

	<b>Procedure for Resolving Complaints of Sexual Harassment, Sexual Violence, and Interpersonal Violence Against Students</b>	<b>Responsible Administrative Unit:</b> Institutional Compliance
	<b>Issued: May 1, 2012</b> <b>Revised: June 28, 2018</b>	<b>Policy Contact:</b> Title IX Coordinator <a href="mailto:titleix@mines.edu">titleix@mines.edu</a>

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### 1.0 BACKGROUND AND PURPOSE

On August 29, 2014, the Board of Trustees of the Colorado School of Mines (“Mines”) adopted the **Policy Prohibiting Gender-Based Discrimination, Sexual Harassment, Sexual Violence, and Interpersonal Violence (“the Policy”)**. The Policy prohibits any form of sexual harassment, sexual violence, or interpersonal violence within the Mines campus community. This procedure implements the Policy and provides for prompt, fair, and impartial investigation and resolution of issues arising under the Policy. Definitions of relevant terms related to or used in this procedure are found in Section 8 of this document.

### 2.0 JURISDICTION AND MINES RESPONSIBILITY TO ACT

This procedure applies to any complaints of sexual harassment, sexual violence, and interpersonal violence that are brought against Mines students. Mines has jurisdiction to investigate any reports or complaints that occur on Mines’ campus, on properties owned or controlled by Mines or affiliated student organizations. Mines also has jurisdiction to investigate complaints if the conduct occurred in conjunction with a Mines-sponsored program or activity, or if the conduct may have the impact of creating a hostile educational or work environment for a Mines Community Member.

Even in cases where a Mines Community member does not want Mines to respond to a complaint of sexual harassment, sexual violence or interpersonal violence, Mines has a responsibility to investigate and take appropriate action in response to situations that may impact the wider Mines campus community or have broader Title IX compliance implications.

### 3.0 COMPLAINTS

**3.1 Who May File a Complaint:** Any individual who believes they have been subjected to sexual harassment, sexual violence, and/or interpersonal violence committed by a Mines student may file a complaint. Further, any Mines Community Member may file a complaint on behalf of someone who may have been subjected to sexual harassment, sexual violence, and/or interpersonal violence committed by a Mines student. Regardless of the origin of the complaint, for purposes of this procedure the term “Reporting Party” will refer to the person who was the target of the alleged behavior.

**3.2 Against Whom a Complaint May Be Filed:** Under this procedure, complaints may be filed against any person who is registered at Mines as a student at the time of the alleged violation (including during an academic recess or leave of absence). For purposes of this procedure, the term “Responding Party” will refer to the person who is accused of the alleged behavior.

**3.3 Mandatory Reporting:** Mines has designated all of its professional employees and certain categories of student employees as mandatory reporters for issues involving sexual harassment, sexual violence, and interpersonal violence. The student employee categories who have been designated as mandatory reporters during the length of their contract are:

- Peer Mentors;
- Residence Life Student Staff;
- Summer Live-In Staff (Summer Conference Assistants, SUMMET Staff, Challenge Staff); and
- Teaching Fellows.

The student employee categories who have been designated as mandatory reporters while working in their professional capacity are:

- Teaching Assistants,
- Research Assistants,
- Testing Center Proctors,
- Conference/Camp Staff, and
- Peer Coaches.

Mandatory reporters are required to contact the Title IX Coordinator and report instances of sexual harassment, sexual violence, and interpersonal violence immediately. Reporting is necessary to ensure that persons who may have been impacted by such conduct receive appropriate services, resources, and information. As well as allowing Mines to track incidents, identify patterns, and take appropriate steps to protect the Mines community. Reporting by a Mines employee will not necessarily result in an official complaint. Rather, the Title IX Coordinator or their designee will discuss all options for resolution with the Reporting Party, assess the information, and determine what action, if any, will be taken. Further, the Title IX Coordinator will determine who within Mines has a need to know about the issue and will inform them of the report. The Mines Title IX Coordinator is:

Karin Ranta-Curran, JD, Associate Vice President - Institutional Compliance, 1600 Jackson Street, Suite 230, Golden, Colorado; Telephone: 303.384.2558; Email: [titleix@mines.edu](mailto:titleix@mines.edu)

The Associate Vice President of Student Life and the Dean of Students will be notified by the Title IX Coordinator if it is believed that formal adjudication and resolution may be requested by the Reporting Party or the circumstances of the report requires formal action by Mines.

**3.4 How to File a Complaint:** Complaints should be made to the Mines Title IX Coordinator or to a Deputy Title IX Coordinator identified on the Mines Title IX website [include link]. During the complaint intake meeting, the Title IX official will obtain some basic information about the incident, provide information about available campus and law enforcement policies and processes, and provide the Reporting Party with information about appropriate resources and support options that are available on campus and in the community. In all cases, the Mines Title IX Coordinator will be notified of the report immediately.

**3.5 Promptness in Filing Complaint:** Individuals who feel they have been subjected to sexual harassment, sexual violence, and/or interpersonal violence may file a complaint at any time, but are encouraged to come forward as soon as possible after the occurrence of the incident. Prompt reporting allows Mines to provide the Reporting Party with support and to conduct a more effective investigation of the allegations.

**3.6 Anonymous Reports and Requests for Anonymity:** Mines accepts any complaint submitted anonymously and any complaint from individuals who identify themselves initially but request anonymity during the investigation and adjudication process. Investigation of anonymous complaints will be thorough and appropriate to the allegations. If a Reporting Party requests anonymity, Mines will investigate and respond to the complaint consistent with the request for anonymity. Specifically, the Title IX Coordinator will consider how to proceed, taking into account the Reporting Party's wishes, Mines' commitment to provide a non-discriminatory environment, and the Responding Party's right to be notified. In some circumstances, the Title IX Coordinator may arrange for limited fact-finding by an investigator to better understand the context of the complaint before advising the Reporting Party regarding whether anonymity can be maintained.

**3.7 Concurrent Criminal Proceedings:**

Certain acts of sexual harassment, sexual violence, and interpersonal violence may constitute both a violation of Mines' policy and a criminal offense. Mines encourages, but does not require, persons to report alleged criminal acts to appropriate law enforcement authorities, even if they choose to pursue a complaint under this procedure.

**3.7.1.** In cases where a Reporting Party is under the age of eighteen (18), Mines officials are required to report allegations of sexual violence and interpersonal violence to appropriate law enforcement agencies. [See Mines Policy for the Protection of Minors].

**3.7.2** The standards for finding a violation of criminal law are different from the standards for finding a violation of Mines' policies; therefore, in some cases the outcomes of a criminal proceeding may not determine whether a violation of Mines' policy has occurred.

**3.7.3.** When a student has been charged with a criminal offense, Mines may impose an emergency interim suspension in order to comply with a criminal protection order and/or to ensure the safety of the Mines campus community. A student who has been suspended on an interim basis may submit a written appeal to the Associate Vice President of

Student Life within ten (10) business days of the interim suspension decision. The appeal must explain why the student believes that the suspension should be lifted or modified. The Associate Vice President of Student Life, or their designee, will render a written decision within ten (10) business days following receipt of the appeal.

**3.8 Confidentiality:** Mines treats all complaints as confidential matters and will make reasonable efforts to protect the confidentiality of the complaint process, any investigation or resolution, and all individuals involved with the complaint process. Individuals considering making a disclosure to a Mines official should understand Mines' requirements concerning privacy and confidentiality. Mines is committed to providing assistance in understanding these issues and helping individuals make an informed decision. Further, Title IX requires Mines to consider the Reporting Party's request for confidentiality in the context of Mines' commitment to provide a reasonably safe and non-discriminatory environment for all community members. Although full confidentiality cannot be guaranteed, Mines will advise the Reporting Party regarding the degree of confidentiality that may be possible and the measures that will be taken to try to ensure this confidentiality. It is important to understand that while Mines will treat information it has received with appropriate sensitivity, Mines officials may nonetheless need to share certain information with those at Mines responsible for stopping or preventing misconduct. It is also important to understand that during a formal investigation, witnesses may be able to determine the identity of the parties (or other witnesses) based on their involvement in the incident leading to the investigation.

**3.9 False Reports/Providing False Information:** It is a violation of the Policy to intentionally submit a false complaint or file a complaint that is not made in good faith. Such violations may be subject to disciplinary action under relevant student and employee policies, handbooks, or codes of conduct. Providing false or misleading information in an investigation is also prohibited and shall be subject to disciplinary action under the relevant student and employee policies, handbooks, or codes of conduct.

**3.10 Immediate Action and Interim Measures:** Depending on the nature of the complaint, Mines reserves the right to take any and all interim measures it deems necessary to protect the Reporting Party, witnesses, the Responding Party and/or the Mines Community. Any interim measures will be implemented in a manner that minimizes the burden on the parties to the extent reasonably possible. Examples of these interim measures may include, but are not limited to the following:

- Issuing "no contact" directives;
- Issuing temporary "no trespassing" directives;
- Temporary suspension of a student's enrollment or participation in campus programs;
- Changes to class schedules
- Reassignment of campus housing;
- Obtaining restraining or similar protective orders through appropriate law enforcement and judicial mechanisms; and
- Providing resources as outlined in Section 8.0 of these procedures

In the event there are reasonable grounds to conclude that an individual poses a threat to Mines Community Members, that individual may be barred from access to campus through written notice by appropriate Mines authorities. A student who has been suspended on an interim basis may submit a written appeal to the Associate Vice President of Student Life within ten (10) business days following the interim suspension decision. The appeal must explain why the student

believes that the suspension should be lifted or modified. The Associate Vice President of Student Life, or their designee, will render a written decision within ten (10) business days following receipt of the appeal.

**3.11. Support Person:** The Reporting Party and the Responding Party may have a support person present at all stages of this process. A support person provides moral support to the party who has requested their presence. A support person may not serve as an advocate, may not be actively involved in any proceedings, and must agree to abide by the prohibition against retaliation, as set forth in these procedures. The Reporting Party and the Responding Party may choose whomever they wish to serve as a support person, subject to the following limitations:

- The support person cannot be a witness to the situation or circumstances giving rise to the complaint.
- In cases involving multiple Reporting Parties or Responding Parties, the support person cannot be another Reporting Party or Responding Party.
- The support person can be an attorney; however, the attorney's role will be limited as outlined in the first paragraph of this section.
- The support person may not be an employee of Mines (a faculty member, administrative faculty member or a classified employee of Mines).
- The support person may be a student at Mines provided that the support person does not have a current position of supervision, authority, or trust over the party who they are supporting.
- Residence Life student staff members may serve as a support person with approval from the Director of Residence Life.
- The support person's schedule cannot delay the process.

#### **4.0 SUPPORT AND RESOLUTION OPTIONS**

When the Title IX Coordinator receives a report, an intake meeting with the Reporting Party will be scheduled within seven (7) calendar days of receipt of the report. The Title IX Coordinator or their designee will conduct the meeting and confirm the Reporting Party has an understanding of the relevant policy and procedures, confirm the Reporting Party is aware of appropriate resources, and answer any questions. The Title IX Coordinator or their designee will then review the options available to the Reporting Party, including:

- reporting to law enforcement,
- seeking support and resources from Mines ("Support Option");
- requesting for informal resolution through this procedure ("Informal Resolution"); and
- filing a complaint for adjudication and resolution through this procedure ("Formal Adjudication and Resolution").

The Reporting Party can choose at any time to switch from the informal resolution process to the formal process. In most situations involving allegations of sexual violence and interpersonal violence, the formal process will be utilized.

In cases where Mines determines that the nature of the incident creates a risk to the greater Mines Community taking into account the nature and severity of the incident or past violations by the Responding Party, the Title IX Coordinator or designee has the authority to initiate the Formal

Adjudication and Resolution process on behalf of the University. In such cases, the Reporting Party may participate in the process to whatever extent the Reporting Party elects to participate.

**4.1 Informal Resolution:** A Reporting Party who wishes to pursue a less formal resolution process may request an “Informal Resolution” as described below. This type of proceeding will not involve an administrative investigation and will not result in a suspension or other significant sanction. Although informal, this is an official Mines resolution process. Please keep in mind that most allegations of sexual violence and interpersonal violence cannot be resolved through this informal process, as it is primarily meant to be a resolution process for cases involving sexual harassment. At any point during the informal process, the Reporting Party may request to move to the formal process.

**4.1.1 Complaints.** Complaints utilizing the informal adjudication and resolution process may be made orally or in writing. There is no required complaint format. However, because the following elements are important to facilitate the resolution process, the Reporting Party is encouraged to provide the following information to the extent possible:

- Name and Mines affiliation (e.g., student, faculty, staff, community member) of the person filing the complaint;
- Name and Mines affiliation (if any) of the Reporting Party;
- Name and Mines affiliation of the Responding Party;
- A statement of the event(s) that are the cause of the complaint, including relevant date(s), location(s), etc.;
- A description of the behaviors or actions upon which the complaint is based; and
- A statement of the Reporting Party’s desired outcome and resolution.

**4.1.2 Purpose and Timing.** Under certain circumstances, an informal resolution process may be appropriate, effective and desirable for a variety of reasons. Further, it may provide a more expedient path to resolution than the formal process entails. The informal resolution efforts will be focused on bringing the Reporting Party’s concerns to the attention of the Responding Party and obtaining the voluntary cooperation of the parties to address and resolve the matter. If a complaint is made informally, the process is expected to be completed in a relatively brief period of time, usually within ten (10) calendar days of the date the complaint is received. If additional time is needed for the informal process, the Title IX Coordinator will communicate this to the Reporting Party and Responding Party in writing, citing the reasons for the additional time and providing an estimated date of completion.

**4.1.3 Process.** If the Reporting Party desires to informally resolve the complaint, the Title IX Coordinator or one of the Deputy Title IX Coordinators will try to resolve the complaint expeditiously to the satisfaction of all concerned. A variety of possible means to resolve the complaint may be used at the discretion of the Title IX Coordinator or Deputy Title IX Coordinator. Examples of the method and means used to try to achieve resolution may include, but are not limited to:

- Having a meeting between the Responding Party and the Title IX Coordinator or a Deputy Title IX Coordinator to communicate receipt of the complaint, obtain Responding Party’s information regarding the complaint and establish a set of behavioral expectations to address the behavior(s) at issue;

- Working with faculty members, coaches, department heads or other employees with whom the Reporting Party is comfortable to address the concerns;
- Providing assistance to supervisory and advisory personnel to assist in addressing the matter with the Responding Party;
- Providing advice to the Reporting Party regarding ways to handle the situation directly; and/or
- Any other mutual agreements between the parties.

## **4.2 Formal Adjudication and Resolution**

When a Reporting Party wishes to pursue a formal resolution process or in cases involving allegations of sexual violence and interpersonal violence, the following process will be utilized. This type of proceeding may lead to administrative sanctions and penalties.

**4.2.1 Purpose and Timing.** The purpose of this process is to provide a formal, structured mechanism for the prompt and fair internal resolution of complaints alleging sexual harassment, or sexual violence. The steps outlined below are the exclusive forum for the internal resolution of complaints regarding the actions of a student at Mines. In most cases, Mines will try to complete the investigation and adjudication processes within 90 calendar days of Mines' receipt of the complaint. However many circumstances can impact that time line and if the investigation will take longer than 90 calendar days, Mines will notify the Reporting Party and Responding Party..

**4.2.2 Formal Adjudication and Resolution Requests.** A request for formal adjudication and resolution must include a written description of the complaint that may be prepared by the Reporting Party. The Title IX Coordinator or a Deputy Title IX Coordinator may assist the Reporting Party in preparing the written description. A Title IX intake form created by the Title IX Office may suffice as a written complaint. There is no required complaint format; however, the following elements are important to facilitate the investigation process:

- Name and Mines affiliation (e.g., student, faculty, staff) of the person filing the complaint;
- Name and Mines affiliation of the parties involved in the complaint, i.e., the alleged Reporting Party and the Responding Party;
- A brief statement of the event or events that are the cause of the complaint, including relevant date(s), locations, etc.;
- Names and Mines affiliation of any witnesses to the event or events;
- A description of the behaviors or actions upon which the complaint is based;
- A statement of any desired outcome and resolution; and

### **4.2.3 Acknowledgment of Request and Notification of Responding Party.**

Within five (5) calendar days following the receipt of the Formal Adjudication and Resolution Request, the Title IX Coordinator will send the Reporting Party written acknowledgement of the complaint, as well as written notification to the Responding Party that will include information concerning the allegations in that complaint that will be the subject of investigation.

**4.2.4 Standard of Proof:** The standard of proof is the amount of evidence needed to establish that a violation of the Policy has occurred. For complaints filed under this procedure, Mines uses a *preponderance of evidence* standard, which means that the evidence demonstrates that it is more likely than not the alleged conduct or policy violation has occurred. The preponderance of the evidence standard is the standard used in all student conduct matters.

#### **4.3 Support Options:**

Mines offers resources to assist Mines students impacted by sexual harassment, sexual violence, or interpersonal violence whether or not they wish to pursue any adjudication or resolution process. Mines will provide support to the impacted parties as reasonable and appropriate to the circumstances. Requests for support should be addressed to the Title IX Coordinator, who will engage with campus departments to arrange for requested support options. Such support may take many forms, including, but not limited to the following:

- Providing referrals for counseling and/or victim's support services;
- Providing referrals for medical services;
- Arranging a party to re-take a course or withdraw from a class without penalty;
- Coordinate class schedules to eliminate or decrease conflicts;
- Moving impacted parties to a different campus housing unit; and
- Providing academic support services, such as tutoring;

### **5.0 COMPLAINT INVESTIGATION PROCESS**

**5.1 Investigators:** Upon receipt of a formal complaint, Mines will designate one or more investigators of its choosing who have specific training and experience investigating allegations of sexual harassment, sexual violence, and interpersonal violence, . Mines will maintain a group of trained internal investigators who are available to investigate complaints. Mines, in its sole discretion, reserves the right to assign the investigation to confidential external investigator(s). All investigators will be impartial fact-finders throughout the investigation process. This means the investigators will be unbiased and will focus solely on evidence and information surrounding the incident(s).

**5.2 Process:** The complaint will be investigated as discreetly and expeditiously as possible with due regard to thoroughness and fairness to all parties. The investigators will examine relevant documents, interview witnesses, and may interview other individuals with relevant information who are identified by the parties. The investigators reserve the right to assess the relevance and evaluate the credibility of witnesses, including those offered by the Reporting Party and the Responding Party.

**5.2.1. Investigation Interviews:** Investigations will normally consist of interviews with the Reporting Party, Responding Party, and factual witnesses who may have knowledge of the alleged behavior, and a review of pertinent communications, electronic records, documents or other available evidence. The investigators may interview other individuals with factual information who are identified by the parties or other witnesses. In all cases, the investigators have the independent authority to evaluate the relevance of witnesses offered

and determine which witnesses will be interviewed. The Investigators are also responsible for assessing the credibility of witnesses interviewed.

**5.2.2. Interviews with Reporting Party and Responding Party:** Under most circumstances, the Investigators will start the investigation by separately interviewing the Reporting Party and Responding Party unless either is unavailable or unwilling to participate. These interviews represent Reporting Party's and Responding Party's opportunity to provide the following information: 1) any topics they would like the investigators to address with the other party; 2) the identity of other witnesses who should be interviewed as a part of the investigation and questions they would like asked of other parties and witnesses; 3) documents they think the Investigators should review; 4) a summary of all allegations; and 5) any other information they want considered by the Investigators during the investigation. The Investigators retain the authority to determine what information offered by Reporting Party and Responding Party will be considered, whether additional interviews are necessary. The Investigators may recall the Reporting Party and the Responding Party to address new information gathered as a part of the investigation.

**5.2.3. Improper Inquiries.** Investigations under this procedure may not include discussion of or inquiry into the Reporting Party's attire on the date of the incident(s) or the Reporting Party's sexual history as a rationale or reason for the sexual harassment, sexual violence, and/or interpersonal violence.

**5.2.4. Confidentiality of Investigative Materials:** The investigators will review any available and pertinent documentation or other evidence. The investigators have the independent authority to evaluate the relevance and credibility of any documentation or other evidence offered by the parties or collected in conjunction with the investigation. All materials and documents prepared or compiled by the investigators during the course of investigating a complaint will be kept confidential to the extent possible.

**5.2.5. Failure to Participate in Investigation:** Failure of the parties to cooperate with an investigation may result in negative ramifications for that individual, as the investigators will issue a report based on the information they were able to gather. If the Responding Party, with appropriate notice, does not participate in the investigation, a disciplinary decision may be reached based on the totality of the information related to the allegations available at the time of the investigation.

**5.2.6. Review Period and Written Evidence Summary.** The following review period will be made available to Reporting Party and Responding Party:

5.2.6.1 After the evidence gathering stage of the investigation is complete (and consistent with FERPA and any other legal requirements), the Investigators will send a written summary that describes the evidence collected in the investigation to Reporting Party and Responding Party for review. Both parties will have five (5) whole business days to review the summary and submit any written comments and/or offer additional information for consideration by the Investigators. During the review period, either party may review the full investigation file (including witness identities) at a location determined appropriate by the Investigators. The file review

is limited to reviewing the file and neither party may copy any portion of the investigation file. This step is voluntary and neither party is required to participate.

5.2.6.2. After reviewing any comments and/or information provided by Reporting Party or Responding Party, the Investigator, in their sole discretion, may conduct further investigation as deemed appropriate and necessary. If the Investigators determine that further investigation is not required, the parties will be notified in writing with a brief explanation of why no further investigation is warranted. If the Investigators determine additional investigation is warranted, the parties will be notified in writing of the nature, scope and timeframe of the additional investigation inquiries. Following such additional investigation, the Investigators will send a revised written summary of the evidence to both parties for review and the parties will have three (3) business days to review the revised summary and submit any additional written comments and/or information for consideration by the Investigators. Neither party should reiterate the same information provided during the first review.

5.2.6.3 At the conclusion of the review period, the Investigators will complete a comprehensive investigation report including making factual findings and determining whether a preponderance of the evidence supports a finding that a policy violation occurred.

**5.2.7. Report of Investigation Findings:** The investigation report will be submitted to the Case Review Panel and to the Mines Legal Services Office.

**5.2.8 Case Review Panel.** The Case Review Panel (“CRP”) will be made up of the Associate Vice President of Student Life, the Dean of Students, and the Title IX Coordinator. Mines will also maintain a list of trained alternate members of the CRP.

The CRP will review the investigation report for due process concerns, including whether this process was followed, that the conclusions do not appear arbitrary or capricious and that there is no apparent evidence of bias on the part of investigators. At its sole discretion, the CRP can request clarification of information from the Investigators, request additional investigation, address due process concerns, or determine that the investigation is complete and ask the Investigators to finalize the report. The final investigation report will then be sent to the parties.

After the final investigation report is completed the CRP panel will review the final investigation report. If the final investigation report includes a finding of responsibility, the CRP will make recommendations regarding a range of sanctions to the Vice President of Student Life or their designee.

**5.2.9. Decision and Resolution of the Complaint:** Following receipt and review of the final investigation report, the Vice President of Student Life (or their designee) will issue a written decision regarding the complaint simultaneously to both the Reporting Party and the Responding Party. The written decision will contain a statement of whether the Responding

Party has been found responsible for any violation of the Policy. The Responding Party will also be informed of any sanctions to be imposed. The Reporting Party will be informed of any individual remedies provided, and of any sanctions to be imposed that directly relate to Reporting Party. The completion of the written report of findings and the issuance of Mines' decision will normally be completed within 20 calendar days from the date the final investigation report is issued to Reporting Party and Responding Party.

**5.2.10. Sanctions:** All decisions regarding sanctions will be made by the Vice President of Student Life. Both the Reporting Party and Responding Party may provide input to the Vice President of Student Life regarding the nature and severity of the sanctions during the Review Period as outlined in Section 5.3.6 above. Sanctions for engaging in sexual harassment, sexual violence, or interpersonal violence are limited by Mines institutional authority and many sanctions imposed under a criminal complaint are not available under Mines' policies and procedures. Sanctions imposed by Mines may include, but are not limited to, the following:

- participation in relevant awareness and prevention training programs or seminars;
- oral reprimand and warning;
- written reprimand and warning;
- student probation,
- suspension,
- expulsion;
- educational sanctions;
- removal from or reassignment within campus housing;
- limitations on campus employment;
- limitations on participation in Mines-related activities;
- restitution; and
- Prohibition of entering the Mines campus or attending Mines' sponsored events.

Sanctions will be based on the severity of the infraction. For example, sanctions for non-consensual sexual acts involving penetration will likely involve the most severe sanctions, including suspension and expulsion.

**5.2.11. Records Retention.** The Title IX Coordinator is the custodian of all records of sexual violence, sexual harassment, and interpersonal violence complaints filed under the Policy, including documentation regarding complaint investigation and internal adjudication.

## **6.0 PROHIBITION AGAINST RETALIATION**

The Policy and this Procedure prohibit retaliation against any individual for:

- reporting an allegation of sexual harassment, sexual violence, or interpersonal violence;
  - providing information or acting as a witness in an investigation or another proceeding related to such allegations;
  - otherwise cooperating in an investigation or another proceeding related to such allegations;
- or

- opposing sexual harassment, sexual violence, or interpersonal violence.

Complaints or instances of retaliation shall be addressed as separate alleged Policy violations.

## 7.0 AVAILABLE RESOURCES

Resources are available at Mines and in the surrounding community to assist those who have been impacted by sexual harassment, sexual violence, or interpersonal violence. Mines will provide support to the Reporting Party, Responding Party, any other impacted parties it identifies during the course of its investigation, and the Mines campus community as reasonable and appropriate to the circumstances. Such support may take many forms, including, but not limited to the following:

- Providing referrals for counseling and/or victim's support services;
- Providing referrals for medical services;
- Arranging a party to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Reporting Party's academic record;
- Coordinate class schedules for the Reporting Party and the Responding Party to eliminate or decrease conflicts;
- Providing escorts to parties so they can transition between classes and activities without risk of running into the other party;
- Moving the Reporting Party or Responding Party to a different campus housing unit;
- Providing academic support services, such as tutoring;
- Assignment of a Process Advisor;
- Additional campus-wide, office or department specific training; and
- Any other steps Mines determines are reasonable and appropriate given the circumstances.

## 8.0 DEFINITIONS AND RELEVANT TERMS

**Coercion:** The intimidation of a victim to compel an individual to do some act against their will by the use of psychological pressure, physical force, or threats.

**Consent:** Positive, unambiguous, and voluntary agreement to engage in specific sexual activity throughout a sexual encounter. It is critical to note the nuances of consent:

- Consent cannot be inferred from the absence of a "no."
- Consent cannot be inferred in the context of a current or previous sexual relationship.
- Consent to some sexual acts does not imply consent to others.
- Past consent to a given act does not imply or grant present or future consent.
- Consent must be ongoing throughout a sexual encounter and can be revoked at any time.
- Consent cannot be obtained by fear, threat, coercion, intimidation, and/or force.
- Consent cannot be obtained from someone who is asleep or otherwise mentally or physically incapacitated, unconscious, or incapable of understanding the sexual activity that is occurring whether due to alcohol, drugs, or some other condition.

**Dating violence:** An act or threatened act of violence (physical, sexual or verbal) committed by an actor who is or has been in a romantic/intimate relationship with the victim, as determined based on the length of the relationship, type of relationship and the frequency of interaction between the persons in the relationship. (Note: Colorado law includes dating violence in its definition of domestic

violence.)

**Domestic violence:** An act or threatened act of violence upon a victim with whom the actor is or has been involved in an intimate relationship. Domestic violence also includes any other crime against a victim, or against property, including an animal, when used as a method of coercion, control, punishment, intimidation, or revenge directed against a victim with whom the actor is or has been involved in an intimate relationship. Intimate relationships include those between a current or past sexual relationship between spouses, former spouses, past or present unmarried individuals, or individuals who share a child or children regardless of whether the persons have been married or have lived together at any time.

**Interim Measure:** a range of resources, support services, and measures to protect the safety and well-being of the Reporting Party and the Responding Party, as well as the Mines community and to promote an accessible educational environment.

**Interpersonal Violence:** This term is used as an umbrella term for domestic violence, dating violence, and stalking.

**Mines Community Member:** A person who has an affiliation with Mines through education, employment, or other statuses. Mines Community Members include students, faculty members, and staff members.

**Process Advisor:** a resource for students who are involved in cases of alleged sexual harassment, sexual violence, and/or interpersonal violence. Staff members who serve as process advisors are trained to provide support, guidance, and information about investigation and adjudication process. They offer thorough, step-by-step assistance to students on an individual level. Process Advisors are not confidential resources.

**Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person without the consent of the victim.

**Reporting Party:** A Mines Community Member who believes he or she has been subjected to a violation of the Policy; or a Mines Community Member who files a complaint on behalf of another Mines Community Member who they believe may have been subjected to a violation of the Policy. Under Colorado statutes, the Reporting Party may also be referred to as “the victim.”

**Responding Party:** A Mines Community Member or third party who is alleged to have violated the Policy. Under Colorado statutes, the Responding Party may be referred to as “the actor.”

**Retaliation:** Situations where someone adversely impacts a Mines Community Member for:

- reporting an allegation of sexual harassment, sexual violence, or interpersonal violence;
- providing information or acting as a witness in an investigation or another proceeding related to such allegations;
- otherwise cooperating in an investigation or another proceeding related to such allegations; or
- opposing sexual harassment, sexual violence, or interpersonal violence.

**Sexual assault:** In Colorado, the criminal statutes prohibiting sexual assault include rape as a form of sexual assault. The statute provides that a person commits sexual assault if the person knowingly inflicts sexual intrusion or penetration on a victim without consent. Specific examples of sexual assault that are relevant to a campus like Mines include, but are not limited to:

- the actor causes the victim to submit by means of sufficient consequence reasonably calculated to cause submission against the victim's will;
- the actor knows that the victim is incapable of appraising what is occurring;
- the actor knows that the victim erroneously believes the person is the victim's spouse;
- at the time of the commission of the act the victim is less than 15 and the actor is at least 4 years older than the victim and is not the spouse of the victim;
- the actor has authority over the victim and uses their position of authority to coerce the victim; or
- the actor, while purporting to offer some medical service, engages in some sort of treatment or examination for some other reason than a bona fide medical purpose.

**Sexual contact:** The knowing touching of the victim's body by the actor if that contact is for the purpose of sexual arousal, gratification, or abuse.

**Sexual exploitation:** When the actor knowingly observes or takes an image or recording of the victim's intimate body parts without the victim's consent when the victim has a reasonable expectation of privacy, and the observation or the image or recording is for the actor's own sexual gratification. Sexual exploitation also occurs if the actor shares or publishes visual image or recording of sexual activity, nudity, or suggestive activity without the consent of all recorded parties and recipients

**Sexual harassment:** includes both *quid pro quo* and hostile environment harassment and is defined as unwelcome conduct of a sexual nature, without regard to the gender of the individuals involved, including unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) either explicitly or implicitly, submission to such conduct is made a term or condition of an individual's employment or educational endeavors; (2) submission to or rejection of such conduct is used as the basis for employment or educational decisions; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, or creating an intimidating, hostile, or offensive working or educational environment.

***Quid pro quo* sexual harassment:** Submission to or rejection of unwelcome conduct of a sexual nature made explicitly or implicitly a condition of an individual's employment or academic progress, or is used as the basis for employment decisions or for academic evaluation. *Quid pro quo* harassment occurs regardless of whether the victim submits or resists the threatened harm or the promised benefit.

***Hostile environment* sexual harassment:** Unwelcome conduct of a sexual nature sufficiently severe, persistent, or pervasive that it interferes with or limits a person's ability to participate in or benefit from educational or work-related programs. A hostile environment can be created by persistent or pervasive conduct or by a single severe episode. Whether the conduct creates a hostile work or learning environment is determined based on the totality

of the circumstances. Examples of behavior that may create a hostile environment that violates the policy include, but are not limited to:

- Repeated verbal or physical sexual advances;
- Repeated lewd, suggestive or otherwise inappropriate comments about another person's appearance;
- Intentional inappropriate physical contact with another person's body;
- Repeated requests for sexual favors;
- Repeated lewd or sexually suggestive comments, jokes, innuendoes, or gestures;
- Stalking;
- Observing, photographing, videotaping or making other visual or auditory records of sexual activity, nudity or suggestive activity where there is a reasonable expectation of privacy and without the consent of all parties;
- Sharing or publishing visual or auditory records of sexual activity, nudity or suggestive activity without the consent of all recorded parties and recipients; and
- Other verbal, nonverbal, graphic, or physical conduct may also create a hostile environment if the conduct is sufficiently persistent, pervasive, or severe.

**Sexual violence:** Violence including physical, sexual acts perpetrated without the mutual consent of all people involved or when the person is incapable of giving legal consent (e.g., due to a person's age, use of drugs or alcohol, or because an intellectual or other disability prevents the person from having the capacity to give consent). Sexual violence includes rape, sexual assault, unlawful sexual conduct (including sexual battery, sexual abuse, and sexual coercion) and sexual exploitation.

**Stalking:** Conduct directed at a specific person that would cause a reasonable person to fear for his/her safety or the safety of others or suffer substantial emotional distress. Forms of stalking include:

- Making a credible threat to another person and repeatedly following, approaching, contacting, or surveilling that person or a friend or a member of that person's immediate family;
- Making a credible threat to another person and repeatedly communicating in any form that person or a friend or a member of that person's immediate family; or
- Repeatedly following, approaching, contacting, surveilling, or communicating with another person, or a friend or a member of that person's immediate family 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

**Support Person:** A person chosen by the Reporting Party or the Responding Party to provide morale support through the investigation and adjudication processes.

**Title IX Coordinator/ Deputy Title IX Coordinators:** The Title IX coordinator is the Mines employee who is mainly responsible for Mine's Title IX compliance efforts, specifically it's response to incidents of sexual harassment and sexual violence. Deputy Title IX Coordinators work with the Title IX Coordinator in discreet areas of the Title IX processes.

**Trauma-Informed Investigation:** A method of investigation that takes the neurobiological impacts of trauma into account, specifically considering:

- How experiences impact survivor memory, reactions and behavior
- How investigator interpretation of this behavior impacts sexual assault investigations
- Survivor disclosure often occurs in pieces over time
- Impacts of physical, psychological and sensory evidence

**Unlawful Sexual Conduct, including sexual battery, sexual abuse, and sexual coercion:** In Colorado, these offenses that do not involve intrusion or penetration but involve sexual contact without consent. Unlawful sexual conduct occurs when the actor knowingly subjects the victim to any sexual contact if:

- the actor knows the victim does not consent;
- the actor knows the victim is incapable of appraising what the actor is doing (mental incapacity);
- the actor knows that the victim is physically helpless and that the victim has not consented (physical incapacity),
- the actor has substantially impaired the victim's power to control the actor's behavior by using alcohol or drugs (mental or physical incapacity); or
- the actor engages in treatment or examination of the victim for other than bona fide medical purposes.

**HISTORY:**

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