Contents

A. Overview ......................................................... 1
B. Authority ...................................................... 2
C. Jurisdiction .................................................... 2
D. Advisors ....................................................... 2
E. Duties of Students ............................................ 2
F. Prohibited Student Conduct ................................. 3
   1. Assaulting another person, or being involved in brawling.
   2. Threatening or endangering the health or safety of a person.
   3. Violating the CU-Boulder policy “Discrimination and Harassment Policy and Procedures.”
   4. Sexual Misconduct and Sexual Harassment.
   5. Indecently exposing one’s body (non-sexual).
   6. Violating any federal, state, or local law, as determined by the OSC.
   8. Abusive Conduct.
   9. Stalking.
  10. Materially and substantially interfering with, obstructing or disrupting a university activity.
  11. Interfering with, obstructing or disrupting police or fire response.
  12. Failing to comply with the direction of university officials who are performing their duties.
  13. Failing to abide by or complete a university sanction in a satisfactory manner.
  14. Impersonation of another, using another person’s identity, or furnishing materially false information to law enforcement or any university official.
  15. Retaliating against or discouraging an individual from participating in a university process.
  16. Violating any Housing and Dining Services policy.
  17. Unauthorized entry into, exit from, or presence in university property or property belonging to another.
  18. Damaging university property or property belonging to another.
  19. Engaging in, inciting or arming someone for a riot or public disturbance.
  20. Use of electronic or other devices to make an unauthorized audio or video recording of another person.
  21. Possessing firearms, explosives, incendiary devices, ammunition or other weapons on campus, except as permitted by law.
  22. Theft.
  23. Possessing, using, providing, manufacturing, distributing or selling drugs or drug paraphernalia in violation of law or university policies.
  24. Possessing, using, providing, manufacturing, distributing or selling alcoholic beverages in violation of law or university policies.
  25. Violation of university policy or regulation.
  26. Threatening or endangering the health or safety of animal(s).
G. Definitions ..................................................... 4
H. Office of Student Conduct Procedures ...................... 5
I. Housing and Dining Services Conduct Procedures ........ 7
J. Sanctions ...................................................... 8
K. Appeals ...................................................... 9
L. Additional Information ....................................... 10
M. Related Information ........................................ 11
N. Resources ................................................... 12
O. Appendices ................................................... 13
   Appendix 1: Definitions and Procedures for Sexual Misconduct, Sexual Harassment and Protected Class Discrimination and Harassment ................................. 13
   Appendix 2: Colorado Law Regarding Hazing .................. 16
   Appendix 3: Good Samaritan Provision ....................... 16
   Appendix 4: Colorado Law Regarding Riots .................. 17
A. Overview, Mission Statement, Values and Learning Goals of the Office of Student Conduct

The purpose of the Student Conduct Code is to maintain the general welfare of the university community. The university strives to make the campus community a place of study, work and residence where people are treated, and treat one another, with respect and courtesy. The university views the student conduct process as a learning experience that can result in growth and personal understanding of one’s responsibilities and privileges within both the university community and the greater community. All students must follow these standards. Students who violate these standards will be subject to the actions described below.

The mission of the Office of Student Conduct is to establish an ethic of care at the University of Colorado Boulder through its preventive, behavioral and accountability practices. An ethic of care aids in providing a safe, respectful and supportive community where students will be challenged to develop their critical thinking, values, connectedness to the community, sense of identity, understanding of independence and interdependence and multicultural awareness. An “ethic of care” model for Student Conduct is a holistic approach to engage community members regarding their behaviors and responsibilities, recognizing that concern for self and others in a community of individuals can have a powerful impact. The values, functional practices and programs of the Office of Student Conduct support this holistic model and demonstrate an effort to aid in student development and contribute to a positive, successful and respectful living and learning environment throughout the university community.

The values of the Office of Student Conduct provide a framework for programs and practices that mirror institutional values. The values of the Office of Student Conduct are:

- Civic responsibility and student involvement
- Education and development of all students
- Respect, dignity and equity
- A socially just and inclusive community
- Responsibility, accountability and critical thinking
- Fairness, honesty and integrity

GOALS

Our goal in Student Conduct is that the student, through their experience in our process, will grow in the following areas:

Intellectual Growth

The student will gain a better understanding of the consequences and potential consequences of his/her personal actions and will learn the purposes of institutional policies. He/she will employ critical thinking in problem solving and ultimately obtain a degree.

Clarification of Values

The student will understand the effect of their behavior on others. The student will demonstrate ethical development, will comply with institutional policy and will commit no further violations of policy. The student will gain understanding of the institutional values reflected in institutional policies. The student will gain a better understanding of the importance of personal integrity.
Through our process the student will be asked to reflect on his/her beliefs, ethics and values. The student will be able to articulate his/her personal ethics and values, will act in congruence with those ethics and values, and will make decisions that reflect his/her beliefs.

**Civic Responsibility**

The student will contribute positively to the university community and beyond.

**B. Authority**

Article 7, Part B, of the Laws of the Regents requires each campus to develop a student code of conduct. The Office of Student Conduct ("OSC") is authorized to establish and administer this policy. Any questions regarding interpretation of this code or any of its provisions should be directed to the vice chancellor for student affairs or his/her designee for final determination.

Questions regarding behavioral problems should be directed to the Office of Student Conduct, University of Colorado Boulder, 10 UCB, Boulder, CO 80309, phone 303-492-5550.

The director of OSC is a Title IX officer for the University of Colorado Boulder. Title IX prohibits discrimination on the basis of sex in education programs or activities.

**C. Jurisdiction**

1. This policy governs:
   a. Student conduct that occurs on or as it relates to university property or at official functions and university-sponsored programs conducted away from the campus. University property is defined as land, buildings and facilities in possession of or owned, used or controlled by the university or funded by university budgets.
   b. Student conduct that occurs off university property is subject to this policy if it: (1) adversely affects the health, safety or security of any member of the university community or the mission of the university; or (2) involves any records or documents of the university.
   c. For purposes of this policy, the university’s mission is broadly defined to include both its academic goals and the importance of developing civic responsibility in our students.
2. All students residing in Housing and Dining Services facilities are also subject to the applicable Housing and Dining Services procedures detailed in section I, except:
   a. Cases in which the potential sanction is suspension or expulsion.
   b. Cases which are referred to the Office of Student Conduct by Housing and Dining Services.
3. Proceedings initiated under this policy are separate from civil or criminal proceedings that may relate to the same incident. The exercise of jurisdiction does not depend on whether a student is actually charged through the criminal justice system. Investigations or conduct proceedings by the university are not postponed while criminal or civil proceedings are pending unless otherwise determined by the conduct officer. Dismissal of criminal charges or acquittal in a criminal case does not prevent the Office of Student Conduct from investigating and adjudicating an incident.

4. The unexcused failure of a student to appear and/or respond to the conduct process does not prevent the university from proceeding with the conduct process.

5. Questions or concerns regarding policy and procedure for students charged or convicted of a crime that occurred prior to being a student should be directed to the Dean of Students Office or the Office of Admissions.

**D. Advisors**

A student being investigated, a charged student and an alleged victim of an alleged policy violation may be accompanied by an advisor during the conduct process. Advisors are not permitted to speak for or on behalf of the student during any phase of the conduct process, including conduct hearings. However, with permission from the conduct officer advisors may make a statement and/or ask questions of the charged student to present relevant information after the conduct officer has completed discussions with the student under investigation, charged student or alleged victim. If a student chooses to bring an advisor to the meeting, it is the student’s obligation to select an advisor whose schedule allows attendance within the time frame designated in the Student Conduct Notice or the Housing and Dining Services Conference Letter. The Office of Student Conduct and Housing and Dining Services are not obligated to reschedule the administrative review to accommodate attorneys acting as advisors to students.

**E. Duties of Students**

It is the duty of all students who are potential parties or witnesses to an alleged violation of the code to participate conscientiously. Students have a duty to cooperate and discuss the incident with an investigator and conduct officer over the telephone or in person, adhere to stated deadlines, attend scheduled meetings, and participate in all proceedings. Failure to meet these duties may result in a decision being made without the benefit of the student’s participation or may result in a student being charged with failing to comply with the direction of a university official.
F. Prohibited Student Conduct

The conduct listed below is prohibited, as are attempts to commit and aiding, abetting, or inciting others to commit conduct prohibited by this code. Engaging in retaliatory acts against a person who reports an alleged violation of the code or participates in a conduct proceeding or investigation is a violation of this code. Prohibited conduct also includes conduct engaged in by electronic means including, but not limited to, computers (such as with use of the Internet for email or social media purposes), any type of phone (such as by calls, texts, instant messaging, or the Internet), or any other means of electronic communication. These provisions should not be construed, and will not be enacted, to deny any student any rights protected by the United States and/or Colorado Constitution.

1. Assaulting another person, or being involved in a brawling.
2. Threatening or endangering the health or safety of a person.
3. Violating the CU-Boulder policy “Discrimination and Harassment Policy and Procedures.” www.colorado.edu/policies/discrimination-and-harassment-policy-and-procedures. Examples include discrimination or harassment based on membership in a protected class, intimate partner abuse and gender-based stalking (see Appendix 1 for definitions).
4. Sexual Misconduct (see Appendix 1 for definitions):
   a. Non-consensual sexual intercourse
   b. Non-consensual sexual contact
   c. Sexual exploitation
   d. Sexual harassment
5. Indecently exposing one’s body in a non-sexual manner, such as streaking.
6. Violating any federal, state, or local law, as determined by the OSC.
7. Hazing. Any action or situation that recklessly or intentionally endangers the health, safety or welfare of an individual for the purpose of initiation, participation, admission into or affiliation with any organization or group at the university. Hazing includes, but is not limited to, any abuse of a mental or physical nature, forced consumption of any food, liquor, drugs, or substances, or any forced physical activity that could adversely affect the health or safety of an individual. Hazing also includes any activity that would subject the individual to embarrassment or humiliation, the willingness of the participant in such activity notwithstanding. (See Appendix 2)
8. Abusive Conduct, including verbal abuse, threats, intimidation, coercion, or other conduct which has caused a person substantial emotional distress and where the circumstances would cause a reasonable person to suffer substantial emotional distress.
9. Stalking. Directly or indirectly through another person 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 his or her safety or the safety of others or (b) suffer substantial emotional distress, including causing a person to respond by substantially altering their activities. For stalking that is gender-based, provision F3 will apply instead of F9.
10. Matorially and substantially interfering with, obstructing or disrupting a university activity.
   a. University activities include, but are not limited to, all normal university activities, such as teaching, research, recreation, meetings, public events, and disciplinary proceedings. University activities include off-campus university programs or activities.
   b. This prohibition includes, but is not limited to, interference, obstruction or disruption of the freedom of expression or movement of students or other members of the university community and their guests.
11. Interfering with, obstructing and disrupting police or fire response. This prohibition includes, but is not limited to:
   a. Resisting arrest.
   b. Failing to abide by the directions of a peace officer.
   c. Tampering with, impairing, disabling, or misusing fire protection systems such as smoke detectors, fire extinguishers, sprinklers, or alarms.
   d. Failing to evacuate during a fire alarm.
   e. Arson/setting fires.
12. Failing to comply with the direction of university officials who are performing their duties. Students are required to comply with instructions or directions given by university officials, including, but not limited to, an instruction to present identification.
13. Failing to abide by or complete a university sanction in a satisfactory manner.
14. Impersonation of another, using another person’s identity, or furnishing materially false information to law enforcement or any university official, including manufacturing, use or possession of false identification. This section prohibits use of false identification or the identification of another person to gain entrance to any facility or business. This section also prohibits forging or altering another person’s signature or any other university document.
15. Retaliating against or discouraging an individual from participating in a university process, directly or through third parties.
16. Violating any Housing and Dining Services policy. Violating any residence hall policy appearing in Residence Hall Policies or any policy properly communicated through Housing and Dining Services staff. See Residence Hall Policies at www.colorado.edu/studentaffairs/studentconduct/code.html for more information. This includes, but is not limited to, the following:
   a. Violating the noise policy.
   b. Throwing items of any kind from windows, balconies, roofs, etc.
c. Tampering with, propping open, or misusing residence hall security doors or tampering with security cameras and/or surveillance equipment.

d. Disposing of personal trash in hallways, bathrooms, or other common areas.

e. Keeping a pet or animal in the residence hall except as required by law.

f. Playing any type of restricted game in the buildings (e.g., Frisbee, hockey, golf, darts); throwing snowballs; participating in water fights; or bicycling, skateboarding, or inline skating in the buildings or specified areas close to the buildings.

g. Maintaining open flames, burning incense or candles, using barbecues or grills, using prohibited appliances, hanging/displaying prohibited tapestries, or possessing any of these items, even if meant for display only, or cooking in resident rooms, common areas, and areas surrounding the residence halls.

h. Failing to instruct guests as to university or residence hall rules and policies. Residents are responsible for and are held accountable for the conduct of their guests and all activities in their rooms.

i. Violating the visitation policy.

j. Throwing food and/or items in the residence hall dining centers; and/or carrying out food from the dining centers, except where permitted.

k. Violating the smoke-free buildings policy.

l. Violating the overnight guest policy.

m. Violating the roommate agreement policy.

17. Unauthorized entry into, exit from, or presence in university property or property belonging to another.

18. Damaging university property or property belonging to another.

19. Engaging in, inciting, or arming someone for a riot or public disturbance. (See Appendix 4 for further information)

20. Use of an electronic or other device to make an audio and/or visual recording of another person (including, but not limited to photography, videotaping, filming, or audio recording) without the person's express consent when such recording causes the person to suffer substantial emotional distress and would cause a reasonable person to suffer substantial emotional distress. The storing, sharing, and/or distribution of such records by any means are also prohibited.

21. Possessing firearms, explosives, incendiary devices, ammunition, or other weapons on campus except as permitted by law.

“Weapon” as used in this provision may be an instrument of offensive or defensive combat; anything used, or designed to be used, in destroying, defeating, or injuring a person; an instrumentality designed or likely to produce bodily harm. A weapon may include, but not be limited to, the following: any firearm, slingshot, cross-knuckles, knuckles of lead, brass or other metal, any bowie knife, dirk, dagger or similar knife, or any knife having the appearance of a pocket knife, the blade of which can be opened by a flick of a button, pressure on the handle or other mechanical contrivance. A harmless instrument designed to look like a firearm, explosive, or dangerous weapon which is used by or is in the possession of a person with the intent to cause fear in or assault to another person is expressly included within the meaning of weapon. See Regents Policy, www.cu.edu/regents/Policies/Policy14I.htm.

22. Theft, including but not limited to possessing property known to be stolen, or taking property of another without consent, even with an intent to return the property.

23. Possessing, using, providing, manufacturing, distributing, or selling drugs or drug paraphernalia in violation of law or university policies. Use or possession of marijuana, including medical marijuana used or possessed under Colorado Constitution Article 18, section 14, is strictly prohibited on campus. Any such use or possession is a violation of the Student Conduct Code.

In addition, the state constitutional amendment authorizing individuals over the age of 21 to recreationally use marijuana (“Amendment 64”) does not change this prohibition or authorize a student to use marijuana. Federal law, including the Drug Free Schools Act, continues to prohibit marijuana. Thus marijuana use, even if in compliance with Amendment 64, is prohibited on campus.

a. Misuse of legal substances; use of general products as intoxicants or “means to get high”; and inhaling or ingesting a substance (including but not limited to nitrous oxide, glue, paint, gasoline, solvent, etc.) other than in connection with its intended purpose is also prohibited.

b. Use of a prescription drug other than by the person to whom the drug is prescribed and in accordance with the prescription is prohibited. This includes sharing drugs such as Ritalin or Adderall.

24. Possessing, using, providing, manufacturing, distributing, or selling alcoholic beverages in violation of law or university policies.

a. Driving while under the influence of alcohol and/or drugs.

25. Violation of university policy or regulation. This includes but is not limited to:

a. The “Campus Use of University Facilities” policy. See www.colorado.edu/policies/CUUF.


26. Threatening or endangering the health or safety of animal(s).

G. Definitions

Unless the context requires a different meaning, the following definitions apply.

1. **Acceptance of Responsibility.** The charged student agrees that their behavior constitutes a violation of the code of conduct, as outlined in the student conduct notice.

2. **Aggravating Factor.** Any circumstances accompanying the commission of misconduct that add to its seriousness. Examples
may include the use of violence or force, violation of a trust or duty, premeditation of an incident, the existence of a previous conduct violation, and elements of hate and bias.

3. **Student Conduct Appeal Committee (SCAC).** A body of University community members, students, faculty, or staff, appointed by the Vice Chancellor for Student Affairs charged with reviewing cases that have been appealed through the Office of Student Conduct. See section K.

4. **Conduct Process.** Any processes outlined in this Student Conduct Code Policies and Procedures. These include, but are not limited to Housing and Dining Services conduct procedures, Office of Student Conduct procedures, investigations of alleged misconduct and appeals processes.

5. **Conduct Bodies.** Conduct bodies consist of conduct officers and conduct boards. Staff members within Housing and Dining Services, which include Hall Directors, Area Directors, Residence Life Assistant Directors, and Residence Life Conduct Coordinators, may serve as conduct bodies in Housing and Dining Services cases.

6. **Conduct Officers.** Conduct officers include any university staff member designated to investigate and/or make decisions about facts in student conduct cases. Conduct officers have the authority to determine sanctions including, but not limited to, exclusions, no-contact orders, administrative moves, residence hall termination, probation, suspension, expulsion, and educational sanctions.

7. **Designation.** A student's classification; i.e., graduate, undergraduate, continuing education, degree seeking or non-degree-seeking.

8. **Mitigating Factor.** Extenuating circumstances that may be taken into account to reduce a sanction. These factors do not constitute a justification or excuse for the offense in question.

9. **Parent.** A student’s parent or legal guardian.

10. **Peace Officer.** A person designated by the University of Colorado or the state or federal government with the responsibility of enforcing laws or policies.

11. **Preponderance of Information.** This is the standard of proof used in all conduct proceedings under this code, meaning it is more likely than not that the alleged behavior occurred. It is often referred to as “50% plus a feather.”

12. **Conduct Board.** A conduct body comprised of residence life staff members and residence hall students, charged with adjudicating alleged policy violations within the residence halls.

13. **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 and persons participating in the Time Off Program. Persons who withdraw after allegedly violating the student code or who are not officially enrolled for a particular term but who have a continuing relationship with the university are considered “students.”

14. **Student Conduct Officers.** Students may participate as conduct officers on the SCAC as designated by the Vice Chancellor of Student Affairs or his/her designee. Students may participate as Housing Conduct Officers or Conduct Board Officers when designated by Housing and Dining Services.

15. **University.** The University of Colorado Boulder.

16. **University Official.** A university employee working in the performance of his or her duly authorized duties. University officials may be full or part time, or may be student staff members.

17. **University Property.** University owned or controlled property.

18. **Witness.** Any individual who may have information relating to a conduct case.

19. **Working Day.** Monday through Friday, except for official university holidays.

**H. Office of Student Conduct Procedures**

The following procedures will be used for student conduct proceedings, except as noted in H.7 and I.

1. **Commencement of a Conduct Process**

A conduct officer may initiate the conduct process on the basis of a complaint or report received from any source, including, but not limited to an individual, a residence hall official or a law enforcement agency.

Upon receipt of a complaint or report, the conduct officer may review the information to decide whether the allegations fall within the jurisdiction of the Student Conduct Code and whether conduct proceedings should occur. The conduct officer may 1) initiate conduct proceedings by sending the student a Student Conduct Notice; 2) resolve the situation through an informal resolution process including but not limited to mediation or a meeting between the respondent and a student conduct officer or a third party; or 3) determine that the facts of the complaint or report, even if true, would not constitute a violation of the student conduct code or applicable policy.

2. **Student Conduct Notice**

a. When the conduct officer initiates conduct proceedings, he or she will send a Student Conduct Notice to the student who is the subject of the report or complaint. As noted in the Student Email Policy (colorado.edu/policies/student-e-mail-policy), email is an official means of communication within CU-Boulder. Therefore, the university has the right to send communications to students via email and the right to expect that those communications will be received and read in a timely fashion. At the conduct officer’s discretion, the notice may also be hand-delivered or sent via standard U.S. mail to the mailing or permanent address appearing in the university’s student information system or police report. Notice to the student will be considered furnished on the date of hand-delivery; on the date emailed or three days after the date the notice is placed in the U.S. mail.
b. The Student Conduct Notice shall include:
   i. A description of the alleged misconduct;
   ii. The conduct code provisions that are alleged to have been violated;
   iii. Instructions on how to request copies of records obtained from outside agencies;
   iv. An explanation of the Student Conduct process; and
   v. The requirement that the student must schedule a student conduct meeting with the conduct officer within the time frame designated in the letter.

If a "no contact" order is detailed in the Student Conduct Notice, it is the responsibility of the student not to have any contact with the individual(s) named, directly or through third parties, or via electronic means as specified in this notice. Failure to comply with this order may result in additional disciplinary action.

c. In cases in which a student has been contacted for a policy violation by police at a sporting event or other event, notice for the conduct proceeding may be given immediately by the police. Such notice may include a pre-set conduct meeting time with the Office of Student Conduct.

d. Expedited Student Conduct Process
   When the conduct officer determines that a prompt student conduct meeting is essential (including but not limited to university orientation, end of the semester, the student is graduating, or there is substantial concern for the health, safety, or welfare of any person), the conduct officer may require that the student meet with him or her within 24 hours if the student resides on campus or 48 hours if the student resides off campus. In addition, in these cases notice may be given via email, telephone, hand delivery, or by an end-of-semester contact form.

3. Student Conduct Meeting/Expedited Student Conduct Meeting Process
   A conduct officer will meet with the charged student to explain the conduct process, answer any questions the student may have, and proceed with an administrative review which allows the student an opportunity to respond to the allegations contained in the Student Conduct Notice. If a student chooses to bring an advisor to the meeting, it is the student's obligation to select an advisor whose schedule allows attendance within the time frame designated in the Student Conduct Notice. The office is not obligated to reschedule the administrative review to accommodate attorneys acting as advisors to students.

   a. If a student agrees that their behavior constitutes a violation of the Student Conduct Code as outlined in the Student Conduct Notice, the conduct officer will discuss with the charged student the facts alleged to have occurred and any aggravating or mitigating circumstances or information that might affect the sanction. After considering any additional information the student has presented, the conduct officer shall decide on a sanction. The student waives his/her right to appeal by accepting this option, unless the outcome is a sanction of suspension or expulsion.

   b. If a student denies either that s/he engaged in the conduct described in the Student Conduct Notice or that the conduct constitutes a violation of the Student Conduct Code, the conduct officer will conduct a review to determine whether a violation has occurred.

   The conduct officer will consider the following in making this determination: the allegations in the Student Conduct Notice and the charged students response to those allegations; any relevant documents that are contained in the file or presented by the charged student, alleged victim, or any other interested party; and the oral or written statements of any witnesses with relevant information, as supplied by the parties to the case or as requested by the conduct officer.

   The charged student may identify witnesses whom s/he believes have relevant information to impart to the conduct officer. If the conduct officer determines that the witness may have relevant information, s/he will make a good faith effort to contact such witnesses to obtain a statement from them. However, the Office of Student Conduct cannot guarantee the participation of an identified witness. The conduct officer may decline to contact any witnesses if the conduct officer believes that the witness does not have information relevant to the facts in dispute. The charged student may submit questions to the conduct officer to be asked of the witnesses, but is not entitled to be present during the conduct officer's interview of witnesses, including the victim. It is within the discretion of the conduct officer to decide whether to ask the witnesses any question(s) submitted by the charged student. Students and university employees are expected to participate as reasonably requested in conduct proceedings as a responsibility of membership in the university community and failure to do so may result in disciplinary action. The conduct officer, in his/her discretion, may re-interview the charged student or any other witnesses, including the complainant, in order to obtain responses to additional information gathered during the administrative review.

   Technical rules of evidence and procedures applicable to civil and criminal court cases do not apply to the student conduct process. Any relevant information may be considered if it is the sort of information on which responsible persons are accustomed to rely in serious affairs. No information other than that received in conjunction with the conduct process shall be considered. The conduct officer may exclude any person, including the charged student and his/her advisor, who disrupts a meeting.

   The conduct officer will make determinations about the facts and the credibility of those providing information and determine whether the student has violated the Student Conduct Code. If the student is found responsible for violating the Student Conduct Code, the conduct officer will determine any aggravating or mitigating circumstances and assign sanctions. The conduct officer will notify the charged student and appropriate university officials of the decision in writing. In cases of crimes of violence and sexual harassment, the complainant will be notified of the decision.

   The appeal process in these cases is outlined in Section K.

   c. The Office of Student Conduct keeps a record of the information obtained pursuant to the administrative review. The record includes copies of all correspondence between the charged student and the university, copies of any audio records, all documents, and the decision. The record is destroyed when the case file is expunged.
d. If the student does not schedule or attend a scheduled meeting with the conduct officer or attends a meeting but does not participate by the date specified in the notice, the conduct officer may decide the outcome of the case in the student’s absence or without the student’s participation based on the information available to the conduct officer.

e. Unless unusual circumstances beyond the control of the student arise, a delay in the process will not be granted. The conduct officer may establish deadlines within the administrative process as necessary for prompt and effective case resolution.

4. Standard of Proof and Process
   In order to find that a student has violated a standard of conduct, the standard of proof required is a preponderance of the information contained in the record. The information must demonstrate that it is more likely than not that the student violated the Student Conduct Code.

5. All student conduct proceedings are closed. The university may audiotape any conduct proceeding. The student or his or her advisor must obtain permission from the conduct officer to audiotape any conduct proceeding. Any audiotape that is made by the university may be listened to by the charged student, but not copied, and will be kept for as long as described in section L.1.

6. Sexual Misconduct, Sexual Harassment and Protected Class Discrimination and Harassment. Some types of verbal or physical conduct of a sexual nature may violate the university’s Sexual Harassment Policy. For example, allegations of non-consensual sexual contact may violate the provision on Non-consensual Sexual Contact (F.4.b) and the provision on Sexual Harassment (F.4.d). The conduct process in these types of cases is outlined in Appendix 1 of this Code, and is intended to provide procedural equity to both parties throughout the Student Conduct process.

   Some verbal or physical conduct based upon membership in a protected class may violate the university’s Discrimination and Harassment Policy. For example, allegations of gender-based abusive conduct may violate the provision on Abusive Conduct (F.8) and the provision on Protected Class Discrimination and Harassment (F.3). As another example, allegations of racially based threats may violate the provision on Threatening or Endangering One’s Safety (F.2) and the provision on Protected Class Discrimination and Harassment (F.3). The conduct process in these types of cases is outlined in Appendix 1 of this Code, and is intended to provide procedural equity to both parties throughout the Student Conduct process. Protected classes at CU-Boulder are classes based on race, color, national origin, sex, age, disability, creed, religion, sexual orientation, gender identity, gender expression, pregnancy, and veteran status.

   Any alleged violation of F.3 or F.4, along with any accompanying alleged violations of the Student Conduct Code, will be processed pursuant to the procedures detailed in Appendix 1 of this code.

I. Housing and Dining Services Conduct Procedures

All student conduct proceedings are closed. The university reserves the right to audiotape any conduct proceeding, as described in sections H&I. The student and his or her advisor must obtain permission from the conduct officer to audiotape the conduct proceeding. Any audiotape that is made by the university may be listened to by the charged student, but not copied, and will be kept for as long as described in section L.1.

1. Commencement of a Conduct Process
   A conduct officer may initiate the conduct process on the basis of a report received from any source, including, but not limited to an individual, a residence hall official or a law enforcement agency. Upon receipt of the complaint or report, the conduct officer may conduct an investigation to decide whether the allegations fall within the jurisdiction of this policy and whether conduct proceedings should occur. The conduct officer may proceed by sending the student respondent a Conference Letter.

2. Conference Letter
   a. The conduct officer shall initiate the conduct process by sending written notice to the student who is the subject of the report or complaint. The notice shall be sent to the student’s university email address; it may also be hand-delivered or sent to the mailing or permanent address appearing in the university’s student information system, or police report. If email is returned, the letter will be printed and put in the student’s mailbox. Notice to the student will be considered furnished on the date of hand-delivery; on the date emailed; on the date the notice is placed in the student’s mailbox or three days after the date the notice is placed in the U.S. mail.

   b. The letter shall include:
      i. A description of the alleged misconduct;
      ii. The conduct code provisions that are alleged to have been violated;
      iii. Information on how to obtain copies of all available documents pertinent to the incident that are in the possession of the Office of Student Conduct to the extent permitted by law; and
      iv. A date and time for the conference in which the student must meet with the conduct officer. If the student is unable to meet during this time it is the student’s responsibility to reschedule in advance of the conference.

   c. If the student does not attend the conference the conduct officer can decide the outcome of the case in the student’s absence.

   d. Unless unusual circumstances beyond the control of the student arise, a delay in the process will not be granted.

3. Conference
   At the conference, the conduct officer will explain the conduct process and answer any questions the student may have. The conduct officer and conduct board members will review the complaint with the student. The student shall have the
opportunity to present documents and to explain his/her understanding of what happened. The conduct officer or conduct board may discuss the matter further with the charged student, conduct further investigation as needed and, based on information received, determine by a preponderance of the information whether or not the student has violated the Student Conduct Code. If so, the conduct officer or conduct board will determine the sanction.

4. Standard of Proof and Process
In order to find that a student has violated a standard of conduct, the standard of proof required is a preponderance of the information contained in the record. The information must demonstrate that it was more likely than not that the conduct occurred. Formal rules of process, procedure and/or technical rules of evidence, such as those applied in criminal or civil court proceedings are not used in the conduct process.
Any relevant information may be considered if it is the sort of information on which responsible persons are accustomed to rely in serious affairs. No information other than that received in conjunction with the conduct process shall be considered.

5. Expedited Conference
When the conduct officer determines that a prompt review is essential (e.g., university orientation, end of the semester, the student is graduating, or there is substantial concern for the health, safety, or welfare of any person, the conduct officer may require that the student meet with him or her within 24 hours. In addition, notice may be given in these instances by end of the semester contact form, by telephone, or by electronic mail. If the student fails to attend the conference in the time specified, the conduct officer can decide the outcome of the case in the student’s absence.

J. Sanctions

Overview
a. After hearing the case, the conduct officer/board may find by a preponderance of the information that the charged student is not responsible for violating the Student Conduct Code, or may find the student responsible for violating the Student Conduct Code and issue sanctions based on that finding. The charged student and an alleged victim may provide an impact statement or character references for consideration during the sanction process, if the student is found responsible.
b. Sanctions imposed for misconduct will be based upon a consideration of all of the circumstances in a particular case. Mitigating and aggravating circumstances will be considered. Repeated violations are likely to result in progressively severe sanctions. One or more of the sanctions below may be imposed. In all cases, the conduct officer and conduct body reserve the right to use their discretion in determining the appropriate sanction for a case, which could include lower or higher sanctions than the prescribed guidelines. All decisions regarding responsibility and appropriate sanctions will be given to a student in writing.

1. Educational Sanctions
The student may be required to perform a specific number of hours of community service, complete a reflection or research paper, attend a class, program or lecture, or be involved with the community in a way that brings about a new understanding of the community and how his/her behavior may have impacted others. This is not an exhaustive list but should serve as a reference for the types of educational sanctions that may be imposed.

2. Warning/Written Reprimand
A warning/written reprimand is a written statement from the conduct officer or conduct body that the behavior was inappropriate and that more serious conduct action will be taken should subsequent infractions occur.

3. Residence Hall Reassignment
A student who resides in a residence hall is assigned to a different residence hall on campus.

4. Residence Hall Termination
A student’s residence hall agreement is terminated through the conduct process and the student is prohibited from residing in any university residence hall on either a permanent or temporary basis. Specific exclusion from the residence halls may also be imposed. Termination may occur in cases where a student appears to be involved in violations of the Student Conduct Code and the behavior or pattern of behavior has a significant negative impact on his/her living community.

Residence Hall Termination in Abeyance. The student’s residence hall agreement is terminated, but due to mitigating circumstances the termination is deferred, allowing the student to continue living in the residence hall and providing a student with a final opportunity to prove they can operate responsibly within the living community. If the student, through the conduct process, is found to have violated the Student Conduct Code or any Residence Hall Living Policy during the period of termination in abeyance, the student will be immediately terminated from the residence hall for the duration of the abeyance, and may be given additional sanctions, including an extension of the termination and suspension.

5. Probation
A student is placed on probation. Probation lasts for a specific period of time, and is implemented by semesters. Any violation of the Student Conduct Code or the conditions of probation committed during the probationary period will result in further disciplinary action.

6. Suspension
The student is required to leave the university for a specific period of time. A suspension notation appears on the student’s transcript. After the period of suspension has expired, the transcript notation will be removed. The student is required to apply for readmission to the university after his/her suspension period. Suspension from the university includes an exclusion from university property during the period of suspension. A suspension decision results in the student being suspended from all campuses of the University of Colorado system.
Upon completion of the suspension, if the student wishes to return to the university, they must complete the re-admission process through the Office of Admissions.
Suspension in Abeyance. The student is suspended from the university, but due to mitigating circumstances the suspension is deferred, allowing the student to continue with daily university activities and providing a student with a final opportunity to prove they can operate responsibly within the community. If the student, through the conduct process, is found to have violated the Student Conduct Code during the period of the suspension in abeyance, the student will be immediately suspended from the university for the duration of the abeyance, as well as given additional sanctions, including an extension of the suspension, or expulsion. A suspension notation does not appear on the student’s transcript during the period of suspension in abeyance.

7. Expulsion.
The student is required to permanently leave the university. A notation of expulsion remains permanently on the student’s transcript. An expulsion keeps the incident on file in the Office of Student Conduct permanently. Expulsion from the university includes an automatic exclusion from university property. An expulsion decision results in the student being expelled from all campuses of the University of Colorado system.

8. Exclusion
The student is denied access to all or a portion of university property. When a student is excluded from university property, that student may be permitted onto university property for limited periods and specific activities with the permission of the director of the Office of Student Conduct or his/her designee. Should the student enter university property without permission, action may be taken by the police for trespass.

9. Restriction or Denial of University Services
The student is restricted from using or is denied specified university services, including participation in university activities.

10. Delayed Conferral of Degree
The issuance of a student’s diploma is delayed for a specified period of time.

11. Recommendation for Revocation of Degree
The conduct officer or hearing board recommends to the Regents of the University of Colorado revocation of an earned degree.

12. Additional Sanctions
Additional sanctions include, but are not limited to, requiring the student to compensate a victim for theft, damage, counseling or other expenses incurred as a result of the incident.

K. Appeals

1. Introduction
A charged student may only appeal if the sanctions of termination, suspension, or expulsion were imposed. The complainant of a crime of violence (as defined by the Campus Security Act, see section L.5) may file a request for appeal in any case.* All appeals, whether filed by a complainant or a charged student, must be made in accordance with procedures outlined in this section. The appeal is the final step in the conduct process. An appeal does not provide a second hearing of the case. The review on appeal will be based on the existing record, or new information provided per K.2.a.iii or K.3.a.iii below. The information provided to the appeal officer in the student’s request for appeal and information the conduct officer may present regarding the rationale for the decision.

Deviation from the procedures in this code will not invalidate a proceeding or decision or be a basis for appeal except where such deviation has clearly resulted in significant prejudice to a charged student or complainant.

2. Appeals

a. Criteria
A charged student may only appeal if the sanctions of termination, suspension, or expulsion were imposed. A student may appeal upon one or more of the following grounds:

i. The established procedures were not followed in a significant way and as a result, the factual findings, the sanction, or both, were not correct.

ii. The severity of the sanction imposed was not appropriate based on the nature of the violation or the circumstances. In cases in which a charged student has accepted responsibility, such appeals are limited to having the severity of the sanction reviewed.

iii. There is new information that would have been material to the outcome, had the information been presented at the student conduct meeting. The new information must be included with the student’s request for appeal. Also, the student must show that the new information was not known to the person appealing at the time of the original student conduct meeting.

b. Appeals Process
If a case may be appealed, and unless the welfare of a person or the community is threatened, all of the sanctions imposed in the case will not go into effect until either the deadline for filing an appeal passes and no appeal is filed or, if a timely appeal is filed, the appeal is decided, whichever comes first.

An appeal must be filed by the date specified in the original decision letter from the Office of Student Conduct. If a student files an appeal, s/he will be informed of the outcome when the appeal process has been completed.

An appeal will only be considered if it includes the request to appeal form, the student’s criteria for appeal and rationale for appeal. It is the student’s obligation to provide any and all materials she/he wishes to have considered at the time of appeal submission. Subsequent information and/or revisions to the appeal will not be accepted. The director of the Office of Student Conduct or his/her designee will make the decision as to whether these conditions have been met. A student may file an appeal by delivering it to the Office of Student Conduct. The request for appeal form is available in the Office of Student Conduct, at the front desk of any residence hall office, or at www.colorado.edu/studentaffairs/studentconduct. Students are encouraged to consult with all resources about the appeal process prior to submitting the request for an appeal.

c. Student Conduct Appeal Committee
i. The vice chancellor for student affairs, or his/her designee, upon the recommendation from the director of student conduct shall appoint the Student Conduct Appeal Committee (SCAC) members. The SCAC members shall

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* Except in those cases outlined in Appendix 1.
have no prior involvement with the case through the Office of Student Conduct. The SCAC shall only consider information contained in the record of the case that is transmitted to the appeal officer; however, the SCAC may request clarification of the decision rendered by the conduct officer. Any SCAC member who believes she or he is unable to be an objective participant for a given appeal is expected to remove herself/himself from the SCAC for that particular appeal.

ii. The SCAC shall consist of three members. One member of the SCAC will serve as the lead appeal reader (LAR). The LAR must be a staff or faculty member. She or he is responsible for management of the SCAC.

iii. The SCAC will review the student’s appeal and decide on an action, as outlined in K.2.d, by a majority vote. The LAR will compose an Appeal Decision Letter to the student and submit it to the Office of Student Conduct. The Office of Student Conduct will provide a copy of the Appeal Decision Letter to the student.

d. Actions Available to the Student Conduct Appeal Committee

i. The SCAC shall have the authority to:

1. Affirm the initial decision.

2. Find that improper procedures were used, to the prejudice of the student. In this case, the SCAC can refer the case back to the conduct officer with a recommendation on how to correct the procedures. The conduct officer may make a new decision on the case. The student may then submit another request for appeal if the student again has grounds to appeal after the new decision.

3. Reduce or increase the sanction, if the SCAC determines that the sanction imposed was too severe or too lenient, given the nature of the violation and/or the circumstances. A sanction should not be increased or decreased unless there is compelling justification to do so. Merely disagreeing with the decision of the conduct officer is not a compelling justification.

4. Find that (a) the student has presented information that would have been material to the outcome of the case, had the information been presented at the student conduct meeting, and (b) the information was not known to the person appealing at the time of the original student conduct meeting. In this event, the SCAC will refer the case back to the conduct officer for reconsideration in light of the new information.

e. Questions of Law

If questions of law arise during the appeal process, the SCAC may consult with the Office of the University Counsel.

L. Additional Information

1. Record Retention and Review

Records will be retained until the student permanently withdraws or graduates from the university, unless 1) we are mandated to maintain the record in compliance with federal, state or local law or university policy; 2) it was a warning or not responsible finding—these records will be expunged at the end of the academic year in which the incident took place; or 3) the case resulted in an expulsion in which the record will be retained indefinitely.

Every student may review, upon written request, all non-confidential contents of his/her conduct file, to the extent permitted by law.

2. Adjudication Fee

For a student’s first incident resulting in probation, suspension in abeyance, termination, suspension, and expulsion, a $75 fee will be assessed. For subsequent incidents resulting in probation, suspension in abeyance, termination, suspension, and expulsion, a $100 fee will be assessed.

This fee is used by the Division of Student Affairs to support educational programs and presentations. The Office of Student Conduct does not receive any of the adjudication fee. Failure to pay the adjudication fee by the due date will result in late fees and/or service charges per the bursar’s office.

A financial stop will be placed on the student’s record if the student fails to pay the adjudication fee by the due date. This stop will prevent the student from:

a. Registering for future terms;
b. Participating in drop/add;
c. Receiving an academic transcript; and
d. Receiving a diploma.

3. Disciplinary Hold and Disciplinary Stop

While conduct 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 Boulder campus, including Continuing Education, and prohibits the student from registering for classes until the conduct process, including the review procedure if requested, has been completed. The transcript hold prohibits the academic transcript from being released until all actions have 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 actions are completed.

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

4. 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. See the Office of the Registrar (registrar.colorado.edu, 303-492-6970, or Regent Administrative Center room 105).

The date used for determining the amount due will be the first day of the suspension or expulsion, as decided upon by the conduct officer.
5. **Release of Conduct Information**

Provisions of the Family Educational Rights and Privacy Act of 1974, 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. 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 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 the Campus Security Act as amended by the Higher Education Amendments of 1992.

The Campus Security Act permits higher education institutions to disclose to alleged victims of any crime of violence (murder, robbery, sexual assault, aggravated assault, burglary, motor vehicle theft, arson) the results of the conduct proceedings conducted by the institution against an alleged perpetrator with respect to such crime. The Campus Security Act also requires that both accused and the accuser be informed of the result of campus conduct proceedings involving a sexual assault.

6. **Re-Release of Information**

Individuals who receive confidential information due to an exception to privacy laws, due to their participation in the conduct 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 law as in cases involving a crime of violence or nonforcible sexual offense. Violation of this prohibition could result in charges being pursued under this policy or other appropriate action.

7. **Summary Suspension**

The chancellor, vice chancellor for student affairs, the associate vice chancellor for student affairs, or their designee(s) have the authority to summarily suspend a student, pending final disposition of the case when, in the opinion of these officials, such a suspension is necessary to:

a. Maintain order on the campus;

b. Preserve the orderly functioning of the university;

c. Stop interference in any manner with the public or private rights of others on university property;

d. Stop actions or potential actions that threaten the health or safety of any person; or

e. Stop actions or potential actions that destroy or damage university property, its students, faculty, staff, or guests.

Summary suspension includes excluding the student from campus.

Summary suspension begins immediately upon notice from the appropriate university official, without a conference with a conduct officer. A conference with a conduct officer is scheduled as soon as possible (usually within 10 calendar days) to determine how the case will continue and to begin the conduct process. A summary suspension may be put in place until a student receives a final disposition in a court process after having been charged with a serious crime.

M. Related Information

1. **Academic Integrity**

Cases involving academic dishonesty are heard under the Honor Code. For more information, contact the Honor Code Office, or see the following website: [honorcode.colorado.edu](http://honorcode.colorado.edu).

2. **Alcohol**

On the Boulder campus, students may consume alcohol only if they are of legal drinking age and do so in designated areas. Students should consult with Housing and Dining Services or other facility supervisors to determine where the designated areas are located. Drinking by underage students or in non-designated areas on campus violates the Student Conduct Code and Housing and Dining Services policies (for Housing and Dining Services policies see Residence Hall Policies at [www.colorado.edu/studentaffairs/studentconduct/code.html](http://www.colorado.edu/studentaffairs/studentconduct/code.html).)

3. **Illicit Drug Use and Medical Marijuana**

Violations of the drug policy include, but are not limited to:

- Possession or use of any illegal drug, or any possession or use of any prescription drug or other controlled substance except under the direction of a licensed physician.
- Use or possession of marijuana, including Medical Marijuana used or possessed under Colorado Constitution Article 18, section 14, is strictly prohibited on campus.

Any such use or possession will result in a violation of the drug policy.

**Alcohol and Drug Sanctions**

a. Any student currently on university probation or suspension in abeyance who is found responsible for violating the university alcohol or drug policy is subject to suspension from the university for at least one full semester.

b. If a student is found to be in violation of state laws or university policies governing alcohol or drugs, the student will be sanctioned according to the conduct officer’s assessment of risk. First and second offenses may include the following:

- Parental notification
- Community Living Class
- Probation for one semester

Please see our website at [www.colorado.edu/studentaffairs/studentconduct](http://www.colorado.edu/studentaffairs/studentconduct) for a complete description of sanctions.

Sanctioning of alcohol and drug violations may be more severe if the incident includes any of the following aggravating...
factor(s): public intoxication, provision of alcohol/drugs to minors, driving a vehicle under the influence of alcohol/drugs, damage to property, obstruction of a peace officer or failure to cooperate with a university official. Sanctioning may also be more severe if the violation is accompanied by other violations of the Student Conduct Code or multiple violations of the Student Conduct Code.

c. The conduct officer has discretion to issue appropriate sanctions based on the nature of each individual case. The severity of the violation(s) will determine the level and range of the sanctions.

3. Classroom Behavior
For information about classroom behavior, see the following website: www.colorado.edu/policies/classbehavior.html

N. Resources

Counseling and Psychological Services
Center for Community S440
303-492-6766
counseling.colorado.edu

Offers counseling programs and activities for all members of the university. All contacts are confidential.

Ombuds Office
Center for Community N440
303-492-5077
ombuds.colorado.edu

Assists students, faculty, and staff in resolving complaints or disputes with other individuals, offices, or departments within the university. Does not maintain records and is independent of any department or office. All contacts are confidential.

Office of Victim Assistance
Center for Community S440
303-492-8855
cuvictimassistance.com

Provides services that may be used by victims or others who experience traumatic, disturbing or disruptive life events. All contacts are confidential.

Wardenburg Health CenterPsychological Health and Psychiatry
Wardenburg Health Center, first floor
303-492-5654
www.colorado.edu/healthcenter/services/php

Offers psychiatric care, including counseling, individual and group psychotherapy, and medication, peer education, substance abuse counseling and education, and stress management programs to fee-paying students. All contacts are confidential.

The following resources, although not confidential, are available to students.

Honor Code Office
1870 Regent Administrative Center, 42 UCB
303-735-2273
honorcode.colorado.edu

Offers information concerning academic integrity and handles allegations of academic dishonesty.

Student Legal Services
University Memorial Center 311
303-492-6813
www.colorado.edu/studentaffairs/legal

Provides legal counseling to full-fee paying students on matters such as traffic violations, criminal charges, and employment problems. Does not provide advice on internal university issues.

University of Colorado Police Department
1050 Regent Drive
303-492-6666 (non-emergencies, for emergencies dial 911)
www.colorado.edu/police

Maintains a full-service police department. Officers, who are state certified, respond to reports of criminal acts and emergencies both on and off campus.

Center for Multicultural Affairs
Center for Community N320
303-492-5667
www.colorado.edu/studentaffairs/cma

Provides confidential counseling, outreach, and diversity education training.

Gay Lesbian Bisexual Transgender Queer Resource Center
Center for Community N450
303-492-1377
www.colorado.edu/glbtqrc

Provides advocacy, education, and support to the lesbian, gay, bisexual, queer, questioning, intersex and ally communities on campus.

Office of Discrimination and Harassment
3100 Marine Street, third floor
303-492-2127
hr.colorado.edu/dh

Investigates allegations of discrimination or harassment by an employee of the university against members of the campus community.

Women's Resource Center
UMC 416
303-492-5713
www.colorado.edu/WomensResourceCenter

Provides information on services, organizations, and events through a variety of resources in a women-focused environment.
Appendix 1: Definitions and Procedures for Sexual Misconduct, Sexual Harassment and Protected Class Discrimination and Harassment

A. Sexual Misconduct*  
The Student Conduct Code prohibits the following conduct, as well as attempts to commit and aiding or inciting others to commit these acts:

1. Non-consensual sexual intercourse: Any sexual intercourse, however slight, with any object, by any person upon another person that is without 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.

2. Non-consensual sexual contact: Any intentional sexual touching, however slight, with any object, by any person upon another person, that is without 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.

3. Sexual exploitation: Occurs when a student takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. Examples include:

   • Exposing one’s genitals in non-consensual circumstances or inducing someone to expose their genitals.
   • Observing or taking a photograph of another person’s intimate parts without that person’s consent, in a situation where the person observed or photographed has a reasonable expectation of privacy, for the purpose of the observer’s own sexual gratification or the gratification of another. “Photograph” includes a photograph, motion picture, videotape, live feed, print, negative, slide, or other mechanically, electronically, or chemically produced or reproduced visual material.
   • Non-consensual recording of sexual activity.

4. Sexual harassment: Interaction between individuals of the same or opposite sex that is characterized by unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, living conditions, and/or educational evaluation; (2) submission to or rejection of such conduct by an individual is used as the basis for tangible employment or educational decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance or creating an intimidating, hostile, or offensive working or educational environment. Hostile environment sexual harassment is unwelcome sexual conduct that is sufficiently severe or pervasive that it alters the conditions of education or employment and creates an environment that a reasonable person would find intimidating, hostile, or offensive. The determination of whether an environment is “hostile” is a fact specific inquiry based upon subjective and objective factors of the circumstances. These circumstances could include the frequency of the conduct, its severity, and whether it is threatening or humiliating. A single instance of sexual assault can constitute a hostile environment.

B. Consent Defined  
Consent for sexual activity 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.

1. Consent is not effectively given if it results from the use of force, including threats, intimidation or coercion.
   • 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 you, themselves, or to harm someone you care for constitute threats.
   • Intimidation occurs when someone uses their physical presence to menace you, although no physical contact occurs, or where your knowledge of prior violent behavior by an assailant, coupled with menacing behavior, places you 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.

2. Engaging in sexual activity with a person who you know to be mentally or physical incapacitated, or reasonably should know to be incapacitated, violates this policy. Incapacitation may result from alcohol or other drug use, unconsciousness or blackout, or other factors. Incapacitation is a state where a person cannot make a rational, reasonable decision because they lack the capacity to give knowing 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.

3. Giving incapacitating or “rape” drugs, such as Rohypnol, Ketomine, GHB, and Burundanga to another person is a violation of the Student Conduct Code.
4. Additional rules regarding consent.
   • 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 another. The subjective standards 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 intentional use of alcohol/drugs will not function as a defense to a possible violation of this policy.
   • In order to give effective consent, the person giving consent must be of legal age.

C. Protected Class Discrimination and Harassment
The Student Conduct Code prohibits discrimination and harassment based on membership in a Protected Class, including intimate partner abuse and stalking which are considered sex or gender discrimination.

1. Protected Classes: Class based on race, color, national origin, sex, age, disability, creed, religion, sexual orientation, gender identity, gender expression, pregnancy, and veteran status.

2. Discrimination: Occurs when an individual suffers an adverse consequence, such as failure to be hired or promoted, denial of admission to an academic program, etc., on the basis of her/his Protected Class.

3. Harassment: Verbal or physical conduct based upon an individual’s Protected Class that unreasonably interferes with that individual’s work or academic performance or creates an intimidating or hostile work or educational environment.

4. Hostile Environment: Unwelcome conduct by an individual(s) against another individual based on her/his Protected Class that is sufficiently severe or pervasive that it alters the conditions of education or employment and creates an environment that a reasonable person would find intimidating, hostile or offensive.

The determination of whether an environment is “hostile” must be based on all of the circumstances. These circumstances could include the frequency of the conduct, its severity, and whether it is threatening or humiliating. Simple teasing, offhand comments and isolated incidents, unless extremely serious, will not amount to hostile environment harassment.

5. Intimate partner abuse: 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 of coercion, control, punishment, intimidation or revenge.

6. Stalking, gender-based: Directly or indirectly through another person 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 his or her safety or the safety of others or; (b) suffer substantial emotional distress, including causing a person to respond by altering their activities. When stalking is gender-based, it is considered Protected Class harassment.

D. Investigation Process for Resolving Complaints or Reports of Sexual Misconduct, Sexual Harassment, and Protected Class Discrimination and Harassment
The University of Colorado and the OSC do not tolerate, and will be responsive to any reports of, sexual misconduct, sexual harassment, and other forms of Protected Class discrimination and harassment and is committed to providing adequate, reliable and impartial resolutions of complaints.

The primary concern of the OSC is student safety. To facilitate reporting, minor infractions by the complainant will be addressed informally whenever possible.

1. The OSC shall resolve these reports or complaints equitably and as promptly as practicable after the report or complaint is made. Ordinarily, investigations shall be concluded and investigative reports submitted to the standing review committee no later than 60 days following the receipt of a complaint. Ordinarily, the final report shall be sent to the Chancellor or President no later than 30 days after the committee’s receipt of the draft report of the investigation.

It is the responsibility of the OSC to determine the most appropriate means for addressing the report or complaint. Options include but are not limited to: 1) investigating the report or complaint as described below; 2) with the agreement of the parties, attempting to resolve the report or complaint through an informal resolution process such as mediation or a meeting between the alleged offender and a student conduct officer or a third party (mediation will not be used in cases involving allegations of sexual violence); or 3) determining that the facts of the complaint or report, even if true, would not constitute a violation of the conduct code or applicable policy. The OSC may designate another individual (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 have training qualifications and experience as will, in the judgment of the director of OSC, facilitate the investigation. Anyone designated to address an allegation must adhere to the requirements of the conduct code and applicable policy and confer with the OSC director about his or her progress.
2. All reports or complaints should be made as promptly as feasible after the occurrence. A delay in reporting may be reasonable under some circumstances, as determined on a case-by-case basis. An unreasonable delay in reporting, however, is an appropriate consideration in evaluating the merits of a complaint or report.

3. If an investigation is conducted, the conduct officer will send the respondent a notice of investigation which will include a description of the alleged misconduct, the conduct code provisions alleged to have been violated, and the requirement that the respondent must set up a conference with the conduct officer within the time frame designated in the notice. The notice may be sent to the student’s university email address, to the mailing or permanent address appearing in the university’s student information system, to an address appearing in a police report, or may be hand delivered. Notice to the student will be considered furnished on the date of hand-delivery, on the date emailed, or three days after the date the notice is placed in U.S. mail. At the conference, the respondent will have the opportunity to respond to the allegations. The complainant and the respondent shall have the right to present relevant information to the investigator, including identifying witnesses, to have an advisor present during any conduct meetings, and to receive a copy of the investigator’s report at the conclusion of the investigation and appropriate review, to the extent permitted by law.

If the respondent does not schedule or attend a conference by the date specified in the notice of investigation, or if the respondent schedules a conference but does not attend or attends but does not participate, the conduct officer may complete the investigation based on the information obtained. The OSC may utilize police investigation reports in the conduct process.

The OSC director or investigator will discuss campus support services available to the parties and will discuss with the complainant whether s/he resides in the same housing, has campus activities and/or classes with the respondent, and will take interim steps as needed to protect the complainant and the campus prior to the outcome of the investigation, including, but not limited to, class and campus housing moves, non-contact orders, exclusion orders, and summary suspensions as he/she deems necessary and appropriate. The OSC director or investigator will discuss the complainant’s options for obtaining criminal or civil protection or restraining orders and for reporting to law enforcement.

4. The Chancellor shall be notified when an investigation occurs.

5. At the conclusion of an investigation, the investigator shall prepare a written report that will include a statement of factual findings and a determination as to whether or not there was a violation of the Student Conduct Code or university policy. The standard of proof shall be a preponderance of the information, as explained in Section H.5 of the Student Conduct Code. The report shall be presented for review to the standing review committee.

6. The standing review committee shall consist of employees who have received appropriate training regarding implementation of this policy.

7. The standing review committee may consult with OSC, consult with the parties, request that further investigation be done by the same or another investigator, or request that the investigation be conducted again by another investigator. The standing review committee may adopt the investigator’s report as its own or may prepare a separate report based on the findings of the investigation. The standing review committee may not, however, conduct its own investigation or hearing.

8. The OSC shall advise the complainant and respondent in writing of the result of any investigation conducted under this conduct code. A copy of the investigator’s written report as approved by the standing review committee and to the extent permitted by law shall be provided to the complainant, the respondent, the OSC director and the Chancellor.

9. In cases where the investigation results in a determination that the Student Conduct Code or university policy has been violated, the case is forwarded to the OSC director, who is the disciplinary authority for students. Within one (1) week of the date of the investigative report, the respondent and complainant may meet with the director (or his/her designee) to discuss mitigating or aggravation circumstances related to the incident that may impact sanctioning. It is the responsibility of the parties to set the appointment and meet within the time prescribed. Alternatively, the complainant or respondent may submit a written statement within a week. 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. If no meeting occurs and/or no written statement is submitted, the director of his/her designee will determine the sanction without the parties’ input. In cases of sexual misconduct, intimate partner abuse and stalking, both parties will be informed of the sanctions, as relevant, in writing.

10. In all cases, the OSC 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.

11. All records, reports and investigations relating to sexual misconduct or protected class discrimination and harassment shall be considered confidential and shall not be disclosed publicly except to the extent required by law.

12. Any student who provides false information to any university official during the conduct process may be charged with violating F. 14 of the Student Conduct Code.

E. Complaints Involving Two or More University of Colorado Campuses

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.
F. Complaints By and Against University Employees and Students Arising in an Affiliated Entity

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 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, in 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; or 4) Use the investigation and findings of the affiliated entity as a basis for further investigation.

G. Sanction Statement

Any student found responsible for violating the provision on nonconsensual sexual intercourse will likely receive a sanction of suspension or expulsion. Any student found responsible for violating the provision on nonconsensual sexual contact, sexual exploitation, sexual harassment or protected class discrimination or harassment will likely receive a sanction ranging from probation to expulsion, depending on the severity of the incident and taking into account any previous conduct code violations. The OSC director reserves the right to broaden or lessen any range of recommended sanctions in the event of mitigating factors or egregiously offensive behavior.

H. Retaliation

Parties who believe they have been retaliated against due to participating in the OSC process described above should notify the director of OSC. The OSC will follow up with complainants to determine whether any retaliation or new incidents or harassment have occurred. Retaliation against any party participating in an OSC proceeding is prohibited and will be investigated by the OSC. To be considered retaliation there must be a causal connection between a materially adverse action and the act of reporting a violation or participating in a conduct proceeding. A materially adverse action is one that would dissuade a reasonable person from reporting a violation, and includes, but is not limited to, intimidation, threats, coercion or discrimination. A determination of whether an action is materially adverse is made on a case-by-case basis.

Appendix 2: Colorado Law Regarding Hazing

As used in this section, unless the context otherwise requires:

2(a) ‘Hazing’ means any activity by which a person recklessly endangers the health or safety of or causes a risk of bodily injury to an individual for purposes of initiation or admission into or affiliation with any student organization; except that “hazing” does not include customary athletic events or other similar contests or competitions, or authorized training activities conducted by members of the armed forces of the state of Colorado or the United States.

(b) ‘Hazing’ includes but is not limited to:

(I) Forced and prolonged physical activity;

(II) Forced consumption of any food, beverage, medication or controlled substance, whether or not prescribed, in excess of the usual amounts for human consumption or forced consumption of any substance not generally intended for human consumption;

(III) Prolonged deprivation of sleep, food, or drink.

Appendix 3: Good Samaritan Provision

Purpose

The health and safety of members of the University of Colorado Boulder (CU) are the primary concerns of the University. The University is committed to ensuring that students obtain timely medical assistance for themselves and for their peers. To this end, we have instituted a “Good Samaritan” Provision.

The University of Colorado Boulder Police Department and City of Boulder Police Department will assist those individuals whose judgment or health is severely affected due to alcohol or drug use by facilitating transport to the Addiction Recovery Center, Boulder Community Hospital, Wardenburg Health Center, or by taking other protective measures. Students are encouraged to inform local or state police, Residence Life staff, or CU campus security officers, when assistance is needed.

The Provision

Whenever a student assists an intoxicated individual in procuring the assistance of local or state police, community safety officer, residence life staff, or other medical professionals, neither the intoxicated individual, nor the individual(s) who assists will be subject to formal university disciplinary sanctions (such as probation, suspension in abeyance, suspension or expulsion) with respect to the alcohol or drug related incident. (This provision does not preclude disciplinary action regarding other violations of university standards, such as theft, sexual harassment/assault, vandalism, harassment, etc.). This provision offers a health focused response to the incident rather than a disciplinary consequence and does not
excuse or protect those individuals or organizations that deliberately or repeatedly violate the alcohol or drug policy as outlined in the Student Conduct Code.

In order for this policy to apply:

1. The reporting party must contact appropriate assistance as defined in the provision, remain with the intoxicated student, and cooperate with staff in obtaining assistance for the student.

2. All intoxicated student(s) must agree to a timely conversation or evaluation of their alcohol and/or drug use with an Office of Student Conduct or Housing and Residence Life staff member.

3. If it is determined by the conduct officer that education activities, assessment, and/or treatment are necessary to address the concern for student health and safety, students will be required to pursue and complete such interventions. Likewise, organizations involved in an incident must agree to take recommended steps to address concerns.

Serious or repeated incidents will prompt a higher degree of medical concern. Failure to complete recommended follow-up may result in disciplinary action and could prompt the imposition of a medical withdrawal.

This provision only governs the application of the university’s Student Code of Conduct and has no status in other jurisdictions such as local or state courts. It should also be noted that this provision may only be invoked by a student at the time when his or her case is being heard or investigated by a conduct officer or investigator. Based on the totality of the incident, the conduct officer will make the final determination as to the applicability of this provision and reserves the right to reduce sanctions or dismiss charges.

The Good Samaritan provision does not limit the authority of law enforcement personnel or university staff to act as required at the time of an alleged violation of university standards or state or local laws.

If the Good Samaritan Provision is invoked:

The university will:

- Review the facts of the incident
- Initiate a meeting with students involved
- Discuss/assign educational interventions

The university will not:

- Assign formal disciplinary sanctions (probation, suspension in abeyance, suspension, expulsion)
- Charge an adjudication fee for this incident

Appendix 4: Colorado Law Regarding Riots

Section 18-9-101(2), Colorado Revised Statutes states:

“Riot means a public disturbance involving an assemblage of three or more persons which by tumultuous and violent conduct creates grave danger of damage, or injury to property, or persons, or substantially obstructs the performance of any governmental function.

Section 18-9-102, C.R.S. states:

Inciting riot.

(1) A person commits inciting riot if he:

(a) Incites or urges a group of five or more persons to engage in a current or impending riot; or

(b) Gives commands, instructions, or signals to a group of five or more persons in furtherance of a riot.

(2) A person may be convicted under sections 18-2-101, 18-2-201, or 18-2-301 of attempt, conspiracy, or solicitation to incite a riot only if he engages in the prohibited conduct with respect to a current or impending riot.

(3) Inciting riot is a class 1 misdemeanor, but, if injury to a person or damage to property results therefrom, it is a class 5 felony.

Section 18-9-103, C.R.S. states:

Arming rioters.

(1) A person commits arming rioters if he:

(a) Knowingly supplies a deadly weapon or destructive device for use in a riot; or

(b) Teaches another to prepare or use a deadly weapon or destructive device with intent that any such thing be used in a riot.

(2) Arming rioters is a class 4 felony.

Section 18-9-104, C.R.S. states:

Engaging in a riot.

(1) A person commits an offense if he or she engages in a riot. The offense is a class 4 felony if in the course of rioting the actor employs a deadly weapon, a destructive device, or any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon, or if in the course of rioting the actor represents verbally or otherwise that he or she is armed with a deadly weapon; otherwise, it is a class 2 misdemeanor.

(2) The provisions of section 18-9-102 (2) are applicable to attempt, solicitation, and conspiracy to commit an offense under this section.

Section 23-5-124, C.R.S. states:

Student enrollment—prohibition—public peace and order convictions.

(1) No person who is convicted of a riot offense shall be enrolled in a state-supported institution of higher education for a period of twelve months following the date of conviction.
A student who is enrolled in a state-supported institution of higher education and who is convicted of a riot offense shall be immediately suspended from the institution upon the institution's notification of such conviction for a period of twelve months following the date of conviction; except that if a student has been suspended prior to the date of conviction by the state-supported institution of higher education for the same riot activity, the twelve month suspension shall run from the start of the suspension imposed by the institution.

Nothing in this section shall be construed to prohibit a state-supported institution of higher education from implementing its own policies and procedures or disciplinary actions, in addition to the suspension in subsection (2) of this section, regarding students involved in riots.

(a) The court in each judicial district shall report to the Colorado commission on higher education the name of any person who is convicted in the judicial district of a riot offense.

(b) The Colorado commission on higher education shall make the conviction reports received pursuant to paragraph (a) of this subsection (4) available to all state-supported institutions of higher education with the notification that the persons included in the conviction reports are subject to the provisions of this section and that the state-supported institution of higher education in which any of such persons are enrolled shall consider appropriate disciplinary action against the student.

Each state-supported institution of higher education shall notify its students and prospective students of the requirements of this section. The governing board of each state-supported institution of higher education shall prescribe the manner in which this information shall be disseminated.

For purposes of this section, unless the context otherwise requires:

(a) “Convicted” means having received a verdict of guilty, pleaded guilty or nolo contendere, or having received a deferred judgment and sentence.

(b) “Riot offense” means:

(I) Inciting riot, as described in section 18-9-102, C.R.S.;

(II) Arming rioters, as described in section 18-9-103, C.R.S.;

(III) Engaging in a riot, as described in section 18-9-104, C.R.S.”