



Institutional Equity and Compliance  
UNIVERSITY OF COLORADO **BOULDER**

# OIEC Resolution Procedures 2018-2019

*Effective: October 1, 2018*

*The University of Colorado Boulder does not discriminate on the basis of race, color, national origin, sex, pregnancy, age, disability, creed, religion, sexual orientation, gender identity, gender expression, veteran status, political affiliation or political philosophy in admission and access to, and treatment and employment in, its educational programs and activities.*

*The information contained within the OIEC Resolution Procedures is intended to provide general information to members of the university community and is not intended to, nor does it, create a express or implied contract between the OIEC or CU Boulder and community members. The OIEC reserves the right to change or eliminate any of the language herein at its discretion and without notice.*

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# Office of Institutional Equity and Compliance

## A. Overview and Mission Statement of the Office of Institutional Equity and Compliance

The Office of Institutional Equity and Compliance (OIEC) was created in August 2014 to integrate resolutions of all complaints of protected-class harassment and/or discrimination or sexual misconduct – whether against a student, employee, or affiliate – into one office. Utilizing a comprehensive and integrated structure with dedicated staff for accommodations, case resolutions, education, and remedial measures, the OIEC’s mission is to create and foster a safe, inclusive and accessible environment and to be a national leader in the prevention of and response to protected-class discrimination and harassment and sexual misconduct. The OIEC will continuously refine its policies, procedures and practices to maintain legal compliance while utilizing evidence-based and innovative models of assessment, prevention and response. The OIEC implements and enforces the University of Colorado Sexual Misconduct, Intimate Partner Abuse and Stalking Policy; the University of Colorado Boulder Discrimination and Harassment Policy; and the University of Colorado Policy on Conflict of Interest in Cases of Amorous Relationships (Applicable Policies).

OIEC is committed to preventing discrimination or harassment based on race, color, national origin, pregnancy, sex, age, disability, creed, religion, sexual orientation, gender identity, gender expression, veteran status, political affiliation, or political philosophy. The OIEC is also committed to preventing any form of related retaliation as prohibited by University policies and state and federal laws.

The OIEC utilizes fair and unbiased processes and treats all individuals who seek our assistance with respect and dignity.

## B. Purpose and Scope

The OIEC Resolution Procedures (Resolution Procedures) are intended to comply with the related requirements of the following federal and state laws, their implementing regulations, and related agency guidance, including:

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

- Vietnam Era Veterans Readjustment Assistance Act (1974)
- Age Discrimination Act (1975)
- Age Discrimination in Employment Act (1976)
- Pregnancy Discrimination Act (1978)
- Americans with Disabilities Act of 1990 (Amendments Act of 2008)
- The Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (1991)
- Violence Against Women Act (1994)
- Uniformed Services Employment and Reemployment Rights Act (1994)
- The Violence Against Women Reauthorization Act of 2013
- Colorado Anti-Discrimination Act (1979)

The Resolution Procedures are also intended to be the “campus investigation/adjudication process” pursuant to the University of Colorado Sexual Misconduct, Intimate Partner Abuse and Stalking Policy; the University of Colorado Conflict of Interest in Cases of Amorous Relationships Policy; and the University of Colorado Boulder Discrimination and Harassment Policy. This document should be read in conjunction with those policies. The Resolution Procedures are also sometimes referred to as “grievance procedures.”

## **C. Jurisdiction**

1. The Resolution Procedures govern all students, faculty, staff, contractors, patients, volunteers, affiliated entities and other third parties. For specific jurisdiction provisions, please see the Applicable Policies.<sup>1</sup>
2. The University has jurisdiction to conduct at least a preliminary inquiry to determine whether the alleged conduct occurred in the context of, or has continuing effects on (as provided for example, in APS 5014 Section III(H)(2)-(3)), a University program, activity, or employment.
3. Actions taken under the Resolution Procedures are separate and apart from any law enforcement or other court process or proceeding, such as a civil lawsuit or criminal prosecution, that may relate to the same underlying factual incident. OIEC’s jurisdiction does not depend on whether criminal charges are filed. Formal adjudications or other case resolutions conducted by the OIEC are not postponed while criminal or civil proceedings are pending unless there are extenuating circumstances, as determined by the OIEC. Dismissal of criminal charges or acquittal in a criminal case does not

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<sup>1</sup> Applicable Policies: [Conflict of Interest in Cases of Amorous Relationships \(APS 5015\)](#); [Sexual Misconduct, Intimate Partner Abuse and Stalking \(APS 5014\)](#); [CU Boulder Discrimination and Harassment Policy](#).

prevent the OIEC from resolving an incident. There is no time limitation for reporting a concern to the OIEC or for the OIEC to address matters described within this document. If the alleged conduct is reported to have occurred prior to the effective date of the current Applicable Policies, the OIEC will apply the policy that was in effect at the time the alleged conduct reportedly occurred, to the extent the policies differ in defining prohibited conduct. However, regardless of the policy in force at the time the conduct is alleged to have occurred, the OIEC's procedural response to the report will be governed by the current Resolution Procedures.

4. After proper notice as provided for in this document, the failure of an individual to appear and/or respond to the OIEC does not prevent the OIEC from proceeding with or completing the applicable process.
5. For employees, any matters falling outside the scope of the Applicable Policies may be addressed by the appointing/disciplinary authority. For students, Student Conduct and Conflict Resolution (SCCR) has jurisdiction for all other student conduct matters not listed herein. In the event that there are multiple potential charges involving the Applicable Policies and the Student Code of Conduct, the OIEC and SCCR shall have the discretion to jointly determine the most appropriate way to proceed. Options include concurrent investigations, joint investigations, deferring to the findings of one office or using the investigation and findings of one office as the basis of further investigation by the other.
6. When an alleged violation involves more than one University of Colorado campus, the complaint shall be resolved by the campus with the disciplinary authority over the respondent. The campus responsible for the resolution process 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 resolution process.
7. University employees and students sometimes work or study at the worksite or program of another organization affiliated with the University. When a violation is alleged by or against University employees or students in those circumstances, the complaint shall be addressed as provided in the affiliation agreement between the University and the other entity. In the absence of an affiliation agreement or a provision addressing this issue, the University may, at its discretion, choose to 1) conduct its own resolution process; 2) conduct a joint resolution process with the affiliated entity; 3) defer to the findings of a resolution process by the affiliated entity where the University has reviewed the resolution process and is satisfied that it was fairly conducted; 4) use the resolution process and findings of the affiliated entity as a basis for further investigation or adjudication; or 5) take other action as determined appropriate by the Associate Vice Chancellor of the OIEC or designee.
8. Conduct alleged to have occurred before an individual became a student, faculty, staff, contractor, patient, volunteer, or affiliated entity with CU Boulder may be addressed through applicable remedial, protective, and/or educational measures as determined

by the Associate Vice Chancellor of the OIEC or designee if the alleged conduct adversely effects equal access to employment or education for any current CU Boulder community members.

## D. Reporting Options

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

### 1. University/Office of Institutional Equity and Compliance

To notify the University and initiate an OIEC resolution process regarding any of the prohibited conduct as listed in Section G, please contact OIEC directly.

Phone: (303) 492-2127

Email: [cureport@colorado.edu](mailto:cureport@colorado.edu)

Contact us directly:

#### a. Valerie Simons

Associate Vice Chancellor  
and Title IX Coordinator

[valerie.simons@colorado.edu](mailto:valerie.simons@colorado.edu)

(303) 492-5359

#### b. Llen Pomeroy

Assistant Vice Chancellor  
and Deputy Title IX Coordinator

[llen.pomeroy@colorado.edu](mailto:llen.pomeroy@colorado.edu)

303-492-0277

For a full list of reporting options, please refer to the [OIEC website](#).

To encourage reporting and/or participation, personal consumption of alcohol or other drugs by the complainant, the respondent, or witnesses will not be subject to disciplinary action. The goal of this provision is to remove potential barriers to reporting and/or participation. However, final jurisdiction and decision-making regarding any conduct not covered by the Applicable Policies will be made by the Director of Student Conduct and Conflict Resolution (for students) or the appointing/disciplinary authority (for employees).<sup>2</sup>

Even if a complainant chooses not to report formally and/or chooses not to participate in an adjudicative process (through OIEC or law enforcement), the complainant can contact the OIEC for information and assistance accessing on or off campus support services as set forth in Section J and to access available remedial and/or protective measures as set forth in Section H(2).

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<sup>2</sup> For the “amnesty provision” specific to the Sexual Misconduct, Intimate Partner Abuse and Stalking Policy, please see Section III(E)(2) of that policy.

## 2. Law Enforcement

- a. **University Police/On Campus:**  
(303) 492-6666 (non-emergencies)  
[General Information](#)  
[Anonymous Reporting](#)
- b. **City of Boulder Police/Off Campus**  
(303) 441-3333 (non-emergencies)  
[General Information](#)

Complainants are not required, but do have the right, to file a criminal complaint with law enforcement and the University/OIEC simultaneously. The OIEC can assist in reporting to law enforcement for complainants alleging misconduct that is also a criminal offense.

**Please note that it is important to preserve evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protective order.** Regardless of whether or not a complainant wants to report an incident(s), it is important to preserve any evidence of the sexual assault (or other misconduct) so that if a complainant decides at any point in time to report the incident, that evidence is still available. Examples of evidence to preserve include, but are not limited to: the clothing the individual was wearing, bedding, text message correspondence discussing the assault (either with the accused or with friends or family), photographs, screenshots, emails, social media correspondence/posts (Facebook, Tinder, Snapchat, Instagram, Grindr, etc.), correspondence via other messaging applications (Whatsapp, Kik, GroupMe, WeChat etc.), BuffOne access card swipe information, video surveillance<sup>3</sup>, and/or names of witnesses and contact information.

Regardless of if an individual wants to report the assault to the police, a medical exam can be done to preserve evidence. The Sex Assault Nurse Examiner (SANE) program at the Emergency Department at Boulder Community Health Foothills Hospital is available to conduct a SANE exam, ideally within five days of the sexual assault. It is best if an individual does not bathe, shower, eat, drink, douche or change clothes. However, evidence can be collected if you have done any or all of these things. More information about the SANE exam program can be found on the [Boulder Community Health SANE webpage](#).

**Please note that if some or all of this evidence is unavailable or does not exist, you are still encouraged to report a sexual assault. The lack of evidence does not preclude an investigation from taking place.**

Reporting to the University Police will constitute notice to the University/OIEC and may result in an OIEC resolution process subject to applicable state law. In some

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<sup>3</sup> Please note that the University's ability to collect video surveillance from University cameras and/or BuffOne access card swipes may be limited due to the timeframe in which the allegation is reported to the OIEC. Most University video footage is deleted after 30 days. If you do not want to report an allegation, but you believe there is relevant video footage that you would like the University to preserve, please contact the OIEC to discuss this option.

instances, the OIEC is obligated to report the alleged conduct to the appropriate law enforcement agency. In those instances, the OIEC will make reasonable effort to notify potential complainants prior to reporting to law enforcement See Section E(1).

### **3. Confidential Options**

#### **a. Office of Victim Assistance**

If a complainant is not sure about initiating a University resolution process or making a police report, the complainant can receive free, confidential information and support by calling the Office of Victim Assistance (OVA) at the University of Colorado Boulder at (303) 492-8855, by e-mail at [assist@colorado.edu](mailto:assist@colorado.edu), in person at the Center for Community (C4C), Suite N352, or at the [OVA website](#). All employees in OVA are advocates and licensed counselors. Other confidential resources are listed in Section J.

## **E. Support Services and Assistance including Protective Orders**

When an individual notifies the OIEC (either directly or through a responsible employee, advocate, third party, or other) that they have experienced conduct prohibited by the Applicable Policies, the OIEC will provide referral information as needed (whether or not there is a formal report or participation in a formal adjudication) in accessing on- and off-campus services, including but not limited to counseling, health services, mental health services, victim advocacy, legal assistance, visa and immigration services, and/or forensic sexual assault nurse examiner (SANE) exams. For a written summary of options and resources available to any person reporting sexual misconduct, please refer to the “Reporting Options and Assistance” link on the [OIEC website](#).

### **1. Orders of Protection, No-Contact Orders, Restraining Orders, or Similar Lawful Orders**

Complainants who are interested in obtaining an Order of Protection, or any other order issued by a court, must pursue those options on their own behalf. Restraining orders are obtained through the Boulder County Consolidated Courts. More information on obtaining a restraining order in Colorado is located in the [State of Colorado County Court Restraining Order Brochure](#).

The Office of Victim Assistance (OVA) can assist individuals free of charge with the process of obtaining a restraining order. CU Student Legal Services (SLS) may also be able to provide resources.<sup>4</sup> CU Boulder complies with Colorado law in recognizing orders of protection. Any person who obtains an order of protection from Colorado or any other state should provide a copy to the University of Colorado Boulder Police Department and the Associate Vice Chancellor of the OIEC or designee.

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<sup>4</sup> For information on Student Legal Services and applicable services, please see their statement on [Limitations on Services](#).

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

*\*Privacy and confidentiality have distinct meanings.\**

1. **Privacy:** generally means that information related to a report of prohibited conduct will be shared with a limited number of individuals who "need to know" in order to assist in the active review, adjudication, resolution of the report, and related issues. All University employees who are involved in a potential response receive specific training and guidance about safeguarding private information in accordance with applicable laws.

The privacy of student education records will be protected in accordance with the University's policy for compliance with the Family Educational Rights and Privacy Act (FERPA) and state law protections. Access to personnel records is restricted in accordance with University policy and state law.

2. **Confidentiality:** means that information shared by an individual with designated campus or community professionals cannot be revealed to any other person without express permission of the individual, or as otherwise permitted or required by law. Those campus and community professionals who have the ability to maintain confidential relationships include health care providers, mental health professionals, the sexual assault victim advocate, attorneys, and ordained clergy, all of whom normally have privileged confidentiality that is recognized by Colorado state law. These individuals are prohibited from breaking confidentiality unless (i) given permission to do so by the person who disclosed the information; (ii) there is an imminent threat of harm to self or others; (iii) the conduct involves suspected abuse of a minor under the age of 18; or (iv) as otherwise required or permitted by law or court order.

The University supports the use of confidential resources as listed in Section J so that complainants and respondents can provide information confidentially and still receive remedial and/or protective measures as necessary through the Associate Vice Chancellor of the OIEC or designee. Communications with these confidential resources are confidential to the extent permitted by statutory law. Confidential resources are not considered "responsible employees" for mandatory reporting purposes.

3. **Responsible Employees:** If an individual discloses an incident to a responsible employee who by definition is a mandatory reporter, but the individual wishes to maintain privacy and requests that no resolution process be pursued, that no disciplinary action taken, or that the allegation not be reported to law enforcement, the responsible employee remains required to report all relevant information to the Associate Vice Chancellor of the OIEC or designee, who will explain that the University prohibits retaliation and that the University will not only take steps to prevent retaliation, but will also take strong responsive action if it occurs. A Responsible

Employee does not satisfy the reporting obligation by reporting to a supervisor or university personnel other than the Associate Vice Chancellor of the OIEC or a designee.

#### **4. Determination Regarding Obligation to Provide a Safe and Non-Discriminatory Environment and Consideration of “Override Factors”**

If an individual has disclosed an incident of misconduct, but wishes to maintain privacy or requests that no investigation be conducted or disciplinary action taken, the Associate Vice Chancellor of the OIEC or designee will explain that the University prohibits retaliation and explain the steps the University will take to prevent retaliation if the individual participates in a resolution process and that the University will take responsive action if it occurs.

If, having been informed of the University’s prohibition of retaliation and its obligations to prevent and respond to retaliation, the individual would still like to maintain privacy or requests that no investigation be conducted or no disciplinary action be taken, the Associate Vice Chancellor of the OIEC or designee will weigh that request against the University’s obligation to provide a safe, non-discriminatory environment for all students, faculty and staff. In making that determination, the Associate Vice Chancellor of the OIEC or designee will consider a range of potentially overriding factors that would cause the campus to commence an investigation, or take disciplinary action after an investigation of sexual misconduct occurred, including the following:

- The risk that the alleged perpetrator will commit additional acts of misconduct or other violence;
- The seriousness of the alleged misconduct, including whether the alleged perpetrator threatened further misconduct or other violence against the alleged victim or others, whether the alleged misconduct was facilitated by the incapacitation of the alleged victim, or whether the alleged perpetrator has been found responsible in legal or other disciplinary proceedings for acts of misconduct or other violence;
- Whether the alleged misconduct was perpetrated with a weapon;
- Whether the alleged victim is a minor;
- Whether the University possesses means other than the alleged victim’s testimony to obtain relevant evidence of the alleged misconduct (e.g., security cameras or personnel, physical evidence); or
- Whether the alleged misconduct reveals a pattern of perpetration at a given location or by a particular group.

The decision to proceed despite the individual’s request that no investigation or adjudication proceed will be conducted on a case-by-case basis after an individualized review.

Nothing in this section limits the Associate Vice Chancellor of the OIEC or designee from responding to the alleged conduct in a manner other than investigation or adjudication, that the Associate Vice Chancellor or designee may determine is appropriate under the circumstances, for example with informal resolution, referral to other offices, or consulting with other University officials as appropriate, including, but not limited, to the University of Colorado Police Department, Student Support and Case Management, and/or the Behavioral Intervention Team. Additionally, nothing in the override analysis limits the authority of a disciplinary authority to initiate or impose disciplinary action as necessary.

If the University honors the individual's request for privacy, the University's ability to meaningfully investigate the incident may be limited and disciplinary action may not be possible.

The Associate Vice Chancellor of the OIEC or designee may also determine that a report to the police may be warranted given the factors above despite an individual's request for privacy. The OIEC will consider the range of factors listed above in making the determination to report to law enforcement. In those instances, the OIEC will make a reasonable effort to notify potential complainants prior to reporting to law enforcement.

## **G. Prohibited Conduct**

The misconduct applicable to these Resolution Procedures and the definitions can be found at:

- 1. Sexual Misconduct, Intimate Partner Abuse and Stalking Policy,<sup>5</sup>** which prohibits sexual assault – non-consensual sexual intercourse, sexual assault – non-consensual sexual contact, sexual exploitation, intimate partner abuse (including domestic and dating violence), stalking, and sexual harassment.
- 2. Discrimination and Harassment Policy,<sup>6</sup>** which prohibits discriminating and/or harassing on the basis of one or more protected classes of race, color, national origin, sex, age, disability, creed, religion, sexual orientation, gender identity, gender expression, pregnancy, veteran status, political affiliation and/or political philosophy.
- 3. Conflict of Interest in Cases of Amorous Relationships Policy,<sup>7</sup>** which requires that direct evaluative authority not be exercised in cases where amorous relationships exist or existed within the last seven years between two individuals, whether faculty members, students, administrators, or staff, whether of the same or opposite sex.

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<sup>5</sup> [Sexual Misconduct, Intimate Partner Abuse and Stalking Policy \(APS 5014\)](#)

<sup>6</sup> [CU Boulder Discrimination and Harassment Policy](#)

<sup>7</sup> [Conflict of Interest in Cases of Amorous Relationships \(APS 5015\)](#)

Under the Sexual Misconduct, Intimate Partner Abuse and Stalking Policy and the Discrimination and Harassment Policy, the OIEC may also address the following related allegations:<sup>8</sup>

- 4. Failure to Report** – The University will administer the applicable policies in a manner that promotes the reporting of misconduct and avoids disciplinary actions when Responsible Employees conscientiously discharge their reporting obligations. A failure to report an allegation of misconduct shall result in a violation of the Applicable Policies only if the Responsible Employee(s) received information that a member of the university community was subjected to or committed an act of misconduct and intentionally, knowingly, or recklessly disregarded the obligation to report, thus resulting in harm to a member of the university community.
- 5. Retaliation** – The University of Colorado will not permit retaliation against a member of the university community who has indicated an intent to file or has filed, supported, or provided information in connection with a complaint of misconduct. Retaliation means adverse educational or employment actions, including but not limited to direct or indirect intimidation, threats, and harassment, taken against a member of the university community because of their protected activities. An adverse educational or employment action is any conduct that would dissuade a reasonable person from reporting an allegation of misconduct or participating in a resolution process.
- 6. Providing False or Misleading Information** – Providing false or misleading information related to misconduct is contrary to the purposes of the Sexual Misconduct, Intimate Partner Abuse and Stalking Policy and the Discrimination and Harassment Policy. Members of the university community must provide reports of misconduct in good faith. A person who knowingly or recklessly alleges a false complaint of misconduct or knowingly or recklessly provides false information during the course of an investigation violates the Applicable Policy. Making a report or providing information in good faith, even if the facts alleged in the report are not later substantiated, will not constitute providing false or misleading information.
- 7. Interference with Reporting** – No member of the university community may prohibit or interfere with a Responsible Employee or any other person reporting misconduct to the Title IX Coordinator or a designee.
- 8. Failure to Comply with Orders and Sanctions** – Subject to any rights of appeal, members of the university community must comply with orders of the Associate Vice Chancellor of the OIEC or other appropriate university officials related to the Applicable Policy, including but not limited to No-Contact Orders, exclusion orders, and orders for interim suspension. Subject to any rights of appeal, members of the university community must abide by and complete sanctions related to the applicable misconduct.

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<sup>8</sup> These provisions are already contained with the Sexual Misconduct, Intimate Partner Abuse and Stalking Policy (APS 5014).

## H. OIEC Resolution Procedures

The University will be responsive to any report or complaint of “Prohibited Conduct” as listed in Section G and is committed to providing prompt, fair, impartial, and equitable resolutions of any complaint that the University knows, or in the exercise of reasonable care, should have known about. The primary concern is the safety of all University community members. The University will take steps to prevent recurrence of any prohibited conduct and remedy discriminatory effects on the complainant and others, as appropriate. The following procedures will apply to resolution of all reports or complaints of prohibited conduct:

- 1. Overview of Resolution Process:** The OIEC has jurisdiction to conduct at least a preliminary inquiry upon receiving a report or complaint alleging prohibited conduct. A preliminary inquiry may include, but is not limited to, evaluating whether the complaint implicates a policy enforced by the OIEC, whether the complaint and parties are within the jurisdiction of the OIEC, and whether the complaint presents a safety threat such that the OIEC must report the concern to law enforcement. The OIEC shall then determine the most appropriate means for addressing the report or complaint. Options include but are not limited to:
  - a. Formal Adjudication** (see Section H(6))
  - b. Informal Resolution** (see Section H(7))
  - c. Preliminary Inquiry:** Determining that the facts of the complaint or report, even if true, would not constitute a violation of the Applicable Policies and closing the matter following a preliminary inquiry.
  - d. No limitation on existing authority:** Referring the matter to an employee’s disciplinary authority or supervisor. The Resolution Procedures do not limit the authority of a disciplinary authority to initiate or impose disciplinary action as necessary.
  - e. Other referral:** Determining a complaint does not fall within the jurisdiction of the Applicable Policies and referring the complaint to appropriate office(s) on campus best situated to address the reported concerns.
- 2. Remedial and Protective Measures:** The University will implement reasonably available measures to protect parties and facilitate the parties’ continued access to University employment or education programs and activities at any stage of the process as applicable and determined by the appropriate university official.

Such measures may be both **remedial** (designed to address well-being and continued access to educational opportunities or employment) or **protective** (actions taken to ensure safety of the parties and/or community).

Whether remedial and/or protective measures are appropriate is determined after an individualized assessment, making every effort to avoid depriving any student of educational access.

Protective measures, which may involve restricting access or the rights of a respondent, may not become available until after a formal adjudication, unless interim action is determined appropriate, see below.

Remedial and protective measures that may be available include but are not limited to:

- academic services (arranging for a party to re-take a course, excuse related absences, or withdraw from a class without penalty)
- accessing medical services
- accessing counseling services
- employment modifications
- transportation changes
- No-Contact Orders enforced by the University
- discussing options and providing referral information for obtaining criminal or civil protection or restraining orders
- residential relocations on or off campus
- changes to, or interim exclusion from, classes
- interim exclusion orders (for parts of or entire campus)
- interim student suspension (See Section H(3))
- administrative leave for employees in consultation with Chief Human Resource Officer or designee and appointing/disciplinary authority
- temporary suspension of supervisory or evaluative authority for employees in consultation with Chief Human Resource Officer or designee and appointing/disciplinary authority

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

Participants in OIEC resolution processes may request remedial and/or protective measures from the Director of Remedial and Protective Measures or designee. The Director of Remedial and Protective Measures or designee will maintain oversight of these requests and the provision of any such measures. The Director of Remedial and Protective Measures or designee has the discretion to ensure the appropriateness of any remedial and/or protective measures based on all available information, including whether such measures are reasonably available, and will meet with a complainant or respondent to address any concerns about the provision of remedial or protective measures.

**3. Interim Student Suspension:** The Director of Remedial and Protective Measures or designee has the authority, after conducting an individualized safety and risk analysis, to interim suspend (including suspension from online and/or in-person classes) any student whose presence poses an immediate threat to the health and safety of students or employees. The factors considered the safety and risk analysis include:

- Seriousness of the alleged conduct;
- Location of the alleged incident(s);
- Educational and housing impact on parties;
- The risk that the alleged perpetrator will commit additional acts of sexual or other violence;
- Whether the alleged perpetrator threatened further sexual or other violence against the alleged victim or others;
- Whether there have been other misconduct complaints about the same alleged perpetrator or if the perpetrator has a known history of arrests or records from a prior school indicating a history of sexual or other violence;
- The existence of multiple alleged victims and/or perpetrators;
- Whether the conduct was facilitated by the incapacitation of the alleged victim (through alcohol, drugs, disability, unconsciousness, or other means);
- Whether the alleged conduct was perpetrated with force, violence, or weapons;
- Whether the alleged victim is a minor;
- Whether the alleged conduct reveals a pattern of perpetration (by the alleged perpetrator, by a particular group or organization, around a particular recurring event of activity, and/or a particular location); and/or
- Whether any other aggravating circumstances or signs of predatory behavior are present.

In the case of an interim suspension, the student will be provided oral and/or written notice of the alleged prohibited conduct and the opportunity to meet, if the student chooses, with the Director of Remedial and Protective Measures or designee. The Director of Remedial and Protective Measures or designee will ensure that the student is afforded prompt opportunity, not to exceed 10 days of the notice of interim suspension, to challenge the interim suspension decision by being heard during a meeting or phone call or by submission of a written statement. This does not preclude additional meetings, at the discretion of the Director, after the 10 days has passed to review the interim suspension.

It is the responsibility of the respondent to request the meeting or phone call. After providing the respondent with notice of the allegations and an opportunity to be heard, the Director of Remedial and Protective Measures or designee may decide to lift or continue the interim suspension, potentially until the completion of a Formal Adjudication. The Director of Remedial and Protective Measures or designee may also determine whether any exceptions may be appropriate based on factors which include, but are not limited to, nature/severity of the behavior, prior misconduct, extent of academic progress to date, and availability of faculty and/or online classes. The interim protective measures may be re-evaluated during the course of an adjudicative process if new information is presented that mitigates the threat to health and safety of students or employees.

- 4. OIEC Equity Officers:** Resolutions will be conducted by staff who are appropriately trained and have qualifications and experience that will facilitate prompt, fair, equitable and impartial resolutions. The Assistant Vice Chancellor or designee shall ensure that OIEC Equity Officers and Investigation Review Board members receive annual training on how to conduct investigations and adjudications that protect safety of students, ensure due process, promote accountability and other issues related to sexual assault, intimate partner abuse, stalking, sexual exploitation, sexual harassment, protected-class discrimination and harassment and retaliation. The OIEC Assistant Vice Chancellor or designee shall determine if one or more Equity Officers shall be assigned to each case depending on the specific circumstances and as warranted.
- 5. Outside Investigators:** The OIEC Assistant Vice Chancellor or designee may also designate other individuals (either from within the University, including an administrator, or from outside the University) to conduct or assist with an adjudication or to manage an alternative resolution process. Circumstances which may warrant such outside resolutions include, but are not limited to, conflict of interest, allegations of bias, or workload. The Assistant Vice Chancellor or designee retains the discretion to determine whether the use of outside investigator(s) is warranted and reasonable given the circumstances and information available and known at the time. Outside investigator(s) shall have adequate training, qualifications and experience that will, in the judgment of the OIEC Assistant Vice Chancellor or designee, facilitate a prompt, fair, and impartial investigation or alternative resolution. Any outside investigator(s) designated to address an allegation must adhere to the requirements of the Resolution Procedures and confer with the OIEC Assistant Vice Chancellor or designee on a regular basis about the progress of the investigation or alternative resolution process.
- 6. Formal Adjudication:** The OIEC may resolve a report of alleged misconduct through the Formal Adjudication process when the alleged misconduct, if true, would be prohibited under the Applicable Policies. The OIEC may decline to pursue a formal adjudication if 1) a complainant has requested that a formal adjudication not be pursued, and 2) the OIEC has determined that the complainant's request can be honored consistent with the University's obligation to provide a safe and non-discriminatory environment (see Section F(4) above).

The OIEC is committed to providing a prompt, fair and impartial resolution of all matters referred for formal adjudication. A formal adjudication can include three stages: Investigation, Sanction, and Appeal, as applicable and described below. Equity Officers interview the complainant(s) and the respondent(s) separately and provide each party the opportunity to be heard and to respond to all relevant information. Equity Officers also review additional evidence as available including, but not limited to, conducting witness interviews, gathering documentation, and reviewing video surveillance footage.

The complainant(s) and the respondent(s) shall each have equitable opportunity to:

- An adjudication conducted by trained officials who do not have a conflict of interest or bias for or against the complainant(s) or respondent(s). An official shall recuse themselves from participating in an adjudication in those instances where the official believes that their impartiality might reasonably be questioned by an independent, neutral observer due to the official's personal bias or prejudice against the complainant(s) or respondent(s) or where the official has a personal or professional relationship with one of the parties that would adversely affect the official's ability to serve as an impartial finder of fact;
- Interim measures to be provided before an adjudication or while an adjudication is pending. Interim measures, when determined to be appropriate and reasonably available by the Director of Remedial and Protective Measures or designee, are intended to maintain the educational or employment environment if possible and may include counseling, extensions of time or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, and other similar accommodations. Interim measures should be individualized and appropriate based on the information gathered by the Director of Remedial and Protective Measures or designee;
- Receive notice before they participate in an interview with sufficient time to prepare for meaningful participation;
- A process with reasonably prompt timeframes, with extensions for good cause, as discussed further below.
- Present relevant information to the Equity Officer(s), including evidence and identifying witnesses;
- Have an advisor of their choosing, including an attorney, advocate, or other person who is not a potential witness in the investigation or could otherwise compromise the investigation, provide support and advice throughout the Formal Adjudication process, including but not limited to being present for any meetings with OIEC personnel. The advisor may not engage in any conduct that would constitute harassment or retaliation against any person who has participated in an

investigation and may be denied further participation for harassing or retaliatory conduct;

- Timely and equal access to any relevant information, including witness identities and relevant information provided by complainant(s), respondent(s), witnesses, and other documentation gathered during the investigation, unless the university is legally prohibited from disclosing the information to a party;
- Review and respond to a Written Evidence Summary (See Section H(6)(a)(ii)) of the relevant and material facts gathered during the Investigative Stage prior to any investigative findings or conclusions;
- Submit questions to the Equity Officer(s) to be asked of the other party or witnesses following the dissemination of the Written Evidence Summary and prior to any investigative findings or conclusions; Equity Officer(s) will address all relevant questions and provide an explanation as to any decision to exclude questions as not relevant. (See Section H(6)(d)(i) below.)
- Inspect the case file, which contains all information or evidence, unless prohibited or confidential under law, gathered as part of the investigation, including information the OIEC does not intend to rely on in reaching a determination, prior to any investigative findings or conclusions;
- An internal review by the Investigation Review Board before the final investigative findings are issued;
- Receive written, concurrent notice of the investigation outcome and a copy of the final Investigation Report at the conclusion of the Investigative Stage; and
- Provide information about aggravating or mitigating factors prior to any sanction being imposed, if applicable;
- Receive notice of any sanction, if applicable, in writing, including a statement of the basis upon which any sanction was imposed;
- Appeal the investigative findings or sanction imposed as described in Section H(g) or Section H(h), as applicable.

**a. Major Stages of Investigation**

*i. Notice of Investigation (NOI)*

If a Formal Adjudication is commenced, the OIEC shall send the respondent(s) and the complainant(s) a Notice of Investigation that will:

- Provide a copy of the OIEC Resolution Procedures;
- Identify the complainant(s) and respondent(s);
- Identify the Equity Officer(s) who will conduct the investigation;

- Identify the conduct allegedly constituting the potential violation, including the date and location of the alleged incident to the extent known and available;
- Identify the specific section of the Applicable Policy alleged to have been violated;
- Include a statement that no determinations have been or will be made until the conclusion of the investigation;
- Identify any interim protective measures; and
- Require that the respondent(s) contact the OIEC **within three (3) days** to schedule a meeting.

The Notice of Investigation may be sent to the respondent(s) and the complainant(s) by email, or sent via U.S. Mail to the permanent addresses appearing in the University's information system or the address appearing in a police report, or may be hand-delivered. Notice will be considered furnished on the date of hand-delivery or on the date emailed. For employee respondents,<sup>9</sup> the employee's supervisory upline, including the Chancellor and the employee's appointing/disciplinary authority, as well as Human Resources, will also receive a copy of the Notice of Investigation.

If the respondent chooses not to participate in the adjudication process, the OIEC may complete the adjudication based on the totality of information obtained during the Investigation Stage, which may include police investigation reports and other relevant documents or information, and/or Sanctioning and Appeal stages, as applicable.

*ii. Disclosure of Written Evidence Summary*

Following the fact gathering, the Equity Officer(s) shall send a Written Evidence Summary of the relevant and material facts to the complainant(s) and respondent(s) who each have **seven (7) days** to review and respond. At this time, the parties will also have access to witness identities and opportunity to inspect the full investigative file. Both the complainant(s) and respondent(s) will also have an opportunity to submit questions for the Equity Officer(s) to ask of the other party and of witnesses, as referenced above in Section H(6). The Equity Officer(s) may determine a question is irrelevant and decline to ask it when the question is not reasonably calculated to lead to the discovery of probative evidence, when the probative value of the information is outweighed by the danger of unfair prejudice or confusion of the issues, or in consideration of undue delay or needless presentation of cumulative evidence. Questions

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<sup>9</sup> If the respondent is a student employee and the alleged misconduct occurs outside the employment capacity, the OIEC may determine that the respondent's supervisory upline has a legitimate need to know information related to the case resolution.

about any party's prior sexual history are normally not probative and will be asked only when directly relevant to the incident where the alleged sexual misconduct occurred. (See Section H(6)(d)(i)).

*iii. Investigative Report*

At the conclusion of the fact gathering, including any relevant information or questions submitted in response to the Written Evidence Summary and subsequent follow-up investigation, as appropriate, the Equity Officer(s) shall prepare a written Investigation Report that will include a description of procedural steps taken, including any notifications to the parties, interviews, and methods for gathering evidence, a statement of factual findings and a determination as to whether or not there was a violation of policy based on the application of the factual findings to the Applicable Policy.

For investigations involving student respondents, the Investigative Report will include a determination of whether the respondent(s) is found responsible for violating the Applicable Policy or not.

For investigations involving employee respondents, the Investigative Report will include a determination of whether the respondent(s) is found responsible for violating the Applicable Policy or not. If an employee respondent is found not to be responsible for violating the Applicable Policy, the Investigative Report may, if applicable, include a determination that the employee respondent(s) engaged in conduct that was inappropriate or unprofessional. In such cases, the OIEC will refer such matters to the disciplinary authority, who will make the final determination on appropriate action or response.

The OIEC may also submit the Investigative Report to the Office of University Counsel to review for legal sufficiency.

*iv. Report to Investigation Review Board*

The Investigation Report shall be presented for review to the Investigation Review Board. The Investigation Review Board shall consist of employees who are not affiliated with the OIEC and have received appropriate training regarding implementation and application of the OIEC Resolution Procedures. The Investigation Review Board reviews the Investigative Report to review for Equity Officer(s) bias and impartiality, thoroughness of the investigation, and sufficiency to support the finding. The Investigation Review Board may review any information contained in the investigative file, may consult with the Equity Officer(s), or may recommend that further investigation or a new investigation be done by the same or other Equity Officer(s). The Investigation Review Board may not conduct its own investigation.

v. *Notice of Finding (NOF)*<sup>10</sup>

The OIEC shall advise the complainant(s) and respondent(s) simultaneously in writing of the result or outcome of any investigation conducted under the Resolution Procedures. A copy of the final Investigative Report shall be provided to the complainant(s), the respondent(s). In addition, for investigations involving employee respondents, the respondent's supervisor and appointing/disciplinary authority also receive the Investigative Report.<sup>11</sup>

The Notice of Finding will also notify the parties as to the next step in the process, as applicable.

**b. Timeframes**

The University will use its best efforts to complete its investigation and impose sanctions when applicable **within an average of ninety (90) days** of the issuance of a Notice of Investigation, although this time frame may be extended for good cause.

Good cause may exist for a variety of factors, including the complexity of the circumstances of each allegation (for example, employment discrimination cases and some protected-class harassment investigations will typically take longer), the integrity and completeness of the investigation, compliance with a request by law enforcement, or due to concurrent law enforcement activity likely to produce materially relevant evidence, absences by the parties, the availability of witnesses, the necessity to provide translation services or accommodations of a disability, University breaks or vacations, the necessity to access relevant and probative documentation that is not immediately available, or other legitimate reasons.

In order to deliver a reasonably prompt process, the complainant(s) and the respondent(s) each have an obligation to meet deadlines as requested by OIEC during the investigation and as specified above. Extensions of time shall only be granted for good cause shown, and the parties shall be provided written notice of extensions or any delay, as applicable, and the reasons for any such extensions or delays.

**c. Standard of Review/Burden of Proof**

In all cases, regardless of the allegation(s) or whether the respondent is a student or employee, the OIEC applies the "preponderance of the evidence" standard when making findings of fact and conclusions as to whether violations of policy occurred. A preponderance of the evidence exists when the totality of the evidence

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<sup>10</sup> Findings under the OIEC Resolution Procedures are not findings pursuant to applicable state and federal legal standards, i.e. a policy violation may not rise to a violation of equal opportunity law.

<sup>11</sup> If the respondent is a student employee and the alleged misconduct occurs outside the employment capacity, the OIEC may determine that the respondent's supervisory upline has a legitimate need to know information related to the case resolution.

demonstrates that an allegation of misconduct is more probably true than not. If the evidence weighs so evenly that the Equity Officer(s) is unable to say there is a preponderance on either side, the Equity Officer(s) must determine that there is insufficient evidence to conclude that a violation of the Applicable Policy occurred.

In applying the preponderance of the evidence standard, the Equity Officer(s) may consider both direct and circumstantial evidence. The Equity Officer(s) may determine the credibility of parties and witnesses and the weight to be given their statements, taking into consideration their means of knowledge, strength of memory and opportunities for observation, the reasonableness or unreasonableness of their statements, the consistency or lack of consistency of their statements, their motives, whether their statements are contradicted or supported by other evidence, any evidence of bias, prejudice or interest, and the person's manner and demeanor when providing statements.

It is the responsibility of the OIEC, not the parties, to make a determination based on the totality of the available information to determine whether or not the preponderance of the evidence has been met. Neither party bears a burden of proof.

#### **d. Evidentiary Standards**

##### *i. Sexual history in sexual misconduct cases*

The OIEC will not seek or consider irrelevant information regarding the complainant's or respondent's sexual history. Relevant information may include the shared sexual history between the complainant and the respondent, particularly if there are questions about physical injury or trauma or history that may be relevant to the manner or method of affirmative consent as raised by a respondent.

##### *ii. Respondent's prior acts/pattern evidence*

The OIEC will review, if available, any prior complaints of misconduct committed by the respondent if they are relevant and probative to the alleged conduct at issue, or if they demonstrate a pattern of behavior. Such prior complaints, if relevant and probative, may be used in the imposition of interim protective measures.

#### **e. Sanctioning Process for Student Respondents**

In cases where the investigation results in a policy violation, the matter will be referred through the Assistant Vice Chancellor and Equity Officer(s) providing the Notice of Finding to the Sanctioning Board. In the event that no violation of applicable policies was found, there is no preclusion of discipline for other student misconduct under either the Student Code of Conduct or Honor Code of Conduct and Procedures.

The Sanctioning Board is composed of three members who are collectively authorized to impose sanctions for student respondents and to remedy the discrimination, harassment, and/or sexual misconduct. The Board shall simultaneously notify the complainant(s) and the respondent(s) of any sanctions and shall decide by unanimous decision.

The OIEC Director of Remedial and Protective Measures or designee is a member and the Chair of the Sanctioning Board for student respondents and will appoint two additional university employees who are not affiliated with the OIEC to serve on the Sanctioning Board. University employees who serve on the Sanctioning Board will have received appropriate training regarding the applicable policies and factors pertinent to the sanctioning decision.

Within **seven (7) days** of the date of the Notice of Finding, the respondent(s) and complainant(s) will each have the opportunity to present to the Board any aggravating or mitigating circumstances related to the conduct that may impact sanctioning. Parties may meet in person with members of the Board or submit such information to the Board in writing. For in-person meetings, the Board will meet separately with each party, as applicable. It is the responsibility of the parties to set the appointment and meet within the time prescribed. Information submitted to the Board must be limited to describing mitigating or aggravating circumstances that may affect sanctioning. Any statement outside of these guidelines will not be considered.

The Board members conduct an individualized review and shall review the final Investigative Report and may review the entire file and/or consult as necessary with OIEC staff, Student Conduct and Conflict Resolution, or any other University staff as needed in making a sanctioning determination.

Factors pertinent to a sanctioning decision may include, as applicable:

- Severity and/or pervasiveness of conduct and whether it escalated during the incident;
- The impact of separating a student from their education;
- Whether the complainant(s) was incapacitated at the time of the conduct;
- Relationship between the parties, including degree of control of one party over another;
- Whether there was force/violence, weapons, or threats of force/violence;
- Any prior history of related criminal, conduct, or policy violations;
- Impact of incident on complainant(s);
- Acceptance of responsibility by respondent(s); and/or
- On-going safety risk to complainant(s) and/or community.

The Sanctioning Board will provide a written statement to the parties (Notice of Sanction to the respondent(s) and Letter of Information to the complainant(s)) informing them of the sanction and the basis upon which any sanction was imposed. Sanctions may include one or more of the following:

- i. *Warning/Written Reprimand:* A warning/written reprimand is a written statement from the Board or designee that the behavior was inappropriate and that more serious action will be taken should subsequent infractions occur.
- ii. *Educational Sanctions:* The student may be required to attend a class, evaluation, and/or program (e.g., alcohol or anger management classes or training on sexual misconduct or protected-class discrimination and harassment). This is not an exhaustive list but should serve as a reference for the types of educational sanctions that may be imposed.
- iii. *Meeting with Director of Remedial and Protective Measures or designee:* The student may be required to meet with a university official to review the terms of the sanction and ensure compliance prior to eligibility to apply for readmission, as applicable.
- iv. *Residence Hall Reassignment:* A student who resides in a residence hall is assigned to a different residence hall on campus.
- v. *Residence Hall Termination:* A student's residence hall agreement is terminated through the OIEC process, and the student is prohibited from residing in any University residence on either a permanent or temporary basis. Specific exclusion from the residence halls may also be imposed.
- vi. *Probation:* A student is placed on probation. Probation lasts for a specific period of time, and is implemented by semesters. Any violation of university policies or the conditions of probation committed during the probationary period will result in further disciplinary action.
- vii. *Restriction or Denial of University Services:* The student is restricted from using or is denied specified University services, including participation in University activities.
- viii. *Delayed Conferral of Degree:* The issuance of a student's diploma is delayed for a specified period of time.
- ix. *Withholding of Official Transcript:* The transcript is withheld for a specified timeframe for those students who have already graduated.
- x. *Suspension:* The student is required to leave the University for a specific period of time. A suspension notation appears on the student's transcript until the period of suspension has expired and all other sanctions are complete. The student is required to apply for readmission to the University after their 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.

- xi. 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 Remedial or Protective Measures or designee. Should the student enter University property without permission, action may be taken by the police for trespass.
- xii. Expulsion:* The student is required to permanently leave the University. A notation of expulsion remains permanently on the student's transcript. Expulsion from the University includes an automatic exclusion from University of Colorado property. An expulsion decision results in the student being expelled from all campuses in the University of Colorado.
- xiii. Additional Sanctions:* The Board has the discretion to impose any additional sanctions that may be warranted and appropriate given the circumstances of the case.

#### **f. Sanctioning Process for Employee Respondents<sup>12</sup>**

The Associate Vice Chancellor of the OIEC or designee will notify the disciplinary authority if an employee respondent was found to have violated a policy or acted inappropriately or unprofessionally.

Following the conclusion of any appeal of the Investigation or the expiration of the appeal deadline (5 days from the Notice of Finding, see Section H(6)(h)), the respondent(s) and complainant(s) will each have an opportunity to separately meet with the Associate Vice Chancellor of the OIEC or designee to discuss any mitigating or aggravating circumstances related to the conduct that may impact sanctioning. It is the responsibility of the parties to set the appointment and meet within the time prescribed. Alternatively, the complainant(s) or respondent(s) may submit a written statement to the Associate Vice Chancellor of the OIEC or designee in lieu of a meeting. Written statements must be submitted or a meeting held within **seven (7) days** of the notice sent by the Associate Vice Chancellor or designee (following the appeals process or the expiration of the deadline for appeals). Information must be limited to describing mitigating or aggravating circumstances that may affect sanctioning. Any statement outside of these guidelines will not be considered.

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<sup>12</sup> If the respondent is a student employee and the alleged misconduct occurs outside the employment capacity, the OIEC may determine that the respondent's supervisory upline has a legitimate need to know information related to the case resolution.

Any applicable sanctioning meeting pursuant to these Resolution Procedures does not replace any additional meetings that may be required under other applicable personnel processes (e.g., State Personnel Board Rules for classified employees; Professional Rights and Duties procedure and Privilege and Tenure process for faculty).

The Associate Vice Chancellor of the OIEC or designee will provide a formal recommendation to the disciplinary authority as to applicable sanctions consistent with the factors set forth in Section H(6)(e).

In order to remediate the effects of protected-class discrimination and/or harassment or sexual misconduct, the disciplinary authority will impose sanctions. The disciplinary authority will determine the type of sanctions in consultation with the Chief Human Resource Officer or designee, the Associate Vice Chancellor of the OIEC or designee, and any other administrative staff with a need to know. The appointing/disciplinary authority may have access to the investigative records and may consult with the Equity Officer(s) in order to take determine action.

The Associate Vice Chancellor of the OIEC or designee will ensure to the extent possible that both parties simultaneously receive notice of any sanctions imposed and any other steps taken by the campus to remedy the discrimination, harassment and/or sexual misconduct to the extent permitted by law. Regardless of the OIEC findings, there is no preclusion of discipline by the appointing authority for other misconduct or for inappropriate or unprofessional conduct, or other misconduct (for employees).

Potential sanctions include:

- i. Letter of Expectation/Reprimand:* A warning/written letter of expectation or reprimand is a statement from the disciplinary authority that the behavior was inappropriate and that more serious disciplinary action will be taken should subsequent infractions occur.
- ii. Mandatory Training:* The employee may be required to attend a training, class, or program as relevant to the misconduct.
- iii. Demotion:* The employee is demoted from their current position.
- iv. Job Duty Modifications:* The disciplinary authority may modify the employment responsibilities of the employee.
- v. Reduction in Salary/Ineligibility for Merit Increases:* The employee's salary is reduced either permanently or temporarily, or the employee is not eligible for merit increases either permanently or temporarily.
- vi. Ineligibility for Rehire:* The employee is no longer eligible for employment at the University.

- vii. Exclusion:* The employee is denied access to all or a portion of University property. When an employee is excluded from University property, that employee may be permitted onto University property for limited periods and specific activities with the permission of the university official or designee who imposed the exclusion. Should the employee enter University property without permission, action may be taken by the police for trespass.
- viii. Termination of Employment Contract and/or Termination of Employment:* Pursuant to applicable laws and policies specific to the employee's status, the disciplinary authority recommends or terminates employment.
- ix. Additional Sanctions:* The disciplinary authority has the discretion to impose any additional sanctions that may be warranted and appropriate given the circumstances of the case.

#### **g. Appeals for Student Respondents**

Upon the conclusion of the Investigation or the Sanctioning, whichever is applicable, either the complainant(s) or respondent(s) may file a written appeal. All appeals must be made in accordance with the procedures outlined in this section.

- i. How to File an Appeal and Timeframe:* Appeals must be submitted in writing to the Associate Vice Chancellor of the OIEC or designee within five (5) business days after the Notice of Sanction (or Notice of Finding if no sanction) is issued. The appeal should indicate the specific basis for the appeal (see below), supporting arguments and documentation, and any other relevant information the appealing party wishes to include. The appealing party should be aware that all appeals are documentary reviews, no interviews are conducted. Generally, appeals are determined solely on the merits of the documents submitted. Appeal documents therefore should be as complete and succinct as possible. Unless any applicable Notice of Sanction specifies otherwise based on safety considerations, all 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.
- ii. Basis for Appeal:* Appeals must state one or more of the following criteria as the reason for the appeal:
- Procedural errors by which any party was prevented from receiving a fair adjudication; or
  - A sanction was disproportionate to the violation of the Applicable Policy.
- The appealing party may not present any new evidence unless the party can demonstrate that it could not, with reasonable diligence, have been discovered or produced during the course of the investigation.
- iii. Appeal Process and Appeal Advisory Board:* The Associate Vice Chancellor of the OIEC or designee will notify the other party to the original complaint

(complainant(s) or respondent(s)) in writing, and the party will **be provided five (5) business days** to respond in writing to the appeal. The response should be sent to the Associate Vice Chancellor of the OIEC or designee. Neither party is required to respond to an appeal. Not responding to an appeal does not imply agreement with the appeal. After the submission of all documentation or the 5-day deadline for response has passed, the Associate Vice Chancellor of the OIEC or designee will appoint two additional university employees (who may include staff from the Anschutz, Denver, and Colorado Springs campuses) who are not otherwise affiliated with the OIEC at CU Boulder to serve on the three-person Appeal Advisory Board. The Appeal Advisory Board appointees will have received appropriate training on the applicable policies and appeal procedures.

- iv. Appeal Decisions:* Upon review of the appeal, the Appeal Advisory Board may recommend that the Associate Vice Chancellor of the OIEC:
- Uphold the initial decision in its entirety;
  - Send the case back for reconsideration and potentially re-investigation (by the same or different officials); or
  - Reduce or increase a disproportionate sanction.

The Board members shall not make new findings of fact. The Board shall review all documentation submitted, make the final decision upon appeal, and concurrently provide the parties with a written Notice of Appeal Decision within 15 business days of its receipt of all final documentation.

#### **h. Appeals for Employee Respondents**

Upon the conclusion of the Investigation, either the complainant(s) or respondent(s) may file a written appeal of the Investigation outcome. All appeals must be made in accordance with the procedures outlined in this section. Any rights of appeal of a sanction shall be conducted in accordance with the procedure for appeal, if available to the employee, such as the State Personnel Rules or rules governing proceedings before the Faculty Senate Committee on Privilege and Tenure. Nothing in this section shall be read to create a right of appeal of sanctions for employees that is not otherwise provided for by law or university policy.

- i. How to File an Appeal and Timeframe:* Appeals must be submitted in writing, to the Associate Vice Chancellor of the OIEC or designee **within five (5) business days** after the Notice of Finding. The appeal should indicate the specific ground for the appeal (see below), supporting arguments and documentation, and any other relevant information the appealing party wishes to include. The appealing party should be aware that all appeals are documentary reviews in which no interviews are conducted. Generally, appeals are determined solely on the merits of the documents submitted. Appeal documents therefore should be as complete and succinct as possible.

ii. *Basis for Appeal:* The only basis for appeal is:

- Procedural errors by which any party was prevented from receiving a fair investigation.

In the appeal, the party may not present any new evidence unless the party can demonstrate that it could not, with reasonable diligence, have discovered and produced evidence during the course of the investigation.

iii. *Appeal Process and Appeal Advisory Board:* The Associate Vice Chancellor of the OIEC or designee will notify the other party to the original complaint (complainant(s) or respondent(s)) in writing and provide **five (5) business days** to respond in writing to the appeal. The response should be sent to the Associate Vice Chancellor of the OIEC or designee. Neither party is required to respond to an appeal. Not responding to an appeal does not imply agreement with the appeal. After the submission of all documentation, or the five-day deadline for response has passed, the Associate Vice Chancellor of the OIEC or designee will appoint two additional university employees (who can include staff from the Anschutz, Denver and Colorado Springs campuses) who are not otherwise affiliated with the OIEC at CU Boulder to serve on the three-person Appeal Advisory Board. The Associate Vice Chancellor of the OIEC or designee is the Chair of the Appeal Advisory Board.

iv. *Appeal Decisions:* Upon review of the appeal, the Appeal Advisory Board may recommend that the Associate Vice Chancellor of the OIEC:

- Uphold the initial decision in its entirety and refer to the disciplinary authority for sanctioning if applicable; or
- Send the case back for reconsideration and potentially re-investigation.

The Board members shall not make new findings of fact. The Board shall review all documentation submitted, make the final decision upon appeal, and concurrently provide the parties with a written Notice of Appeal Decision within 15 business days of its receipt of all final documentation.

## 7. Informal Resolutions

The OIEC may determine that the most prompt and effective way to address a concern is through the informal resolution process. For example, the OIEC may resolve a report or complaint through Informal Resolution if the alleged conduct, even if true, would not be considered prohibited conduct under the Applicable Policies. The primary focus during an informal resolution remains the welfare of the parties and the safety of the campus community, but it does not involve a written report or a determination as to whether a policy has been violated. This type of approach provides the University with a “remedies-based” resolution option that allows the University to tailor responses to the unique facts and circumstances of an incident, particularly in cases where there is

not a broader threat to individual or campus safety. In these cases, the OIEC may do one or more of the following:

- Provide interim or long-term remedial measures to the complainant(s) or the respondent(s);
- Provide a referral to other campus-based resolution processes as appropriate for the specific facts of the case;
- Provide targeted or broad-based educational programming or training; and/or
- Meet with the respondent(s) to (1) discuss the behavior as alleged and provide an opportunity to respond; (2) review prohibited conduct under the Applicable Policies; (3) identify and discuss appropriate future conduct and behavior as well as how to avoid behavior that could be interpreted as retaliatory; (4) inform the complainant(s) of the respondent's responses if appropriate; and (5) notify SCCR or the respondent's supervisor of the allegations and responses if necessary, who will determine whether any other disciplinary action is appropriate.

Participation in an informal resolution is voluntary by complainants and respondents; however, for allegations that, if proven true, would violate Applicable Policy, failure to participate could result in the OIEC deciding to proceed with a formal investigation/adjudication.

For allegations that would warrant a formal investigation/adjudication, but the OIEC proceeded with an informal resolution because the complainant requested privacy or that no investigation or disciplinary action be taken and that request could be honored consistent with the factors and obligations of the OIEC as set forth in Section F(4)), the OIEC will notify the complainant(s) of the ability to end the Informal Resolution process at any time and to commence or resume a formal investigation/adjudication.

## **8. Student Disciplinary Hold and Disciplinary Stop**

While OIEC 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 OIEC process 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 sanctions are completed.

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

## **9. Student Refund Policy After Disciplinary Action**

For current information regarding housing and/or tuition refunds, please go to [OIEC Resolution Processes](#).

## **10. OIEC Release of Records and Information Concerning Students**

The Family Educational Rights and Privacy Act of 1974 (FERPA), as amended by the Higher Education Amendments of 1998, governs access to records, and information from within those records, pertaining to students that are maintained by the university including OIEC. Pursuant to FERPA, the university may disclose records and information pertaining to a student with the student's written consent.

Even in absence of student consent, FERPA authorizes university officials who demonstrate a legitimate educational need to have access to relevant OIEC records and information pertaining to students that are necessary to perform their duties for the university.

Even in absence of written consent or a request otherwise from a student, FERPA authorizes the university to provide records and information pertaining to students to parent(s) who provide proof that their child student is a dependent as defined under the Internal Revenue Code. A copy of the last federal income tax return listing the student as a dependent may serve as proof of dependency and allow the university to provide parent(s) with access to such records maintained by OIEC, to the extent determined appropriate by the Associate Vice Chancellor, or designee. In addition, FERPA authorizes the university to disclose to parent(s) if a student under 21 years of age is found responsible through Student Conduct and Conflict Resolution for a violation involving use or possession of alcohol or other drugs.

Except as otherwise specified in this document or a pending health or safety emergency as defined under FERPA, student records and information are confidential and the OIEC will not disclose student records or information to any entity or person outside the university without proper written authorization from the student, a court order, subpoena, or as otherwise required by law or authorized government agency.

Under FERPA, students have a right to review and inspect records that directly pertain to them. Students who would like to review such records maintained by OIEC must complete and submit OIEC's records inspection form. The OIEC will comply with a properly submitted student request within a reasonable time period not to exceed 45 days, as provided by FERPA.

## **I. Title IX Coordinator/Associate Vice Chancellor of the OIEC**

At CU Boulder, the Associate Vice Chancellor of the OIEC is also the Title IX Coordinator. The responsibilities of the Title IX Coordinator pursuant to the University of Colorado

Sexual Misconduct, Intimate Partner Abuse and Stalking Policy, which the Title IX Coordinator has the discretion to delegate, include:

1. Ensuring that complaints are being handled appropriately and in a timely manner;
2. Overseeing adequate, reliable, and impartial investigations of complaints of sexual misconduct;
3. Evaluating any complainant request for privacy;
4. Referring matters for further action or discipline for inappropriate or unprofessional conduct under other applicable policies or procedures even if a policy violation is not found. No provision of the Applicable Policies shall be construed as a limitation upon the authority of the disciplinary authority to initiate disciplinary action for inappropriate or unprofessional conduct;
5. Facilitating reasonable interim protective remedies and accommodations as applicable for all parties;
6. Ensuring broad publication of the campus complaint process and procedures including posting the process and procedures on an appropriate campus website and maintaining a current procedure;
7. Providing an annual report to the President and the appropriate campus Chancellor documenting: (a) the number of reports or complaints of alleged violations of applicable policies; (b) the categories (i.e., student, employee, or other) of the parties involved; (c) the number of policy violations found; (d) the number of appeals taken and the outcomes of those appeals; and (e) examples of sanctions imposed for policy violations;
8. Reviewing and confirming that the relevant policy statements of the campus Annual Security Report pursuant to the Clery Act are consistent with Applicable Policies and campus complaint process and procedures;
9. Monitoring campus compliance with Applicable Policies;
10. Ensuring there is ongoing training and education regarding reporting and preventing sexual and other discriminatory misconduct, for all students, faculty and staff;
11. Maintaining records and related documentation of compliance with Applicable Policies, including, but not limited to, retaining copies of any training documentation, tracking student and employee training participation, documenting each step of the campus complaint process and procedures, including interim measures, accommodations for persons experiencing sexual misconduct, investigation, and sanctioning; and
12. Ensuring broad dissemination of the statement that the University shall not discriminate in employment or in its education programs and activities.

## J. Resources

### 1. Confidential Resources

*On Campus:*

- a. **Office of Victim Assistance (OVA)**  
Center for Community (C4C), Room N352  
**Phone:** (303) 492-8855 (24-hour phone service)  
Provides advocacy and counseling services that may be used by students, staff, faculty victims, complainants, or others who experience traumatic, disturbing or disruptive life events. All contacts are confidential.
- b. **Counseling and Psychiatric Services (CAPS)**  
Center for Community (C4C), Room N352  
Wardenburg Health Center, 3<sup>rd</sup> Floor  
**Phone:** (303) 492-CAPS (2277) (24hour phone service)  
Offers counseling, groups and workshops for CU Boulder students. All contacts are confidential.
- c. **Faculty and Staff Assistance Program (FSAP)**  
Administrative Research Center (ARCE)  
East Campus 3100 Marine Street, 3<sup>rd</sup> Floor, Room A353  
**Phone:** (303)-492-3020  
Offers counseling programs and activities for faculty and staff of the university. All contacts are confidential.
- d. **Ombuds Office**<sup>13</sup>  
Center for Community (C4C), Room N440  
**Phone:** (303) 492-5077  
Assists students, faculty, and staff in informally and impartially 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.
- e. **Faculty Ombuds**<sup>14</sup>  
Administrative Research Center (ARCE)  
East Campus 3100 Marine Street, Room 25  
**Phone:** (303) 492-1574
- f. **Student Legal Services (SLS)**  
University Memorial Center (UMC), Room 311

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<sup>13</sup> *The Ombuds offices are confidential and not “responsible employees” for mandatory reporting purposes pursuant to University of Colorado Boulder applicable policies but do not currently have a statutory privilege in Colorado.*

<sup>14</sup> *The Ombuds offices are confidential and not “responsible employees” for mandatory reporting purposes pursuant to University of Colorado Boulder applicable policies but do not currently have a statutory privilege in Colorado.*

**Phone:** (303) 492-6813

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

*Off Campus*

- g. **[Moving to End Sexual Assault \(MESA\)](#)**  
**Phone:** (303) 443-7300 (24-hour hotline)
- h. **[Safe House Progressive Alliance for Non-Violence \(SPAN\)](#)**  
**Phone:** (303) 444-2424 (24-hour hotline and shelter)
- i. **[Safe House Protection Order Assistance](#)**  
**Phone:** (303) 449-8623
- j. **[Safe Shelter of St. Vrain Valley](#)**  
**Phone:** (303) 772-4422 (24-hour hotline and shelter)

## 2. Counseling Services

*On Campus*

- a. **[Counseling and Psychiatric Services \(CAPS\)](#)**  
Center for Community (C4C), Room N352  
Wardenburg Health Center, 3<sup>rd</sup> Floor  
**Phone:** (303) 492-CAPS (2277) (24 hour phone service)  
Offers counseling, groups and workshops for CU Boulder students. All contacts are confidential.
- b. **[Faculty and Staff Assistance Program \(FSAP\)](#)**  
Administrative Research Center (ARCE) East Campus 3100 Marine Street, 3<sup>rd</sup> Floor, Room A353  
**Phone:** (303)-492-3020  
Offers counseling programs and activities for faculty and staff of the university. All contacts are confidential.
- c. **[Office of Victim Assistance \(OVA\)](#)**  
Center for Community (C4C), Room N352  
**Phone:** (303) 492-8855 (24-hour phone service)  
Provides advocacy and counselling services that may be used by students, staff and faculty victims, complainants, or others who experience traumatic, disturbing or disruptive life events. All contacts are confidential.

*Off Campus*

- d. **[Boulder Men's Center](#)**  
**Phone:** (303) 444-8064  
Counseling for men who have been abusive.
- e. **[Mental Health Partners, Boulder and Broomfield County](#)**  
**Phone:** (303) 443-8500 (for intake)

(303) 447-1665 (24/7 Emergency psychiatric services hotline)

### 3. Disability

*On Campus*

a. **[ADA Compliance](#)**

Administrative Research Center (ARCE)  
East Campus 3100 Marine Street, 2<sup>nd</sup> Floor  
**Phone number:** (303) 492-9725  
**Fax Number:** (303) 492-5005  
adacoordinator@colorado.edu

b. **[Center for Educational Access and Disability \(CEAD\)](#)**

Center for Community (C4C), Room N200  
**Phone:** (303) 492-8671

### 4. Employee Services

*On Campus*

a. **[ADA Coordinator](#)**

Director of ADA Compliance and ADA Coordinator: Danielle Yatrakis  
adacoordinator@colorado.edu  
**Phone:** (303) 492-9725  
**Fax:** (303) 492-5005

b. **[Faculty Relations](#)**

**Phone:** (303) 492-0447

c. **[Employee Relations](#)**

Administrative Research Center (ARCE)  
East Campus 3100 Marine Street, 3<sup>rd</sup> Floor  
**Phone:** (303) 492-0956

d. **[Faculty Ombuds](#)<sup>15</sup>**

Administrative Research Center (ARCE)  
East Campus 3100 Marine Street, Room 25  
**Phone:** (303) 492-1574

e. **[Faculty and Staff Assistance Program \(FSAP\)](#)**

Administrative Research Center (ARCE)  
East Campus 3100 Marine Street, 3<sup>rd</sup> Floor, Room A353  
**Phone:** (303)-492-3020  
Offers counseling programs and activities for faculty and staff of the university. All contacts are confidential.

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<sup>15</sup> *The Ombuds offices are confidential and not “responsible employees” for mandatory reporting purposes pursuant to University of Colorado Boulder applicable policies but do not currently have a statutory privilege in Colorado.*

- f. **Office of Victim Assistance (OVA)**  
Center for Community C4C, Room N352  
**Phone:** (303) 492-8855 (24-hour phone service)  
Provides advocacy and counseling services that may be used by students, staff and faculty victims, complainants, or others who experience traumatic, disturbing or disruptive life events. All contacts are confidential.

*Off Campus*

- g. **Colorado State Employee Assistance Program (C-SEAP)**  
**Phone:** (303) 866-4314

## 5. Law Enforcement/Prosecution

*On Campus*

- a. **University of Colorado Police Department (CUPD)**  
1050 Regent Drive  
**Phone:** (303) 492-6666 (non-emergencies, for emergencies dial 911)  
Maintains a full-service police department. Officers, who are state certified, respond to reports of criminal acts and emergencies both on and off campus.

*Off Campus*

- b. **Boulder Police Department**  
1805 33rd St.  
Boulder, CO 80301  
**Phone:** (303) 441-3333 (non-emergencies, for emergencies dial 911)
- c. **Boulder County Sheriff's Office**  
5600 Flatiron Parkway  
Boulder, CO 80301  
**Phone:** (303) 441-3600 (non-emergencies, for emergencies dial 911)
- d. **Boulder County District Attorney**  
Boulder County Justice Center  
1777 Sixth Street  
Boulder, CO 80302  
**Phone:** (303) 441-3700

## 6. Legal Services

- a. **Student Legal Services (SLS)**  
University Memorial Center (UMC), Room 311  
**Phone:** (303) 492-6813  
Provides legal counseling to students on matters such as traffic violations, criminal charges, and employment problems. Does not provide advice on internal university issues.

## 7. Medical and Health Services

### *On Campus*

- a. [Wardenburg Health Center](#)  
1900 Wardenburg Drive  
Boulder, CO 80309  
**Phone:** (303) 492-5101
- b. [Health Promotion](#)  
Wardenburg Health Center,  
1900 Wardenburg Drive, Room 130  
**Phone:** (303) 492-2937

### *Off Campus*

- c. [Boulder Community Health Foothills Hospital](#)  
4747 Arapahoe Avenue  
Boulder, CO 80303  
**Phone:** (303) 415-7000
- d. [Boulder Community Health, Sexual Assault Nurse Examiner \(SANE\) program](#)  
4747 Arapahoe Avenue  
Boulder, CO 80303  
**Phone:** (303) 415-8818

## 8. Sexual Assault Nurse Examiner (SANE) Programs

- a. [Boulder Community Health, Sexual Assault Nurse Examiner \(SANE\) program](#)  
4747 Arapahoe Avenue  
Boulder, CO 80303  
**Phone:** (303) 415-8818

## 9. State and Federal Civil Rights Compliance Offices

(Report Complaints of Harassment or Discrimination)

- a. [Colorado Civil Rights Division](#)  
**Phone:** (303) 894-2997
- b. [U. S. Department of Education, Office for Civil Rights](#)  
**Phone:** (303) 844-2024
- c. [U.S. Department of Justice](#)  
**Phone:** (202) 514-2000
- d. [United States Equal Employment Opportunity Commission](#)  
**Phone:** (303) 866-1300

## 10. Student Services on Campus

- a. [Student Support and Case Management \(SSCM\)](#)  
Center for Community (C4C), Room N460

**Phone:** (303) 492-7348

SCCM staff serves as the primary resource for managing student issues, providing intervention and crisis prevention. The case managers coordinate with other CU Boulder departments and facilitate communication to and from the [Student of Concern Team \(SOCT\)](#). If concerned about a student contact SSCM or fill out a form [online](#).

**b. [Counseling and Psychiatric Services \(CAPS\)](#)**

Center for Community (C4C), Room N352

**Phone:** (303) 492-CAPS (2277) (24 hour phone service)

Offers counseling, groups and workshops for CU Boulder students. All contacts are confidential.

**c. [Cultural Unity & Engagement Center](#)**

Center for Community (C4C), Room N320

**Phone:** (303) 492-5667

Provides counseling, outreach, and diversity education training.

**d. [Gender and Sexuality Center](#)**

Center for Community (C4C), Room N320

**Phone:** (303) 492-4377

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

**e. [Center for Inclusion and Social Change](#)**

Center for Community (C4C), Room N320

**Phone:** (303) 492-0272

**f. [Housing & Dining Services](#)**

**Phone:** (303) 492-6871

**g. [International Student and Scholar Services \(ISSS\)](#)**

Center for Community (C4C), Room S355

**Phone:** (303) 492-8057

**h. [Student Conduct and Conflict Resolution \(SCCR\)](#)**

Center for Community (C4C), Room S485

**Phone:** (303) 492-5550

**i. [Office of Victim Assistance \(OVA\)](#)**

Center for Community (C4C), Room N352

**Phone:** (303) 492-8855 (24-hour phone service)

Provides advocacy and counseling services that may be used by students, staff and faculty victims, complainants, or others who experience traumatic, disturbing or disruptive life events. All contacts are confidential.

j. **Ombuds Office<sup>16</sup>**

Center for Community (C4C), Room N440

**Phone:** (303) 492-5077

Assists students, faculty, and staff in informally and impartially 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.

k. **Student Legal Services (SLS)**

University Memorial Center (UMC), Room 311

**Phone:** (303) 492-6813

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

l. **Women's Resource Center**

Center for Community (C4C), Room N320

**Phone:** (303) 492-5667

Provides information on services, organizations, and events through a variety of resources in a women-focused environment.

## 11. Veterans

*On Campus*

a. **Veteran and Military Affairs**

Center for Academic Success and Engagement (CASE), W322

**Phone:** (303) 492-7322

*Off Campus*

b. **Boulder Vet Center (U.S. Department of Veterans Affairs)**

4999 Pearl East Circle, Suite 106

Boulder, CO 80301

**Phone:** (303) 440-7306

## 12. Victim Advocacy

*On Campus:*

a. **Office of Victim Assistance (OVA)**

Center for Community (C4C), Room N352

**Phone:** (303) 492-8855 (24-hour phone service)

Provides advocacy and counseling services that may be used by students, staff

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<sup>16</sup> The Ombuds offices are confidential and not "responsible employees" for mandatory reporting purposes pursuant to University of Colorado Boulder applicable policies but do not currently have a statutory privilege in Colorado.

and faculty victims, complainants, or others who experience traumatic, disturbing or disruptive life events. All contacts are confidential.

*Off Campus*

- b. [Moving to End Sexual Assault \(MESA\)](#)  
Phone: (303) 443-7300 (24-hour hotline)
- c. [Safe House Progressive Alliance for Non-Violence \(SPAN\)](#)  
Phone: (303) 444-2424 (24-hour hotline and shelter)
- d. [Safe House Protection Order Assistance](#)  
Phone: (303) 449-8623
- e. [Safe Shelter of St. Vrain Valley](#)  
Phone: (303) 772-4422 (24-hour hotline and shelter)

### 13. Visa and Immigration

- a. [International Student and Scholar Services \(ISSS\)](#)  
Center for Community C4C, Room S355  
Phone: (303) 492-8057

## K. Definitions

**Advisor:** An individual designated by the complainant or respondent to be present at interviews. Advisors can include attorneys.

**Aggravating Factor:** Relevant circumstances accompanying the commission of misconduct or occurring prior to the misconduct as specified in Prohibited Conduct that add to its seriousness. Examples may include the use of violence or force, violation of a trust or duty, premeditation of an incident, and the existence of a previous conduct violation.

**Appointing/Disciplinary Authority:** An appointing authority is the individual with the authority or designated authority to make ultimate personnel decisions concerning a particular employee. A disciplinary authority is the individual or office that has the authority or delegated authority to impose discipline upon a particular employee or student.

**Complainant:** A person who is subjected to alleged prohibited conduct under these policies.

**Day:** For purposes of these policies and procedures, a day is a calendar day.

**Employee:** anyone under the University's control (excluding independent contractors) who receives payment from the University for work performed, including but not limited to regular faculty, research faculty, university staff, classified staff, undergraduate and graduate student employees, or temporary employees.

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

**Mitigating Factor:** Relevant circumstances accompanying the commission of misconduct or other extenuating circumstances that may be taken into account to reduce a sanction.

These factors do not constitute a justification or excuse for the behavior in question.

**Participants:** Complainant, Respondent and any witnesses or other third parties participating in an OIEC resolution process.

**Party:** Complainant or respondent and collectively referred to as “parties.”

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

**Sanction:** Refers to either a sanction imposed by the Associate Vice Chancellor of the OIEC or designee for students or discipline as imposed by the appointing/disciplinary authority for employees.

**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 University policies or who are not officially enrolled for a particular term but who have a continuing relationship as determined by Academic Advising with the University are considered “students.”

**University:** The University of Colorado Boulder.

**University Official:** A University employee working in the performance of their duly authorized duties.

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

**Witness:** Any individual who may have information relating to a matter being investigated by OIEC.

## Appendix 1: Selected Colorado Criminal Definitions

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

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

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

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

- (1) Any actor who knowingly inflicts sexual intrusion or sexual penetration on a victim commits **sexual assault** if:
- (a) The actor causes submission of the victim by means of sufficient consequences reasonably calculated to cause submission against the victim’s will; or
  - (b) The actor knows that the victim is incapable of appraising the nature of the victim's

conduct; or

- (c) The actor knows that the victim submits erroneously, believing the actor to be the victim's spouse; or
- (d) At the time of the commission of the act, the victim is less than fifteen years of age and the actor is at least four years older than the victim and is not the spouse of the victim; or
- (e) At the time of the commission of the act, the victim is at least fifteen years of age but less than seventeen years of age and the actor is at least ten years older than the victim and is not the spouse of the victim; or
- (f) The victim is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over the victim and uses this position of authority to coerce the victim to submit, unless incident to a lawful search,; or
- (g) The actor, while purporting to offer a medical service, engages in treatment or examination of a victim for other than a bona fide medical purpose or in a manner substantially inconsistent with reasonable medical practices; or
- (h) The victim is physically helpless and the actor knows the victim is physically helpless and the victim has not consented.

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

- (1) Any actor who knowingly subjects a victim to any sexual contact commits unlawful sexual contact if:
  - (a) The actor knows that the victim does not consent; or
  - (b) The actor knows that the victim is incapable of appraising the nature of the victim's conduct; or
  - (c) The victim is physically helpless and the actor knows that the victim is physically helpless and the victim has not consented; or
  - (d) The actor has substantially impaired the victim's power to appraise or control the victim's conduct by employing, without the victim's consent, any drug, intoxicant, or other means for the purpose of causing submission; or
  - (e) The victim is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over the victim and uses this position of authority, unless incident to a lawful search, to coerce the victim to submit; or
  - (f) The actor engages in treatment or examination of a victim for other than bona fide medical purposes or in a manner substantially inconsistent with reasonable medical practices.
- (1.5) Any person who knowingly, with or without sexual contact, induces or coerces a child by any of the means set forth in section 18-3-402 to expose intimate parts or to engage in any sexual contact, intrusion, or penetration with another person, for the purpose of the actor's own sexual gratification, commits unlawful sexual contact. For the purposes of this subsection (1.5), the term "child" means any person under the age of eighteen years.

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

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

**Domestic violence** also includes any other crime against a person, or against property, including an animal, or any municipal ordinance violation against a person, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a person with whom the actor is or has been involved in an intimate relationship.

(Note that “dating violence” in Colorado is included with the broader definition of domestic violence)

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

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

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