



Campus Policies

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CU Boulder Policies ▾

Discrimination & Harassment Policy

Purpose

This policy and the Office of Institutional Equity and Compliance (OIEC) Resolution Procedures are intended to comply with the related requirements of the following state law, federal laws, their implementing regulations, and related federal agency guidance:

- The Equal Pay Act of 1963;
- Titles IV, VI, and VII of the Civil Rights Act of 1964;
- Title IX of the Education Amendments of 1972;
- The Rehabilitation Act of 1973 (Sections 503 and 504)
- The Vietnam Era Veterans Readjustment Assistance Act (1974);
- Age Discrimination Act (1975)
- The Pregnancy Discrimination Act (1978);
- The Age Discrimination in Employment Act of 1976;
- The Americans with Disabilities Act of 1990; Amendments Act of 2008;
- Executive Order 11246;
- Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act of 1991;
- Uniform Services Employment and Reemployment Act (1994);
- Violence Against Women Act of 1994; and
- Violence Against Women Reauthorization Act of 2013
- Colorado Anti-Discrimination Act (1979)

I. PREAMBLE

The University of Colorado Boulder (“CU Boulder”) is committed to providing an inclusive environment where all individuals can achieve their academic and professional aspirations free from discrimination, harassment, and/or related retaliation based upon protected classes.

The CU Boulder Discrimination and Harassment Policy is designed to ensure equal access to the academic and professional experiences at CU Boulder. This policy defines prohibited conduct and reporting obligations and provides information regarding campus support services for involved parties.

This policy requires that CU Boulder has an office with specialized expertise to address allegations of *protected-class discrimination* and *harassment*, as well as *related violations*, in a manner that ensures all parties receive prompt, fair, and equitable treatment and that safeguards the dignity and rights for all involved. At CU Boulder, the Office of Institutional Equity and Compliance (OIEC) implements this policy and administers related campus procedures. Anyone who encounters an issue or seeks guidance related to this policy should consult with the OIEC. CU Boulder employees who are mandatory reporters ("*Responsible Employees*") must promptly report allegations of *protected-class discrimination* and *harassment*, and *related violations*, as further outlined in the policy.

The faculty, students, and staff of CU Boulder enjoy freedom of speech as guaranteed by the United States Constitution, Colorado Constitution, and the Laws of the Regents. This policy is intended to protect members of the campus community from *protected-class discrimination* and *harassment*, not to regulate protected speech. CU Boulder also recognizes academic freedom, as defined in the Laws of the Regents, and this policy will not be interpreted to prohibit conduct that is legitimately related to course content, teaching methods, research, or scholarship, or the expression of political and academic views of students and faculty in the classroom.

The University of Colorado also prohibits sexual misconduct pursuant to the Administrative Policy Statement on Sexual Misconduct, Intimate Partner Abuse and Stalking.^[1] Any person who has experienced sexual misconduct in the context of CU Boulder educational programs, activities, or employment as described below should also report this to the OIEC.

This policy describes CU Boulder's policies and procedures defining and providing for the investigation and remediation of potential *protected-class discrimination* and *harassment*. It does not constitute a contract, whether express or implied, between CU Boulder and any person who is subject to its requirements. CU Boulder reserves the right to modify this policy statement when appropriate.

II. INTRODUCTION

CU Boulder is committed to providing an environment where all individuals can study and work free from *protected-class discrimination* and *harassment*.

It is critical to this commitment that anyone who may have been the target of, or who has experienced, *protected-class discrimination* or *harassment* in the context of CU Boulder educational programs, activities, or employment, feel free to report their concerns without fear of [*retaliation*](#).

To foster a climate that encourages prevention and reporting of *protected-class discrimination* and *harassment* and related *retaliation*, CU Boulder will engage in prevention efforts, educate the

campus community, respond to all reports promptly, provide reasonable interim protection measures when necessary to maintain the welfare of campus community members and the safety of the campus environment, and recognize the inherent dignity of all individuals involved. CU Boulder shall provide fair and equitable processes to investigate and address complaints of *protected-class discrimination* and *harassment*, and *related violations*, that provide fundamental due process.

III. POLICY STATEMENT

A. Protected-Class Discrimination and Harassment

CU Boulder prohibits *discrimination* and *harassment* on the basis of *protected-class* status in admission and access to, and treatment and employment in, its educational programs and activities. For purposes of this CU Boulder policy, “*protected classes*” refers to *race, color, national origin, sex, pregnancy, age, disability, creed, religion, sexual orientation, gender identity, gender expression, veteran status, political affiliation, and political philosophy*.

CU Boulder takes prompt and effective steps reasonably intended to stop any form of *protected-class discrimination* and *harassment*, and *related violations*, to eliminate any *hostile environment*, to prevent its recurrence, and as appropriate, to remedy its effects.

B. CU Boulder’s Primary and Ongoing Prevention and Awareness Programs

CU Boulder shall create, provide and publish comprehensive, intentional and integrated programming, initiatives, strategies, and campaigns intended to prevent *protected-class discrimination* and *harassment* that are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to campus community needs, and informed by research or assessed for value, effectiveness, or outcome. The programs must include both primary prevention and awareness programs offered to incoming students and new employees and ongoing prevention and awareness campaigns directed at current students, faculty, and staff.

CU Boulder shall develop its prevention programs taking into account the particular needs of its students, faculty, and staff. The programs shall include:

- (1) A statement that CU Boulder prohibits *protected-class discrimination* and *harassment*, and *related violations*, and provides notice of this policy and the campus complaint process and procedures, including where complaints may be filed;
- (2) The definitions of “*protected class*,” “*discrimination*,” “*harassment*,” “*retaliation*,” and other *related violations*;
- (3) Safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or to intervene when *protected-class discrimination* or *harassment*, or related *retaliation* occurs against another person; and

(4) Information about the procedures that alleged victims can access, and that the campus will follow, after an incident(s) of *protected-class discrimination* and *harassment*, or *related violations*, has been reported.

C. Options for Reporting and Assistance Following an Incident of Protected-Class Discrimination or Harassment

When a student, faculty, or staff member reports that they have experienced *discrimination* or *harassment* based upon *protected class*, whether it occurred on or off campus, the campus shall provide the reporting party who experienced *protected-class discrimination* or *harassment* with notification of the following, as applicable:

1. Reporting rights and options, including:
 - a. to whom and how to report an alleged offense, including campus authorities and local law enforcement authorities;
 - b. to be assisted by campus authorities in making a report, and;
 - c. to decline to notify such authorities;
2. The importance of preserving evidence that may assist in proving a criminal offense occurred or may be helpful in obtaining a protective order;
3. The method by which an individual can seek No-Contact Orders, orders of protection, restraining orders, or similar lawful orders issued by a court or other competent authority;
4. Counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, and other services available on campus and in the community; and
5. Options for, and available assistance in, changing transportation and working situations, in addition to any available academic and residential accommodations. This notification shall be made and accommodations afforded if they are reasonably available, regardless of whether the person who reported experiencing *discrimination* or *harassment* chooses to participate in any campus investigation or disciplinary proceeding or to report the crime, if any, to law enforcement.

[Reporting Options and Assistance](#)

D. Confidential Resources and Privacy

1. Confidential Resources/Independent Reporting Obligations – CU Boulder supports the use of confidential resources for all parties. Employees who are confidential resources are not considered *Responsible Employees* who are required to report allegations of *protected-class discrimination* or *harassment*, or *related violations*, under this Policy. Communications of *protected-class discrimination* and *harassment*, or *related violations*, to a *Responsible Employee* are not confidential, and these employees must report allegations of *protected-class*

discrimination or harassment, or related violations, to the Associate Vice Chancellor for the OIEC, or designee, when it is disclosed to them.

A person who is a confidential resource under this policy may have an independent obligation to report some forms of criminal conduct to law enforcement officials. Any person who is a confidential resource may consult with campus legal counsel to determine whether an independent reporting obligation exists.

[Information about CU Boulder's Confidential Resources on the OIEC website](#)

Persons who are "Campus Security Authorities" for purposes of crime reporting under the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act of 1991 may find a summary of their obligations in [this PowerPoint presentation on the CU Boulder website](#).

1. Complaining Party Requests Not to Proceed and Overriding Factors – If an individual has disclosed an allegation of *protected-class discrimination or harassment, or a related violation*, but wishes to maintain privacy or requests that no resolution process be pursued nor disciplinary action taken, the Associate Vice Chancellor for the OIEC or designee will explain that CU Boulder prohibits retaliation and explain the steps the campus will take to prevent retaliation if the individual participates in a resolution process, and that the campus will take responsive action if it occurs.

If, having been informed of the campus'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 nor disciplinary action taken, the Associate Vice Chancellor for the OIEC, or designee, will weigh that request against CU Boulder's obligation to provide a safe, non-discriminatory environment for all students, faculty, and staff. In making that determination, the Associate Vice Chancellor for 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 if *protected-class discrimination or harassment, or a related violation*, occurred, including the following:

- a. The risk that the alleged perpetrator will commit additional acts of violence;
- b. The seriousness of the alleged *protected-class discrimination or harassment, or related violation*, including whether the alleged perpetrator threatened further violence against the alleged victim or others, or whether the alleged perpetrator has been found responsible in legal or other disciplinary proceedings for acts of violence;
- c. Whether the alleged *protected-class discrimination or harassment, or related violation*, was perpetrated with a weapon;
- d. Whether the alleged victim is a minor;

- e. Whether the campus possesses means other than the alleged victim's testimony to obtain relevant evidence of the alleged *protected-class discrimination* or *harassment*, or *related violation*, (e.g., security cameras or personnel, physical evidence); and
- f. Whether the alleged *protected-class discrimination* or *harassment*, or *related violation*, reveals a pattern of perpetration at a given location or by a particular group.

The decision to proceed with a resolution process or other action despite the individual's request that no resolution process or action proceed will be conducted on a case-by-case basis after an individualized review.

1. Findings of a Policy Violation – CU Boulder recognizes that third parties may have a legitimate interest in knowing whether a CU Boulder employee has been found responsible for engaging in *protected-class discrimination* or *harassment*, or a *related violation*. In the event that, after an investigation and any rights of appeal have been completed, an employee has been found responsible for engaging in *protected-class discrimination* or *harassment*, or *related violations*, CU Boulder may confirm upon inquiry from a potential employer or licensing or credentialing agency that the employee has been found responsible for violation of this policy. CU Boulder may also confirm that an investigation under this policy is pending against an employee or that an employee resigned employment while an investigation under this policy was pending.

E. Reporting Allegations of Protected-Class Discrimination, Harassment, and Related Violations

1. Purpose of Reporting – CU Boulder provides mechanisms for members of the campus community to report allegations of *protected-class discrimination* and *harassment*, and *related violations*. Reporting allows CU Boulder to pursue resolution processes when appropriate, but also allows CU Boulder to inform those who have been involved of support services and to facilitate access to those services. Reporting also allows CU Boulder to identify institutional risks, increase the effectiveness of its training programs, and identify the need for additional services that will protect the campus community from harm. CU Boulder views reporting allegations of *protected-class discrimination* and *harassment*, and *related violations*, as fundamental to its ability to provide a campus environment that allows equal access to educational and employment opportunities.
2. Reporting by Students and Other Members of the Campus Community Who are Not Responsible Employees – CU Boulder encourages all members of the campus community, even those who are not defined as *Responsible Employees*, to report allegations of *protected-class discrimination* and *harassment*, and *related violations*, to the Associate Vice Chancellor for the OIEC, or designee.

1. Responsible Employees Must Report Misconduct – Many members of the CU Boulder community, generally including faculty and members of the administration with supervisory responsibilities, are *Responsible Employees*, who must promptly report allegations of *protected-class discrimination or harassment, and related violations*, to the Associate Vice Chancellor for the OIEC, or designee. A full definition of *Responsible Employees* is provided in Section IV of this policy.

a. Any *Responsible Employee* who witnesses or receives a written or oral report alleging that a member of the CU Boulder community has been subjected to or has committed an act of *protected-class discrimination or harassment, or a related violation*, must promptly report the allegations to the Associate Vice Chancellor for the OIEC or designee. Members of the CU Boulder community include students, faculty, staff, contractors, patients, visitors to campus, volunteers, and employees of affiliated entities. Because CU Boulder may have the ability to address or prevent future *protected-class discrimination and harassment, and related violations*, the obligation to report exists independently of whether the individual who was subjected to or committed an act of *protected-class discrimination or harassment, or a related violation*, is currently enrolled or employed at CU Boulder.

a. The *Responsible Employee* is required to promptly report to the Associate Vice Chancellor for the OIEC, or designee, all known details about the alleged *protected-class discrimination or harassment, or related violations*, including:

- i. Name of the alleged victim;
- ii. Name of alleged perpetrator;
- iii. Name of any alleged witnesses; and
- iv. Any other relevant facts, including the date, time, and specific location of the alleged incident.

If the *Responsible Employee* is unable to provide this information at the time of making an initial report, but later becomes aware of additional information, the *Responsible Employee* must supplement the prior report.

Responsible employees employed by university law enforcement are required to report pursuant to this section unless the information is otherwise excluded by state or federal law (for example information related to juveniles).

a. In many instances, it may not be immediately apparent whether a person is a member of the CU Boulder community, whether the *protected-class discrimination or harassment, or related violation*, occurred on CU Boulder property, or whether the alleged conduct occurred in the course of an educational program or activity of CU Boulder. Rather than conduct their own inquiries to determine whether these conditions exist, *Responsible Employees* should report potential *protected-class discrimination and harassment, and*

related violations, to the Associate Vice Chancellor for the OIEC, or designee, to allow a preliminary inquiry to occur.

- b. *Responsible Employees* are not required to report information disclosed during an individual's participation as a subject in an Institutional Review Board-approved human subjects research protocol. Institutional Review Boards may, in appropriate cases, require researchers to provide reporting information to all subjects of IRB Research.
- c. *Responsible Employees* who receive information related to *protected-class discrimination* or *harassment*, or *related violations*, in the course of serving in the capacity as ombuds, as designated by CU Boulder, are not required to report to the Associate Vice Chancellor for the OIEC, or designee. These *Responsible Employees* must report alleged *protected-class discrimination* and *harassment*, and *related violations* disclosed to them when they are not serving in their capacity as ombuds.
- d. *Responsible Employees* who receive information related to an allegation of *protected-class discrimination* or *harassment*, or a *related violation* in the course of providing professional services within a privileged relationship, such as health care providers or counselors, are not required to report to the Associate Vice Chancellor for OIEC, or designee. These *Responsible Employees* must report allegations of *protected-class discrimination* and *harassment*, and *related violations*, disclosed to them when they are not providing professional services within a privileged relationship. These *Responsible Employees* may also have independent professional obligations to report some forms of criminal conduct to law enforcement officials. Any *Responsible Employee* may consult with campus legal counsel to determine whether an independent reporting obligation exists.
- e. A *Responsible Employee* does not satisfy the reporting obligation by reporting allegations of *protected-class discrimination* or *harassment*, or *related violations*, to a supervisor or CU Boulder personnel other than the Associate Vice Chancellor for the OIEC or designee.
- f. *Responsible Employees* are not required to report allegations of *protected-class discrimination* and *harassment*, and *related violations*, to which they have been personally subjected to the Associate Vice Chancellor for the OIEC or designee, but are nonetheless encouraged to report.

F. Related Violations

Other conduct, while not falling within the definition of *protected-class discrimination* or *harassment*, hinders CU Boulder's ability to uphold its legal obligations and ensure equal access to educational and employment opportunities. As such, CU Boulder prohibits the following:

- a. *Failure to Report* – CU Boulder will administer this Policy in a manner that promotes the reporting of *protected-class discrimination* and *harassment*, and *related violations*, and avoids disciplinary actions when *Responsible Employees* conscientiously discharge their reporting obligations. A failure to report an allegation of *protected-class discrimination* or *harassment*, or *related violations*, shall result in a violation of this policy only if the *Responsible Employees* received information that a member of the CU Boulder community was subjected to or committed an act of alleged *protected-class discrimination* or *harassment*, or a *related violation*, and intentionally, knowingly, or recklessly disregarded the obligation to report, thus resulting in harm to a member of the CU Boulder community.
- b. [Retaliation](#) – CU Boulder will not permit [retaliation](#) against a member of the CU Boulder community who has indicated an intent to file or has filed, supported, or provided information in connection with a complaint of *protected-class discrimination* or *harassment*. [Retaliation](#) means adverse educational or employment actions, including direct or indirect intimidation, threats, and harassment, taken against a member of the campus 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, or participating in, an investigation of *protected-class discrimination* or *harassment*.
- c. *Providing False or Misleading Information* – Providing false or misleading information related to allegations of *protected-class discrimination* or *harassment*, or *related violations*, is contrary to the purposes of this Policy. Members of the CU Boulder community must provide reports of *protected-class discrimination* and *harassment*, and *related violations*, in good faith. A person who knowingly or recklessly alleges a false complaint of *protected-class discrimination* or *harassment*, or *related violations*, or knowingly or recklessly provides false information during the course of an investigation violates this policy. Making a report or providing information in good faith, even if the facts alleged in the report are not later substantiated, will not constitute a violation of this policy.
- d. *Interference with Reporting* – No member of the CU Boulder community may prohibit or interfere with a *Responsible Employee* or any other person’s reporting to the Associate Vice Chancellor for the OIEC, or designee.
- e. *Failure to Comply with Orders and Sanctions* – Subject to any rights of appeal, members of the CU Boulder community must comply with orders of the Associate Vice Chancellor for the OIEC or other appropriate CU Boulder official related to this 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 CU Boulder community must abide by and complete sanctions related to *protected-class discrimination* and *harassment*, and *related violations*.

G. Designation and Responsibilities of the Associate Vice Chancellor for the OIEC

The Associate Vice Chancellor for the OIEC, or designee, is responsible for overseeing complaints of *protected-class discrimination* and *harassment*, and *related violations*, pursuant to this policy and for identifying and addressing any patterns or systemic problems that arise during review of those complaints.

The Associate Vice Chancellor for the OIEC is also the designated Title IX and Title VI Coordinator for CU Boulder.

For all matters within the scope of this policy, at a minimum, the Associate Vice Chancellor for the OIEC, or designee, shall be specifically responsible and have delegated authority from the Chancellor for implementing this policy. Subject to the Associate Vice Chancellor for the OIEC's ultimate responsibility and authority, the Associate Vice Chancellor for the OIEC may further delegate responsibility and authority for the following functions:

- (1) Ensuring that complaints are addressed appropriately and in a timely manner;
- (2) Overseeing adequate, reliable, and impartial resolutions of complaints of *protected-class discrimination* and *harassment*, and *related violations*;
- (3) Evaluating any *complainant* request for privacy pursuant to Section III(D);
- (4) Referring matters for further action or discipline for inappropriate or unprofessional conduct under other applicable policies or procedures even if a *protected-class discrimination* or *harassment*, or *related violation*, is not found. No provision of this policy shall be construed as a limitation on the authority of the disciplinary authority, under applicable policies and procedures, to initiate disciplinary action;
- (5) Facilitating reasonable interim protective remedies and accommodations for all parties;
- (6) Ensuring broad publication of the campus complaint process and procedures, including posting the procedure on an appropriate campus website;
- (7) Providing an annual report to the Chancellor documenting: a) the number of reports or complaints of alleged violations of this Policy; b) the categories (e.g., students, faculty, staff) of parties involved; c) the number of policy violations found; d) the number of appeals taken and the outcomes of those appeals; and 3) examples of sanctions imposed for policy violations;
- (8) Monitoring campus compliance with this policy;
- (9) Ensuring there is ongoing training and education regarding reporting and preventing *protected-class discrimination* and *harassment*, and *related violations*, for all students, faculty and staff;
- (10) Maintaining records and related documentation of compliance with this policy, 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 alleging *protected-class discrimination or harassment, or related violations*, investigation, sanctioning; and

(11) Ensuring broad dissemination of the statement that CU Boulder shall not discriminate on the basis of any protected class in employment or in its education programs and activities.

H. Associate Vice Chancellor for the OIEC's Jurisdiction to Conduct Preliminary Inquiry and Further Action

1. The Discrimination and Harassment Policy applies to all students, faculty, staff, contractors, patients, volunteers, affiliated entities, and other third parties. Subject to any rights of appeal, any person found responsible for engaging in *protected-class discrimination or harassment, or related violations*, as defined in this policy may be subject to disciplinary action, up to and including expulsion or termination of employment. CU Boulder will consider what potential actions should be taken, including contract termination and/or property exclusion, regarding third-party conduct alleged to have violated this policy, but those options may be limited depending on the circumstances of the arrangement.

1. This prohibition against *protected-class discrimination and harassment, and related violations*, applies to conduct that occurs on campus. This prohibition also applies to off-campus conduct, including online or electronic conduct, in the following circumstances:
 - a. if the conduct occurred in the context of an employment or education program or activity of CU Boulder; or
 - b. if both the complainant(s) and respondent(s) are students or employees of CU Boulder; or
 - c. In all other cases not falling under (a) or (b), the Associate Vice Chancellor for the OIEC, or designee, will consider the degree of CU Boulder's control over the respondent(s), the relationship between the complainant(s) and respondent(s), and assess the surrounding circumstances of the alleged conduct for the presence of the following factors:
 - i. Targets or causes harm to an individual connected with CU Boulder;
 - ii. Threatens violence against the alleged complainant(s) or others and there is reasonable fear that such further conduct could target or cause harm to someone connected with CU Boulder;
 - iii. Is of a violent nature or was frequent or severe;

- iv. Prior or current similar complaints about the respondent(s) or the respondent(s) has a known history or records from a prior school indicating a history of violence;
- v. Use of, or threat to use, a weapon, access to or attempts to access weapons, or a history of bringing weapons to CU Boulder;
- vi. Multiple complainants and/or respondents;
- vii. The complainant(s) is a minor;
- viii. Whether the alleged *protected-class discrimination or harassment, or related violations*, reveals a pattern of perpetration at a given location or by a particular group; and/or
- ix. Any other signs of predatory behavior.

If the Associate Vice Chancellor for the OIEC, or designee, determines that at least one of the above factors is present, then the Associate Vice Chancellor for the OIEC, or designee, may determine that the OIEC may exercise jurisdiction for off-campus conduct that does not fall under (a) or (b) above.

The Associate Vice Chancellor for the OIEC, or designee, is solely authorized to determine whether this policy applies to alleged prohibited conduct and whether CU Boulder has jurisdiction to take any action pursuant to this policy.

I. Investigation/Adjudication Process and Procedures

CU Boulder shall establish a written complaint process and procedures providing for prompt and equitable resolution of any allegations of *protected-class discrimination and harassment, or related violations*, within an average of 90 days, except for good cause with notice to the *complainant(s)* and *respondent(s)* of the delay and reason for the delay. An investigatory process may also incorporate the adjudicatory and/or disciplinary process (such as opportunity to be heard or provide a statement and respond to the allegation(s), the making of factual findings, and the determination of any policy violation), so long as it provides a prompt, fair, and impartial process from the investigation to the final results. Any investigatory process that may result in disciplinary action must specifically include a procedure that:

1. Is 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 from conducting an investigation 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;

2. Allows for interim measures to be provided before an investigation or while an investigation is pending. Interim measures, when determined to be appropriate and reasonably available by the Associate Vice Chancellor for the OIEC 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 Associate Vice Chancellor for the OIEC or designee;
3. Includes advance notice of allegations to all parties, with the identity of the *complainant(s)*, the specific section of the Policy allegedly violated, the conduct allegedly constituting the potential violation, and the date and location of the alleged incident, to the extent known and available;
4. Allows the *complainant(s)* and *respondent(s)* to receive notice before they participate in an interview with sufficient time to prepare for meaningful participation;
5. Allows the *complainant(s)* and *respondent(s)* to each 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. 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;
6. Provides the *complainant(s)* and *respondent(s)* with 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 campus is legally prohibited from disclosing the information to a party;
7. Provides opportunity to respond to a written evidence summary in writing in advance of any findings or conclusions;
8. Offers the *complainant(s)* and *respondent(s)* an opportunity to submit questions for the investigator to ask of the other party and of witnesses. The investigator may decline to ask a question that is not reasonably calculated to lead to the discovery of probative evidence or when the probative value of the information is outweighed by the danger of unfair prejudice or confusion of the issues or by considerations of undue delay or needless presentation of cumulative evidence;
9. Consistent with the standard of proof in other student misconduct proceedings, applies the preponderance of the evidence standard when making findings of fact and conclusions as to

whether *protected-class discrimination* or *harassment*, or *related violations* of this policy, have occurred. A preponderance of the evidence exists when the totality of the evidence demonstrates that an allegation of *protected-class discrimination* or *harassment*, or *related violations*, is more probably true than not. If the evidence weighs so evenly that the investigator is unable to say that there is a preponderance on either side, the investigator must determine that there is insufficient evidence to conclude there has been a violation of this policy. In applying the preponderance of the evidence standard, an investigator may consider both direct and circumstantial evidence. The investigator 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;

10. Incorporates an internal review before the final investigative findings are issued;
11. Issues written, concurrent notice of the outcome to the *complainant(s)* and *respondent(s)*;
12. Allows the parties to provide information about any aggravating or mitigating circumstances before any sanction is imposed;
13. Requires a written statement of the basis upon which any sanction was imposed; and
14. For cases involving student *respondents*, provides for post-decision appeal to determine whether there were procedural errors by which any party was prevented from receiving a fair investigation or whether a sanction was disproportionate to the violation of this policy. In the appeal, a party may not present any new evidence unless the party can demonstrate that it could not, with reasonable diligence, have discovered and produced the evidence during the course of the investigation.

For cases involving employee *respondents*, provides for post-decision appeal to determine whether there were procedural errors by which any party was prevented from receiving a fair investigation. In the appeal, a party may not present any new evidence unless the party can demonstrate that it could not, with reasonable diligence, have discovered and produced the evidence during the course of the investigation. Any rights of appeal of a sanction imposed as a result of a finding of policy violation finding, shall be conducted in accordance with the procedure for appeal, if any, 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.

Access [CU Boulder's Office of Institutional Equity \(OIEC\) Resolution Procedures online.](#)

J. Complaints Involving Two or More Campuses

When an alleged violation of this policy involves more than one University of Colorado campus, the campus with primary disciplinary authority over the *respondent* shall investigate the complaint pursuant to its applicable policy and complaint process and procedures. The campus responsible for the investigation may request the involvement or cooperation of any other affected campus and should advise appropriate officials of the affected campus of the progress and results of the investigation.

IV. DEFINITIONS

Italicized terms used in this Policy are defined in Section III(F) or below.

- A. **Complainant:** Within the context of this policy, means a person who is subject to alleged protected-class *discrimination* or *harassment*, or *related violations*.
- B. **Discrimination:** Occurs when an individual suffers an adverse consequence on the basis of a protected class. Examples include, but are not limited to, failure to be hired or promoted or denial of admission to an academic program on the basis of their protected class.
- C. **Harassment:** Unwelcome verbal or physical conduct related to one's protected class that unreasonably interferes with an individual's work or academic performance or creates an intimidating or hostile work or educational environment (See Hostile Environment as defined below).
- D. **Hostile Environment:** Hostile environment is a form of harassment. Whether a hostile environment exists is determined from both a subjective and an objective perspective. The subjective perspective evaluates whether or not the complainant experienced unwelcome conduct. The objective perspective evaluates whether or not the unwelcome conduct was, from the perspective of a reasonable person in the alleged complainant's position, sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the campus's education or employment programs and/or activities. Mere offensive conduct is not enough to create a "hostile environment" as defined in this policy. Although repeated incidents increase the likelihood that harassment has created a hostile environment, a single or isolated incident of conduct based on protected class may be sufficient.
- E. **Protected class** refers to:
 - a. **Age:** Refers to discriminating against individuals because of their age. Students are protected from age discrimination in academic situations like admissions decisions and residence hall assignments, regardless of their age. An employee must be 40 years or older to fall within the protected category.
 - b. **Color:** Refers to the pigmentation of one's skin. An individual can make an allegation of color discrimination or color harassment against someone of the same race or color.
 - c. **Disability:** Refers to a physical or mental impairment that substantially limits one or more major life activities of an individual. The policy also protects individuals who are regarded as having a disability or who have a record of a disability.

- d. **Gender:** Gender refers to the social constructs surrounding gender roles.
- e. **Gender Expression:** Refers to how a person represents or expresses one's gender to others through external appearance, characteristics, or behaviors typically associated with a specific gender.
- f. **Gender Identity:** Refers to an innate sense of one's own gender, or an internal sense of who one is, regardless of anatomy.
- g. **National Origin:** Refers to a person's (or a person's ancestors') place of origin or to the physical, cultural, or linguistic characteristics of an ethnic group.
- h. **Political Affiliation:** Refers to a person's membership or association with others in commonality of political purpose and support.
- i. **Political Philosophy:** Refers to a person's belief or endorsement of any system of thought pertaining to public policy or the administration of governmental functions.
- j. **Pregnancy:** Individuals who are pregnant, just gave birth to a child, or suffer a medical condition as a result of pregnancy or childbirth are all protected.
- k. **Race:** Federal civil rights laws do not define race. However, individuals may self-identify within certain ethnic and racial categories, including multiracial. All racial categories are protected under university policy.
- l. **Religion/Creed:** Refers to religious, moral, or ethical beliefs that are sincerely held and includes all aspects of religious observance and practice.
- m. **Sex:** Sex refers to the anatomy and biology that determines whether one is male, female, and/or intersex.
- n. **Sexual Orientation:** Refers to the physical or emotional attraction toward a certain sex or gender. Additionally, individuals are protected from discrimination or harassment based on a perception of an individual's sexual orientation, even if that perception is mistaken.
- o. **Veteran Status:** Refers to anyone who serves or who has served in any branch of the United States armed forces, including students in the Reserve Officer Training Corps (ROTC). Volunteers for military duty must be treated the same as those who are ordered to active duty.

F. **Respondent:** Within the context of this policy, means a person who is accused of alleged protected-class discrimination or harassment, and/or *related violations*.

G. **Responsible Employee:** Means any employee who: (1) has the authority to hire, promote, discipline, evaluate, grade, formally advise or direct faculty, staff, or students; (2) has the authority to take action to redress protected-class discrimination and harassment, or *related violations*; and/or (3) has been given the duty of reporting incidents of protected-class discrimination and harassment, or *related violations*, to the Associate Vice Chancellor for the OIEC, or designee. Associate Vice Chancellor for the OIEC may designate in campus procedures that certain individuals who might otherwise not be considered *Responsible Employees* are subject to mandatory reporting requirements.

V. RELATED POLICIES

A. [APS 5014 Sexual Misconduct, Intimate Partner Abuse and Stalking on the University of Colorado's website.](#)

B. [APS 5015 Conflict of Interest in Cases of Amorous Relationships on the University of Colorado's website.](#)

VI. HISTORY

Supersedes CU Boulder's Discrimination and Harassment Policy and Procedures, July 1, 2016

Approved and Reviewed By: Philip P. DiStefano

Original Author:

Vice Chancellor for Diversity and Equity

Vice Chancellor for Administration

[1] <https://www.cu.edu/ope/aps/5014>

Effective Date

Tuesday, October 1, 2019

Approved By

Philip P. DiStefano, Chancellor

Owner(s)

Associate Vice Chancellor for the Office of Institutional Equity & Compliance

[University of Colorado Boulder](#)

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