressed informally whenever possible. The goal of this policy is to remove potential barriers to reporting. However, final jurisdiction and decision-making regarding any conduct not covered by these policies and procedures will be made by Office of The Dean of Students (for students) or the appointing/disciplinary authority (for employees).

If a complainant chooses not to report formally and/or chooses not to participate in an investigation process (through OIE or law enforcement), the complainant can choose to contact a practitioner at the UCCS Wellness Center to talk confidentially and receive access to campus resources.

2. Law Enforcement

a. Public Safety – University of Colorado Colorado Springs Police Department – Call 911 for all emergencies; 719-255-3111 for other Police Services and non-emergencies

<http://www.uccs.edu/~pusafety>

b. Colorado Springs Police Department – Call 911 for emergencies; other Police Services

(719) 444-7000, 705 S. Nevada Avenue, Colorado Springs, CO <https://coloradosprings.gov/police-department>

c. El Paso County Sheriffs Department – Call 911 for emergencies; other Sheriff Services (719) 520-27

East Vermijo Avenue, Colorado Springs, CO 80903 719-520-7100 <http://shr.elpasoco.com/>

Complainants are not required to but do have the right to file a criminal complaint with law enforcement and to the University/OIE simultaneously. The OIE can assist in reporting to law enforcement for victims 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 protective order. Reporting to the University Police will constitute notice to the University/OIE and may result in an OIE resolution process subject to applicable state law.

3. Confidential Options

If a complainant is not sure about initiating a University resolution process or making a police report, the complainant can receive free, confidential information and support by calling the University Wellness Center at the University of Colorado Colorado Springs at (719) 255-4444.

E. Support Services and Assistance including Protective Orders

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 these policies, the OIE will provide assistance as needed (and whether or not there is a formal report or participation in an investigation) in accessing on and off campus services, including but not limited to counseling, health services, mental health services, victim advocacy, legal assistance, visa and immigration services, and/or the availability of forensic sexual assault nurse exams (“SANE”).

For a written summary of options and resources available to any victim 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 Office of Institutional Equity to request such accommodation.

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

Complainants 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 Director of OIE.

F. Privacy, Confidentiality, and the University's Obligation to Provide a "Safe and Non-Discriminatory Environment"

Privacy and confidentiality have distinct meanings.

Privacy: generally means that information related to a report of prohibited conduct will be shared with a limited circle of individuals who "need to know" in order to assist in the active review, investigation, 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. If a student receives medical care from a University entity that is covered by the Health Insurance Portability and Accountability Act (HIPAA), then the student's medical and related records are generally protected by HIPAA. Otherwise, a student's medical and related records are protected under FERPA and/or state law. Access to personnel records is restricted in accordance with University policy and state law.

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, the sexual assault victim advocate, 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 (i) given permission to do so by the person who disclosed the information; (ii) there is an imminent threat of harm to self or others; (iii) the conduct involves suspected abuse of a minor under the age of 18; or (iv) as otherwise required or permitted by law or court order.

The University supports the use of confidential resources as listed in Section K so that victims can provide information confidentially and still receive certain remedial and/or protective measures as appropriate through the Director 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 as defined in Section I.

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 investigation be conducted, that no disciplinary action taken, or that the allegation not be reported to law enforcement, the responsible employee **remains required** to report all relevant information to the Director of the OIE or designee 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.

Determination Regarding Obligation to Provide a Safe and Non-Discriminatory Environment

If the individual would still like to maintain privacy and does not wish for the OIE to investigate or address the matter, the Title IX Coordinator or designee will weigh and determine that request against the University's obligation to provide a safe, nondiscriminatory environment for all students, faculty, and staff. In making that determination, the Title IX Coordinator or designee will consider a range of factors, including the following:

- The seriousness of the alleged conduct;
- The increased risk that the alleged respondent will commit additional acts of prohibited conduct or acts of sexual or other violence;
- Whether the alleged respondent threatened further prohibited conduct, sexual or other violence against the alleged complainant or others;
- Whether there have been other misconduct complaints about the same alleged respondent or if the respondent has a known history of arrests or records from a prior school indicating a history of prohibited conduct, sexual or other violence;

- The existence of multiple alleged complainants and/or respondents;
- Whether the conduct was facilitated by the incapacitation of the complainant (through alcohol, drugs, disability, unconsciousness or other means);
- Whether the alleged conduct was perpetrated with a weapon or other violent means;
- Whether the alleged complainant is a minor;
- Whether the alleged conduct reveals a pattern of perpetration (by the alleged respondent, by a particular group or organization, around a particular recurring event of activity, and/or a particular location);
- Whether any other aggravating circumstances or signs of predatory behavior are present; or
- Whether the University possesses other means to obtain relevant evidence of the alleged conduct (e.g., security cameras or personnel, physical evidence).

The Title IX Coordinator or designee's decision will be conducted on a case by case basis after an individualized review and the Title IX Coordinator or designee may consult with other University officials as appropriate including but not limited to the University of Colorado Colorado Springs Police Department, the Student Response Team and/or the Human Resources Behavior Intervention Team. If the University honors the individual's request for privacy, the University's ability to meaningfully investigate the incident and pursue disciplinary action, if appropriate, may be limited.

G. Prohibited Conduct

The conduct listed below is prohibited, as are attempts to commit and aiding, abetting, or inciting others to commit them. Prohibited conduct also includes conduct engaged in by electronic means including, but not limited to, computers, any type of phone, or any other means of electronic communication. These provisions should not be construed, and will not be enacted, to deny individuals any rights protected by the United States and/or Colorado Constitution.

1. 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.²
2. Engaging in Sexual Misconduct³
 - a. Sexual Assault-Non-Consensual Intercourse
 - b. Sexual Assault-Non-Consensual Contact
 - c. Sexual Exploitation
 - d. Sexual Harassment
 - e. Intimate Partner Abuse (including domestic or dating violence)
 - f. Gender/Sex Based Stalking⁴
3. Failing to comply with the direction or order of the OIE or OIE staff who are performing their duties pursuant to the Process and Procedures. Examples of "orders" include, but are not limited to, no-contact orders and directives to meet with OIE investigators.
4. Failing to abide by or complete a sanction in a satisfactory manner.
5. Failing to report: Any responsible employee who witnesses or receives a written or oral report of a complaint of discrimination, harassment, sexual misconduct or related retaliation as covered by the Process and Procedures but fails to promptly report it to the OIE.

² See UCCS's Discrimination and Harassment Policy. <https://www.uccs.edu/equity/sites/equity/files/inline-files/300-017.pdf>

³ See the University of Colorado APS on Sexual Misconduct. <https://www.cu.edu/oie/aps/5014>

⁴ OIE has jurisdiction for any allegations of gender/sex based stalking whether it is against a student, employee or other third party pursuant to Section G(2)(f). For any other stalking allegations against a student, DOS has jurisdiction. For any other allegations against an employee, that employee's disciplinary authority/department has jurisdiction.

6. Providing false or misleading information: Reports, complaints and other information must be provided in good faith. It is a violation of policy when a person knowingly or recklessly alleges a false complaint of any prohibited conduct or provides false information during the course of an investigation. Violators may be subject to disciplinary action, up to and including expulsion or termination of employment, as applicable. This provision does not apply to reports made or information provided in good faith, even if the facts alleged in the report are not later substantiated.

7. Violating the CU Conflict of Interest in Amorous Relationships Policy⁵

8. Retaliation related to any of the above forms of Prohibited Conduct.

H. OIE Resolution Procedures

The University does not tolerate and will be responsive to any report or complaint of “Prohibited Conduct” as listed in Section G and is committed to providing prompt, fair, impartial, and equitable investigation and resolution 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, through the OIE, 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:

1. **Overview of Resolution Process:** The University has an obligation and jurisdiction to conduct at least a preliminary inquiry to determine whether the conduct occurred in the context of, or had continuing adverse effects on, a University program, activity or employment. The OIE shall determine the most appropriate means for addressing the report or complaint. Options include but are not limited to:

- a. Formal Investigation (see Section H(5))
- b. Informal Resolution (see Section H(6))
- c. Determining that the facts of the complaint or report, even if true, would not constitute a violation of these policies

2. **Remedial and Protective Measures:** The University will implement reasonably available measures to protect the parties and facilitate the parties’ continued access to University employment or education programs and activities at any stage of the process. Such measures may be both **remedial** (designed to address safety and well-being and continued access to educational opportunities) and **protective** (action involving a respondent). The Title IX Coordinator will discuss remedial and protective measures with the parties, but may consult with other University officials as appropriate including but not limited to the University of Colorado Colorado Springs Police Department, the Student Response Team and/or the Human Resources Behavior Intervention Team to evaluate the appropriateness and implement any such measures.

Remedial measures are available regardless of the manner of resolution under this policy or level of participation by a complainant. Protective measures, which involve restricting the rights of a respondent, may require participation in a formal investigation. Where there is a sufficient factual basis to impose remedial and/or protective measures, they will not disproportionately impact the complainant. Remedial and protective measures include but are not limited to:

- a. academic services (arranging for a complainant to re-take a course, excuse related absences, or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the complainant’s academic record)
- b. accessing medical services
- c. accessing counseling services
- d. employment modifications
- e. transportation changes

⁵ See University of Colorado APS on Conflict of Interest in Cases of Amorous Relationships. <https://www.cu.edu/ope/efficiency-and-effectiveness/presidents-task-force-efficiency/aps-5015-conflict-interestcases>

- f. no-contact orders enforced by the University
- g. discussing options for obtaining criminal or civil protection or restraining orders
- h. residential re-locations on campus
- i. changes to or exclusion from classes
- j. changes to or exclusion from campus activities
- k. campus exclusion orders
- l. interim student suspension in accordance with DOS procedures
- m. administrative leave for employees in consultation with Human Resources or designee and appointing/disciplinary authority
- n. temporary suspension of supervisory or evaluative authority for employees in consultation with Human Resources or designee and appointing/disciplinary authority

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

Participants in OIE resolution processes may request remedial and/or protective measures from the Title IX Coordinator or designee. The Title IX Coordinator or designee will maintain oversight of these requests and the provision of any such measures. The Title IX Coordinator or designee has the discretion to ensure the appropriateness of any remedial and/or protective measures based on all available information, including whether they are reasonably available, and will meet with a complainant or respondent to address any concerns about the provision of remedial or protective measures. The University will enforce any violations of protective measures.

3. Interim Suspension. The University has the authority to interim suspend any student whose presence may impose a continuing danger to persons or property or an ongoing threat of disrupting academic progress. In such a case, any Office of the Dean of Students processes for interim suspension will apply.

4. OIE 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. 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.

5. 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. Outside investigators shall also have adequate training, qualifications and experience that will, in the judgment of the OIE, facilitate a prompt, fair, and impartial investigation. Anyone designated to address an allegation must adhere to the requirements of the Process and Procedures and confer with the OIE Director or designee on a regular basis about the progress of the investigation.

6. Formal Investigations⁶

a. Major Stages and Timelines

i. Notice of Investigation (NOI)

If a formal investigation is commenced, the OIE shall send the respondent and the complainant a Notice of Investigation which will:

- Provide a copy of the OIE Process and Procedures;

⁶ Section H(5) does not apply to matters formally investigated pursuant to the University of Colorado APS Conflict of Interest in Cases of Amorous Relationships. Section 2 ("Policies and Procedures") of that Policy applies in those cases and the University is the complainant.

- Identify the complainant and respondent;
- Identify the factual description premising a charge of prohibited conduct;
- Identify the prohibited conduct provisions under Section G;
- Require that the respondent contact the OIE within three (3) days to set up a meeting. The Notice of Investigation may be sent to the respondent and the complainant by email or permanent addresses appearing in the University's information system, to an 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 student respondents, the Dean of Students will also receive a copy of the Notice of Investigation. For employee respondents, the employee's supervisory upline including the employee's appointing/disciplinary authority as well as Human Resources will also receive a copy of the Notice of Investigation. If the respondent does not schedule or attend an interview by the date specified in the Notice of Investigation, or if the respondent schedules an interview but does not attend or attends but does not participate, the OIE may complete the investigation based on the totality of information obtained, which may include police investigation reports and other relevant documents or information.

ii. Investigation Process

The OIE follows an investigative model whereby investigators interview the complainant and the respondent separately and provide each party the opportunity to be heard and to respond. There are no formal hearings. The complainant and the respondent shall each have the right to:

- Be notified at least 48 hours in advance of an interview or meeting where a party's presence is requested. The party may waive this notice requirement by agreeing to attend a meeting with notice of less than 48 hours;
- Present relevant information to the investigator, including evidence and identifying witnesses;
- *For sexual misconduct matters only*, have an advisor of their choice present during any interview, which can include, but is not limited to an attorney. Advisors are not authorized to speak or participate on either the complainant or respondent's behalf. If a complainant or respondent chooses to have an advisor present for interviews, it is the complainant or respondent's obligation to select an advisor whose schedule allows attendance within the timeframes designated; advisors may not be potential witnesses in the investigation and must be identified to the OIE at least 24 hours prior to any meeting where they may be present.
- Review and respond to a Written Evidence Summary of the relevant and material facts gathered during the investigation prior to the issuance of the Final Outcome Letter and Investigative Report, as described more fully below. *For sexual misconduct matters only*, to access witness identities to the extent allowable by law;
- Receive a copy of the Final Outcome Letter at the conclusion of the investigation; and
- Participate in the sanction process, described below, if applicable.

iii. Disclosure of Written Evidence Summary

Following the fact gathering, the investigator shall allow the complainant and respondent to review a Written Evidence Summary of the relevant and material facts. *For sexual misconduct matters only*, the parties will also have access at this time to witness identities to the extent allowable by law. The parties can respond to OIE with any additional information for consideration during such review. 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 business days of the email from OIE notifying the parties of their opportunity to do so.

iv. Investigative Report

At the conclusion of an investigation and following the submission of any information by either the complainant or respondent, the investigators shall prepare a written Investigative Report that will include a statement of factual findings and a determination as to whether or not there was a violation. A copy of the investigator's final Investigative Report shall be provided to the Chancellor and either the Dean of Students (for student respondents) or the respondent's supervisor and appointing/disciplinary authority (for employee respondents).

v. Final Outcome Letter

The OIE shall advise the complainant and respondent simultaneously in writing of the result or outcome of any investigation conducted under the Process and Procedures.

vi. Appeals

Either party may file an appeal of OIE's findings or conclusions. The UCCS Director of Compliance will hear all appeals. All appeals must be submitted in writing to the Director of Compliance no later than seven (7) calendar days after the issuance of the Final Outcome Letter. An appeal must cite the basis of the appeal and provide sufficient and detailed information to support the appeal. New evidence may not be presented in the appeals process unless the appellant can demonstrate that the evidence was unavailable during the investigation.

Failure to meet the above conditions shall be sufficient cause to deny an appeal, in which case the finding(s) or conclusion(s) of the investigation shall be final. The Director of Compliance, or designee, shall make the determination as to whether these conditions have been met.

During the appeal process, the Director of Compliance will not reconsider the facts and statements on which the original findings or conclusions were based but will consider only:

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 finding of the Director of Compliance will ordinarily be completed within 21 days of an appeal's submission. The complainant and respondent will be notified in writing of the outcome of the appeal within 5 business days of the appeals decision. The Director of Compliance shall determine whether any ground for appeal has been met. If a ground for appeal has not been met, then the investigation outcome is final. If it is determined that a ground for appeal has been met, then the matter is referred back to the OIE to remedy the error through consideration of the new evidence, addressing the due process error and/or addressing any investigator conflict of interest/bias. The decision of the Compliance Director is final. .

vii. Completion of Investigation/Sanction

The University will use its best efforts to complete its investigation and impose sanctions **within sixty (60) days (for sexual misconduct investigations) and within 90 days (for protected class discrimination and harassment investigations)** 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, to comply with a request by law enforcement, to accommodate the availability of witnesses, to provide translation services, to account for University breaks or vacations, to access relevant and probative documentation that is not immediately available, or to address other legitimate reasons. In the event the sixty-day timeframe is extended, both the complainant and respondent will be notified as soon as practical.

viii. Deadlines/Extensions of Time

The complainant and the respondent each have an obligation to meet deadlines as requested by OIE during the investigation and as specified above. Extensions of time shall only be granted for good cause shown and the parties shall be provided written notice of extensions as applicable.

b. Standard of Review/Burden of Proof

The standard of proof required for a finding of responsibility is a preponderance of evidence, i.e., the information gathered demonstrates that it is "more likely than not" that the conduct occurred.

c. Other Evidentiary Standards

iii. Prior sexual history in sexual misconduct cases

The Complainant or Respondent's character or reputation with respect to other sexual activity is never relevant and will not be considered as evidence. However, prior sexual history may be considered under the following circumstances:

- Where there was a prior or ongoing relationship between the Complainant and Respondent, and the Respondent asserts that consent was sought and given, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. However, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent.
- Where there is evidence of a pattern or conduct similar in nature by the Respondent, either before or after the conduct in question, regardless of whether there has been a finding of responsibility, this information may be deemed relevant the Investigation team's determination of responsibility and/or assigning of a sanction.

The determination of relevance will be based on an assessment of whether the prior or subsequent incident was substantially similar to the present allegation or the information indicates a pattern of behavior and substantial conformity with that pattern by the Respondent.

- In addition, other conduct by either party may, under limited circumstances, be relevant to establish intent, motive, absence of mistake, to explain an injury or physical finding, or another ground deemed probative of a material fact by the investigator.
- Relevant evidence of prior sexual history must be based on direct information, not rumor, hearsay, speculation or conjecture.

ii. Respondent's prior acts/pattern evidence

The OIEC 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 interim protective measures, the investigative finding, and/or sanctioning.

iii. Character witnesses

Witnesses must have observed the acts in question or have information relevant to the incident and cannot be participating solely to speak about an individual's character. Both parties will be presumed to have good character for the purposes of the investigation.

iii. General authority to make relevance determinations

The investigator will determine the relevance of any proffered information. In general, the investigator will not consider statements of personal opinion, rather than direct observations or reasonable inferences from the facts, or statements as to any party's general reputation for any character trait, including honesty or chastity.

d. Sanctioning Overview for All Cases (Students or Employees)

In cases where the investigation results in a determination that University policies have been violated, within **seven (7) days** of the date of the Final Outcome Letter, the respondent and complainant will each have an opportunity to separately meet with the respondent's disciplinary authority to discuss any mitigating or aggravating circumstances related to the incident that may impact sanctioning.

In the case of student respondents, the Office of the Dean of Students is the disciplinary authority. The Office of the Dean of Students will contact the respondent within **three (3) days** of the date of the Final Outcome Letter to set up any meetings. The parties must exercise their opportunities to meet with the Dean of Students within **seven (7) days** of the date to set the appointment and meet within the time prescribed. Alternatively, the complainant or respondent may submit a written statement in lieu of a meeting within **seven (7) days** of the Final Outcome Letter. 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.

In the case of employee respondents, sanctions will be handled according to department policy. Both parties shall have the opportunity to meet with the disciplinary authority to discuss the sanctions. This meeting does not replace any additional meetings that may be required under other applicable personnel process (e.g., State Personnel Board Rules for classified employees; Professional Rights and Duties procedure and Privilege and Tenure process for faculty). Alternatively, the complainant

or respondent may submit a written statement in lieu of a meeting within **seven (7) days** of the Final Outcome Letter. 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.

Repeated violations are likely to result in progressively severe sanctions. In the event that no violation of relevant policies is found, the case will be forwarded to the disciplinary authority to determine if there will be sanctions or consequences based on the UCCS Student Code of Conduct standards (for students) or for inappropriate or unprofessional conduct (for employees).

e. Notice, Sanction, and Appeals for Student Respondents

The Dean of Students or designee is authorized to impose sanctions for student respondents and shall simultaneously notify the complainant and the respondent of any sanctions and any other steps taken by the campus to remedy the prohibited conduct. Possible sanctions are described in the Student Code of Conduct, and may include education, exclusion from certain activities, probation, suspension or expulsion. One or more sanctions may be imposed. Appeals of the sanctioning process will follow the processes outlined in the UCCS Student Code of Conduct.

f. Notice and Sanction for Employee Respondents

The appointing/disciplinary authority will initiate formal action against a respondent if that respondent was found to have violated a policy or acted inappropriately or unprofessionally and impose sanctions as warranted in consultation with Human Resources or designee, the Director of OIE or designee and any other administrative staff with a need to know. The appointing/disciplinary authority may have access to the investigative records and may consult with the investigator in order to take appropriate action. The appointing/disciplinary authority shall simultaneously notify the complainant and the respondent of any sanctions imposed and any other steps taken by the campus to remedy the discrimination or harassment to the extent permitted by law. In cases of sexual misconduct, the Director as the Title IX Coordinator must ensure that any disciplinary action proposed by the appointing/disciplinary authority against an employee respondent is appropriate and timely (see Section I). Any disputes in cases between the Director as the Title IX Coordinator or designee and the appointing/disciplinary authority regarding discipline shall be resolved by submitting the case information to the Chancellor for review and final decision. The Chancellor shall also have access to the investigative records and may consult with the investigator in order to take appropriate action.

7. Informal Resolution

The OIE may determine that the most prompt and effective way to address a concern is through the informal resolution process. The primary focus during an informal resolution remains the welfare of the complainant 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 complainant that do not require notification to the respondent;
- Provide targeted or broad-based educational programming or training; and/or
- Meet with the respondent to (1) discuss the behavior as alleged and provide an opportunity to respond; (2) review prohibited conduct policies as applicable; (3) identify and discuss appropriate conduct and behaviors moving forward and how to avoid behavior that could be interpreted as retaliatory; (4) follow-up with the complainant regarding the respondent’s responses if appropriate; and (5) notify

the DOS or the respondent's supervisor of the allegations and responses if necessary, who will determine whether any other disciplinary action is appropriate

Although mediation may be appropriate as an additional resolution option for many allegations of prohibited conduct, it is not appropriate for allegations of sexual assault or other serious cases.

8. Record Retention and Confidentiality of Records

In all cases, the OIE shall retain the investigator's report and final sanction decision for a minimum of three years or for as long as any administrative or legal action arising out of the complaint is pending. All records, reports and investigations shall be considered confidential and shall not be disclosed publicly except to the extent required by law.

9. Request to Inspect Student Educational Records

Students have the right to inspect and review their educational records. To do so, students must submit a request to inspect records form. The OIEC will comply with a request for access within a reasonable time, not to exceed 45 days.

10. Student Disciplinary Hold, Transcript 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 University of Colorado Colorado Springs campus, including Continuing Education, and prohibits the student from registering for classes until the OIE process has been completed. A disciplinary hold may also be placed 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. The transcript hold prohibits the academic transcript from being released until all actions have been completed.

A disciplinary stop shall be placed on a student's record if they are suspended as the outcome of the OIE proceedings. 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.

11. Student Refund Policy After Disciplinary Action

If a student is suspended or expelled from the University, or has their Housing and Dining Services contract terminated, assessment or refund of tuition and fees and/or Housing and Dining Services room and board costs are made in the same way as when a student voluntarily withdraws. The date used for determining the amount due will be the first day of the suspension or expulsion, as decided upon by the DOS.

12. Release of Student Information in OIE

Provisions of the Family Educational Rights and Privacy Act of 1974 (FERPA), as amended by the Higher Education Amendments of 1998, govern access to a student's academic transcript or conduct file. The student and/or those university officials who demonstrate a legitimate educational need for disciplinary information may have access to the student's conduct file. Parent(s) who provide proof that a student is a dependent as defined in Section 152 of the Internal Revenue Code of 1954 may have access to the student's conduct file. A copy of the last federal income tax return listing the student as a dependent will serve as proof of dependency and allow the parent(s) access to the student's conduct file without written consent of the student. In this case, parents may also have access to a conduct file even if the student has requested otherwise.

In addition, parent(s) may be notified if a student under 21 years of age is found responsible through the Dean of Student's Office for a violation involving use or possession of alcohol or other drugs. All other inquiries, including, but not limited to, inquiries from employers, government agencies, news media, family, friends, or police agencies, require a written release from the student before access to university conduct files is granted. An exception to the foregoing is that information may be released pursuant to a lawfully issued subpoena and as otherwise provided by FERPA.

Re-Release of Information

Individuals who receive confidential information due to an exception to privacy laws, due to their participation in the OIE process, or due to the signed consent of the student whose records are in question are prohibited from further disclosing/releasing the confidential information, unless expressly permitted by state or federal law. Violation of this prohibition could result in additional charges or other appropriate action.

I. Definitions

Advisor: *For sexual misconduct matters only*, 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 which create mutually understandable clear permission regarding 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, intimidation or coercion, 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 someone, themselves, or to harm someone one cares for 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.
- **Coercion** is unreasonable pressure for sexual activity. Coercion differs from seduction by the repetition of the coercive activity beyond what is reasonable, the degree of pressure applied and other factors such as isolation. When someone makes it clear that they do not want sex, do not want to go past a certain point or want it to stop, continued pressure beyond that point can be coercive. It also includes “grooming,” meaning an attempt to control victims through a systematic process which takes advantage of an individual’s vulnerabilities using a combination of strategies to gain the individual’s trust, lower inhibitions and gain cooperation and “consent/”
- **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 physical incapacitated, or reasonably should know to be incapacitated, violates this policy.

Affirmative 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 done in numerous ways and need not be a verbal withdrawal of consent.
- 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.
- 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.

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.

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.

Complainant: A person who is subjected to alleged prohibited conduct.

Consent: See "Affirmative Consent."

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.

Gender/Sex Based Stalking: means directly or indirectly through another person, and based on actual or desired sexual or amorous relationships, 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 person's safety or the safety of others or; (b) suffer substantial emotional distress, including causing a person to respond by altering their activities

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 below): 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.

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

Intimate Partner Abuse (including domestic or dating violence): 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. This includes threats, assault, property damage, and violence or threat of violence to one's self or to the family members of the sexual or romantic partner when used as a method 19

of coercion, control, punishment, intimidation or revenge. This definition includes intimate partner violence, dating violence, and domestic violence.

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.”

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 identify, gender expression, veteran status, political affiliation, or political philosophy.

Respondent: means a person who is accused of alleged prohibited conduct.

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 as defined herein; 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. This definition does not include any medical, mental health, counseling, or ombuds office personnel, in addition to any other offices covered by a statutory privilege or designated in campus procedures as not subject to mandatory reporting to the University.

Retaliation: means any adverse action threatened or taken against a person because an individual has filed, supported or provided information in connection with a complaint of sexual misconduct or protected class discrimination/harassment, 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, protected class discrimination/harassment or participating in an investigation of sexual misconduct or protected class discrimination/harassment.

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

Sexual Assault-Non-Consensual Contact: means any intentional sexual touching, however slight, with any object, by any person upon another person that is without affirmative consent and/or 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.

Sexual Assault-Non-Consensual Intercourse: means any sexual intercourse, however slight, with any object, by any person upon another person that is without affirmative consent and/or by force. 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.

Sexual Exploitation: means conduct that takes sexual advantage of another person for the benefit of anyone other than that person without that person’s affirmative consent. Examples of behavior that could rise to the level of sexual exploitation include: prostituting another person; 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 objects to such disclosure; and, viewing 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. 20

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. A policy violation 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” as defined in this policy. Although repeated incidents increase the likelihood that harassment has created a hostile environment, a single or isolated incident of sexual assault may be sufficient.

Sexual misconduct: means the following unwelcome conduct based upon an individual’s sex or gender - sexual assault-non-consensual sexual intercourse, sexual assault - non-consensual sexual contact, sexual exploitation, sexual harassment, intimate partner abuse, gender/sex-based stalking, and any related retaliation.

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.

K. Resources

Confidential Resources on Campus:

Gallogly Wellness Center (Mental and Health), (719) 255-4444

Website <https://www.uccs.edu/recwellness/wellness.html>

Primary service is psychological treatment and education for all UCCS students to enable them to experience optimum health mentally, emotionally, socially and academically. Serves all registered university students taking any number of hours; utilizing individual, group, family and couple psychotherapy formats. Provides consultation services for UCCS staff, faculty, students and parents. All services are confidential. Although operates on a short-term model for individual therapy, the session numbers are not limited. Students currently pay \$10 per session if they receive grants or scholarships; otherwise the fee per session is \$20.

Health: Hours: Monday-Friday, 8:00 am to 5:00 pm. The last appointment is seen 30 minutes before the clinic closes. The SHC follows all UCCS weather related delays, closures and holidays. Population served: All actively enrolled UCCS students who have paid the Student Health Center fee. When you visit the Student Health Center, you have the right to privacy, confidentiality, and to be treated with respect. All medical records are strictly confidential and cannot be released to anyone without your written consent. The only exceptions to the above are:

- 1) information necessary for public welfare; and
- 2) records subpoenaed by the court.

We can only discuss student medical issues with parents of students 18 years of age and older with written permission from the student.

Other Resources on Campus:

Public Safety – University of Colorado Police Department, Emergencies on campus
719-255-3111; Other Police Services, 911 <http://www.uccs.edu/~pusafety>

The UCCS Police Department (UCCSPD) is a full service police agency. UCCSPD's patrol division and its communications/dispatch center operate on 24 hours per day, 7 days a week, 365 days a year. UCCSPD officers have full police authority on campus and as well as within pre-defined boundaries off-campus within the City of Colorado Springs. In addition to providing police patrol services and criminal investigations, UCCSPD also has a crime prevention/community services unit, a police records unit, an evidence and property processing/storage unit, and a security unit providing nightly facility and property protection services for the campus' residence halls buildings and parking lots during each academic term.

Serves the entire campus community. Limited confidentiality. Permitted by statute to maintain confidentiality regarding some information pertinent to the investigation of criminal cases, several police records are public records and accessible by the public. There are no limits on services.

Office of Institutional Equity, 719-255-4324, Main Hall, Room 201, e-mail: equity@uccs.edu website: www.uccs.edu/equity

Neutral, fact-finding office charged with investigating allegations of violations of the UCCS Policy on Discrimination and Harassment, the University Policy on Sexual Misconduct and the University Policy on Conflict of Interest in Cases of Amorous Relationships. Provides information about discrimination and harassment and information about the above-mentioned policies and procedures. Also provides educational opportunities for the campus community.

Available to assist anyone in the campus community who believes she/he has been discrimination against or harasses by an employee of the University, based upon race, color, national origin, sex, pregnancy, age, disability, creed, religion, sexual orientation, gender identity, gender expression, or veteran status, political affiliation and political philosophy.

Limited confidentiality. The office will not share information publicly, but once the office is aware of an allegation, the office is obligated to address the allegation. There is no limits on services.

Dean of Students, 719-255-3091, Main Hall 201 <http://www.uccs.edu/~dos/>

The Office of the Dean of Students is responsible for maintaining and administering the University Student Code of Conduct. We also network with University departments and programs to provide clarity on University protocols, policies, and rules. We advise and make recommendations on student initiatives, interests and needs in the areas of student complaints, appeals and referrals. We also provide problem solving assistance and can help you connect with campus resources.

Limited confidentiality. The office will not share information publicly and is bound by the confidentiality restrictions of the Federal Education Rights and Privacy Act (FERPA). There are no limits on services.

Disability Services, 719-255-3354 (V/TTY), Main Hall 105 <http://www.uccs.edu/~dservice/>

Provides students with disabilities the tools, reasonable accommodations and support services to participate fully in the academic environment. Disability specialists also provide information about campus services and resources to faculty and staff with questions related to disabilities, documentation, access and accommodation. Promotes an accessible and culturally sensitive campus through outreach by building partnerships within the university community and beyond. Provides services and/or accommodations primarily to students with disabilities who must submit documentation for review.

Serves students and provides consultation, information and referrals to faculty and staff regarding disability related issues.

Limited confidentiality. Information and files are kept confidential and not shared publicly.

Students can use services and/or approved accommodations throughout their academic career. Each request is reviewed on a case by case basis.

MOSAIC (Multicultural Office for Student Access, Inclusiveness and Community), 719-255-3040, University Center 110A <http://www.uccs.edu/~mosaic/>

The Multicultural Office for Student Access, Inclusiveness, and Community is a safe place for students to engage in discussions about social identities, cultures, experiences, and viewpoints. We offer a wide range of services for students of diverse backgrounds, including information on scholarships, job opportunities, mentoring opportunities, and other services.

Serves the entire campus community, including students, faculty and staff.

There are no limits on services.

LGBT Resource Center at MOSAIC, 719-255-7527, University Center 110 <http://www.uccs.edu/~lgbtresourcecenter/>

The LGBT Resource Center @ MOSAIC exists as part of UCCS's on-going commitment to fostering a positive and inclusive atmosphere for everyone here on campus. As part of the Multicultural Office for Student Access, Inclusiveness, and Community (MOSAIC), the LGBTRC is designed to provide resources and information to LGBT students, advocate for LGBT interests throughout campus, conduct outreach and education, and to ensure LGBT voices are represented among the campus at large. There are no limits on services.

Human Resources, 719-255-3372, Cragmoor 101 <http://www.uccs.edu/~hr/>

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.

Serves faculty, classified and professional exempt staff and supervisors.

Services are not confidential; however, the office attempts to honor requests to keep information confidential to the extent permitted by law and policy. There are no limits on services.

Office of Veteran and Military Student Affairs, Gateway Hall 719-255-3253, <http://www.uccs.edu/~military/>

This office supports the recruitment and retention of veterans to UCCS. It provides a key point of contact for counseling and program information for the veteran/military community on campus, while also developing and maintaining productive relations with off-campus organizations and programs serving veterans. Serves students, staff, and faculty who are currently serving in the military (e.g. active, reserve, guard, etc) or those who have served in the past.

Limited confidentiality. The office does not enjoy a legal privilege to confidentiality, but will not publicly share information. There are no limits on services.

Ombuds Office, 719-255-3304, Cragmoor 003 <http://www.uccs.edu/~ombuds/>

Provides confidential and informal assistance to any student, staff or faculty member or administrator who is experiencing a conflict with another person or persons within the university community or who has concerns about university-related academic or administrative issues (e.g., decisions, services, responsiveness, etc.). Assistance provided includes conflict-related coaching, help with exploring options, mediation and facilitation, information about campus policies and procedures and referrals to appropriate campus resources.

Serves the entire campus community. Services are confidential, with some limitations. There are no limits on services.

Office of Diversity and Inclusiveness, 719-255-5216, Main Hall 304,

<http://www.uccs.edu/~diversity1>

The Office of Diversity and Inclusiveness promotes, safeguards, and fosters a diverse and inclusive campus community at UCCS to create an environment where the full spectrum of students, staff, and faculty feel welcome, safe and included. The Associate Vice Chancellor for Diversity and Inclusiveness is charged with development and implementation of diversity and inclusiveness strategies for the campus in collaboration with the Chancellor's Leadership Team, the colleges, and student support offices. Through strategic planning, interdepartmental collaboration, program development and community outreach, we build a foundation of mutual respect and inclusion for everyone across campus. Major initiatives include: The Inclusive Campus Action Team (ICAT), the UCCS Diversity Strategic Plan, the BIG Idea Building Inclusiveness Workshops, Adelina Gomez Scholars Program, and the coordination of various awards that recognize diversity and inclusion across campus. No limits on services.

Off-Campus Resources:

Colorado Springs Police Department, Emergencies, 911; Other Police Services 719-444-7000, 705 S. Nevada Ave., Colorado Springs, Colorado <http://www.springsgov.com/sectionindex.aspx?sectionid=12>

This department will respond to reports of off-campus criminal conduct, harassment and assault within the City of Colorado Springs.

El Paso County Sheriff Department, Emergencies, 911; Other Sheriff Services 719-520-7333, 101 W. Costilla St., Colorado Springs, Colorado <http://shr.elpasoco.com/>

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

Colorado Civil Rights Division, Phone: 303-894-2997, Toll Free: 800-262-4845, 1560 Broadway #1050, Denver, CO 80202 <http://www.dora.state.co.us/civil-rights/>

The Colorado Civil Rights Division, along with the Civil Rights Commission, administers and enforces Colorado's anti-discrimination laws. The mission of the Colorado Civil Rights Division is to assure that all persons are afforded the equal protection of the law. **Colorado State Employee Assistance Program**, Phone: 303-866-3000, 633 17th Street, Suite 1600 Denver, CO 80202 www.colorado.gov/cs/Satellite/DPA-EO/DEO/1214905946179

This program is a professional assessment, referral, and short-term counseling service offered to State employees with work-related or personal concerns, as well as a resource for supervisors and managers. Counseling services are confidential and free of charge. 24

U.S. Equal Employment Opportunity Commission <http://www.eeoc.gov/>

The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. It is also illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The laws apply to all types of work situations, including hiring, firing, promotions, harassment, training, wages, and benefits.

Office for Civil Rights, U.S. Department of Education <http://www2.ed.gov/about/offices/list/ocr/index.html>

The mission of the Office for Civil Rights (OCR) is to ensure equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights. The OCR serves student populations facing discrimination and the advocates and institutions promoting systemic solutions to civil rights problems. An important responsibility is resolving complaints of discrimination. Agency-initiated cases, typically called compliance reviews, permit OCR to target resources on compliance problems that appear particularly acute. OCR also provides technical assistance to help institutions achieve voluntary compliance with the civil rights laws that OCR enforces. An important part of OCR's technical assistance is partnerships designed to develop creative approaches to preventing and addressing discrimination.

Appendix 1: Selected Colorado Criminal Revised Statute Definitions

In Colorado, the criminal definitions of sexual assault, domestic violence (which also includes dating violence) and stalking are distinctly different from some of the definitions outlined in university policy. Below are the relevant sections of the Colorado Criminal Code that demonstrate these differences.

Definition of Consent – Colorado Revised Statute § 18-3-401

(1.5) "Consent" for sexual activity means cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act. A current or previous relationship shall not be sufficient to constitute consent. Submission under the influence of fear shall not constitute consent.

Definition of Sexual Assault – Colorado Revised Statute § 18-3-402

(1) Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits sexual assault if: The actor causes submission of the victim by means of sufficient consequences reasonably calculated to cause submission against the victim's will; or

a) The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or

b) The actor knows that the victim submits erroneously, believing the actor to be the victim's spouse; or

c) At the time of the commission of the act, the victim is less than fifteen years of age and the actor is at least four years older than the victim and is not the spouse of the victim; or

d) At the time of the commission of the act, the victim is at least fifteen years of age but less than seventeen years of age and the actor is at least ten years older than the victim and is not the spouse of the victim; or

e) The victim is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over the victim and uses this position of authority, unless incident to a lawful search, to coerce the victim to submit; or

f) The actor, while purporting to offer a medical service, engages in treatment or examination of a victim for other than bona fide medical purposes or in a manner substantially inconsistent with reasonable medical practices; or

g) The victim is physically helpless and the actor knows the victim is physically helpless and the victim has not consented.

Definition of Unlawful Sexual Contact – Colorado Revised Statute § 18-3-404

(1) Any actor who knowingly subjects a victim to any sexual contact commits unlawful sexual contact if:

a) The actor knows that the victim does not consent; or

b) The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or

c) The victim is physically helpless and the actor knows that the victim is physically helpless and the victim has not consented; or

d) The actor has substantially impaired the victim's power to appraise or control the victim's conduct by employing, without the victim's consent, any drug, intoxicant, or other means for the purpose of causing submission; or

e) The victim is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over the victim and uses this position of authority, unless incident to a lawful search, to coerce the victim to submit; or

f) The actor engages in treatment or examination of a victim for other than bona fide medical purposes or in a manner substantially inconsistent with reasonable medical practices.

(1.5) Any person who knowingly, with or without sexual contact, induces or coerces a child by any of the means set forth in section 18-3-402 to expose intimate parts or to engage in any sexual contact, intrusion, or penetration with another person, for the purpose of the actor's own sexual gratification, commits unlawful sexual contact. For the purposes of this subsection (1.5), the term "child" means any person under the age of eighteen years.

Definition of Domestic Violence – Colorado Revised Statute § 18-6-800.3 (1)-(2)

Domestic violence means an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship. Intimate relationship means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.

Domestic violence also includes any other crime against a person, or against property, including an animal, or any municipal ordinance violation against a person, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship. (Note that "dating violence" in Colorado is included with the broader definition of domestic violence).

Definition of Stalking – Colorado Revised Statute § 18-3-602 (1)(a)-(c)

A person commits stalking if directly, or indirectly through another person, the person knowingly: 26

- a) Makes a credible threat to another person and, in connection with the threat, repeatedly follows, approaches, contacts, or places under surveillance that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship; or
- b) Makes a credible threat to another person and, in connection with the threat, repeatedly makes any form of communication with that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship, regardless of whether a conversation ensues; or
- c) Repeatedly follows, approaches, contacts, places under surveillance, or makes 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 suffer serious emotional distress and does cause that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship to suffer serious emotional distress. For purposes of this paragraph (c), a victim need not show that he or she received professional treatment or counseling to show that he or she suffered serious emotional distress.