### Policy Title:
**SEXUAL MISCONDUCT AND GENDER-BASED DISCRIMINATION**

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### Policy Owner:
Vice President for Student Affairs

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SECTION 1. POLICY STATEMENT & PURPOSE

Colorado State University is committed to providing an environment that respects the dignity and worth of every member of its community. To this end, the University prohibits Sexual Misconduct and Gender-Based Discrimination by or against any member of or visitor to the CSU community.

The University will respond to reports or information about such incidents and will work to stop the inappropriate behavior, eliminate any hostile environment, and take steps to prevent the recurrence of the prohibited conduct while respecting the rights of all involved.

CSU is required to comply with applicable state and federal statutes, including Title IX of the federal Higher Education Amendment of 1972, which prohibits discrimination on the basis of sex in any education program or activity receiving federal financial aid. Sexual assault and sexual harassment are forms of sex discrimination prohibited by Title IX.

The purpose of this policy is to further the University's goals of eliminating these types of misconduct and providing resources to those impacted by such incidents. The policy will describe the procedures and options for reporting policy violations and identify resources available to members of the University community who are impacted by such conduct.

SECTION 2. DEFINITIONS USED IN THIS POLICY

Consent: Consent is defined in Colorado Revised Statutes § 18-3-401 as “cooperation in act or attitude pursuant to an exercise of free will and with knowledge of the nature of the act... Submission under the influence of fear shall not constitute Cconsent.” Under this policy, consent must be knowing, voluntary, active, present and ongoing. Consent is described in more detail in Section 4 below.

Gender-Based Discrimination: Gender-Based Discrimination means any action that denies opportunities, privileges, or rewards to a person or a group because of their gender, gender identity or expression, or sexual orientation. Discrimination based on pregnancy is also Gender-Based Discrimination.

Gender or Gender Identity is one’s concept of self as a man, woman, a blend of both or neither. Gender identity is not contingent upon the individual’s biological sex. Gender identity has no bearing on the individual’s sexual orientation.

Impacted Party (sometimes referred to as a “Complainant”): An individual or a group of individuals who reports being the subject or target of alleged Sexual Misconduct and/or Gender-Based Discrimination.

Relationship Violence: Relationship violence means violence including, but not limited to, verbal abuse, mental/psychological/emotional abuse, physical violence, sexual violence, intimidation, and threats of violence committed by one person against another in an intimate relationship. It is sometimes referred to as either dating violence or domestic violence.
Dating violence means violence or the threat of violence by a person who is or has been in a social relationship of a romantic or intimate nature with the impacted party.

Domestic violence includes crimes of violence committed by someone who is a(n):
- Current or former spouse or partner of the victim
- Person with whom the victim shares a child in common
- Person who is cohabitating with or has cohabitated with the victim as a spouse or partner
- Person similarly situated to a spouse of the victim under the domestic or family violence laws of Colorado
- Other person when the crime is committed against a victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction

Responding Party: A Responding Party is an individual or group of individuals alleged to be responsible for an incident(s) of Sexual Misconduct and/or Gender-Based Discrimination.

Responsible Employee: Any CSU employee who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX Coordinator or other appropriate University designee; or whom a student could reasonably believe has this authority or duty. At CSU, this includes:

- All instructors, including full-time professors, adjuncts, lecturers, adjunct instructors, and any others who offer classroom instruction or office hours to students;
- All advisors, including faculty advisors;
- All coaches, trainers, and other athletic staff that interact directly with students;
- All student affairs administrators;
- All University Housing staff;
- Employees who work in offices that interface with students;
- All supervisors and university officials; and
- Student employees in one of the above positions or when acting as mentors

Retaliation is any action, performed directly or through others, that is aimed to deter a reasonable person from engaging in a protected activity or is done in retribution for engaging in a protected activity. The University strictly prohibits retaliation against any member of the community for reporting an incident or participating, in any manner, in an investigation or hearing related to a report of sexual misconduct or gender-based discrimination. Examples of actions that could constitute retaliation when done in bad faith or without reasonable cause include, but are not limited to:

- Reducing a person’s salary or work hours;
- Giving a negative performance evaluation;
• Making adverse decisions relating to one’s work assignments, vacation, or promotion or advancement opportunities (whether employment-related or academic);
• Reducing a student’s grade;
• Removing a person from a student organization, academic program, or lab;
• Interfering with one’s job search;
• Engaging in harassing conduct that is sufficiently severe, pervasive, and/or persistent to create a hostile environment; for this purpose, the existence of a hostile environment is to be judged both objectively (meaning a reasonable person would find the environment hostile) and subjectively (meaning the affected individual felt the environment was hostile); or
• Making threats to engage in any of the actions listed above.

Sexual Assault/Non-Consensual Sexual Penetration (Rape): Any penetration, no matter how slight, of the vagina, anus, or mouth by any body part or object, that is without Consent. This includes:

• Vaginal, oral and/or anal penetration by a penis, tongue, finger, or object
• Oral copulation (mouth to genital contact or genital to mouth contact)

Sexual Assault/Non-Consensual Sexual Contact (Groping/Fondling) is the touching of the intimate body parts of another person without the Consent of the person, including instances where the person is incapable of giving Consent because of their age or temporary or permanent mental incapacity. This type of Sexual Assault also includes making a person touch themselves or another with, or on, any intimate body parts. It can occur whether those involved are clothed or unclothed.

Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another. Sexual Exploitation includes, but is not limited to:

• Prostituting another person
• Voyeurism (secretly viewing the sexual activities or nudity of others)
• Exhibitionism (compulsive display of one’s genitals in non-consensual circumstances; masturbation in front of others; flashing someone with a sexual or other intimate body part)
• Non-consensual photographing or videotaping another individual’s personal body parts (clothed or unclothed)
• Non-consensual video or audio-taping of sexual activity
• Non-consensual possession, sharing, or streaming of images, photography, video, or audio recording of sexual activity or nudity, or distribution of such without the knowledge and Consent of all parties involved
• Allowing a third-party to observe consensual sexual activity without the knowledge and Consent of all parties involved
• Knowingly transmitting a sexually transmitted infection, a sexually transmitted disease, or HIV to another person
• Inducing incapacitation to make another person vulnerable to non-consensual sexual activity and/or to make another person expose their genitals

Sexual Harassment is unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal or physical conduct of a sexual or gender-based nature when:

a. *Quid Pro Quo*: A person submits to such conduct implicitly or explicitly for employment decisions, academic evaluation, grades or advancement, or other decisions affecting participation in a University program; or
b. *Hostile Environment*: Such conduct is sufficiently severe or pervasive that it unreasonably denies, adversely limits, or interferes with a person’s participation in or benefit from the education, employment or other programs and services of the University and creates an environment that a reasonable person would find to be intimidating or offensive.

Sexual Harassment may occur between individuals regardless of their genders or gender identities. Examples of Sexual Harassment can include, but are not limited to:

• Making sexist, transphobic, or homophobic remarks
• Gender-based bullying, including towards trans and non-binary people
• Direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendations
• Direct propositions of a sexual nature
• Subtle pressure for sexual activity, an element of which may be repeated requests for private meetings without an academic and employment purpose
• A pattern of conduct that would discomfort or humiliate a reasonable person, that includes one or more of the following: (1) unnecessary touching, patting, hugging, or brushing against a person’s body; (2) remarks of a sexual nature about a person’s clothing or body, whether or not intended to be complimentary; (3) remarks about sexual activity or speculations about previous sexual experience; (4) other comments of a sexual nature, including sexually explicit statements, questions, jokes or anecdotes; or (5) letters, notes or electronic mail containing sexual comments, words or images
• Visual displays of sexually-oriented images outside the educational context

*Sexual Misconduct* means Sexual Assault, Sexual Harassment, Sexual Exploitation, Statutory Rape, Relationship Violence, Stalking, and/or Retaliation.

*Stalking*: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others or suffer substantial emotional distress.
For the purposes of this definition:

Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the impacted party.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling, or cause a serious disruption of one's personal, academic or working life.

Examples of Stalking behavior include, but are not limited to:

- Non-consensual communication, including face-to-face communication, telephone calls, voice messages, e-mails, texts, letters, notes, gifts, or any other communications that are undesired and place another person in fear
- Surveillance or other types of observation, including staring or “peeping”
- Pursuing, following, waiting, or showing up uninvited at or near a residence, workplace, classroom, or other places frequented by the victim
- Defamation (disseminating false information to others about another)
- Gathering information, or asking others to gather information about an individual from friends, family, or co-workers
- Threats to harm self or others
- Vandalizing a person’s property
- Cyber-stalking--the repeated use of electronic communication to harass or frighten someone through use of online, electronic, or digital technologies, such as:
  - Unauthorized posting of pictures, messages, and/or information about the Impacted Party on websites, internet sites, social networking sites, mobile apps (e.g., Snapchat, Instagram, etc.), bulletin boards and/or chat rooms
  - Creating a website about the victim
  - Sending unwanted/unsolicited email, texts, talk, or communication requests (e.g., Facebook friend requests)
  - Posting private or public messages on Internet sites, social networking sites, and/or bulletin boards
  - Using Global Positioning Systems (GPS) to monitor a victim
  - Installing surveillance equipment, hardware, or software (ie., spyware, cameras) on a victim’s computer or other device
  - Catfishing: falsifying your identity in order to gain access to or trust of another person or trick someone into a relationship

Statutory Rape is sexual penetration with a person who is under the statutory age of consent. The age of consent varies according to the ages of the parties. See C.R.S. 18-3-402.
SECTION 3. PROHIBITED CONDUCT

University prohibits Gender-Based Discrimination and Sexual Misconduct, as those terms are defined in this policy, by or against any member of or visitor to the CSU community. It is also prohibited to knowingly make false accusations against another of violating this policy. A finding of no responsibility with respect to an allegation of misconduct is not the equivalent of showing a knowingly false accusation.

SECTION 4. CONSENT

It is the responsibility of every individual to ensure they have the Consent of the others to engage in sexual activity. Communication regarding Consent consists of mutually understandable words or actions that indicate an unambiguous willingness to engage in specific sexual activity at the same time, in the same way. In the absence of clear communication or outward demonstration, there is no Consent. Lack of protest, lack of resistance, or silence do not alone constitute Consent.

Consent must be all of the following:

- **Knowing**: All individuals understand, are aware of, and agree as to the “who” (same partners), “what” (same acts), “where” (same location), “when” (same time), and “how” (the same way and under the same conditions) of the sexual activity.
- **Active**: Consent must take the form of “clearly understandable words or actions” that reveal one’s expectations and agreement to engage in specific sexual activity. This means that silence, passivity, submission, or the lack of verbal or physical resistance (including the lack of a “no”) should not – in and of themselves – be understood as consent. Consent cannot be inferred by an individual’s manner of dress, the giving or acceptance of gifts, the extension or acceptance of an invitation to go to a private room or location, or going on a date.
- **Voluntary**: Consent must be freely given and cannot be the result of respondent’s intimidation (extortion, menacing behavior, bullying), coercion (severe or persistent pressure causing fear of significant consequences from respondent if one does not engage in sexual activity), force (violence, physical restraint, or the presence of a weapon), threats (indications of intent to harm, whether direct or indirect), or fraud (misrepresentation or material omission about oneself or the present situation in order to gain permission for sexual or intimate activity).
- **Present and Ongoing**: Consent must exist at the time of the sexual activity. Consent to previous sexual activity does not imply consent to later sexual acts; similarly, consent to one type of sexual activity does not imply consent to other sexual acts. Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person.
Consent may also be withdrawn at any time, provided the person withdrawing consent makes that known in clearly understandable words or actions. Thus, even if a person agreed to a sexual interaction or continued sexual interaction, that person has the right to change their mind, at any time, irrespective of how much sexual interaction may have already taken place.

Consent to any one form of sexual activity does not imply Consent to any other forms of sexual activity. The existence of a dating relationship or past sexual relations between the individuals involved should never by itself be assumed to be an indicator of Consent (nor will subsequent sexual relations or dating relationship alone suffice as evidence of previous Consent).

**Force and Coercion**

Consent obtained through force or coercion is not valid Consent. Force is the threat or use of violence and/or imposing on someone physically to gain sexual access.

Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure exerted to obtain Consent. When someone has not indicated clearly that they want to engage in sexual activity or, indicates that they want to stop or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point is coercive. Coercion occurs when a person exerts power or influence over another in order to gain consent to engage in sexual activity.

Resistance is a clear demonstration of non-consent; however, there is no requirement that a party resist a sexual advance or request. Physical trauma is not required to investigate accusations of non-consensual sex.

**Incapacitation**

Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the physical or mental capacity to give knowing Consent (i.e., to understand the “who, what, when, where, why and how” of their sexual interaction).

Because alcohol or other drug use can place an individual’s capacity to Consent into question, sober sex is less likely to raise such questions. When alcohol or other drugs, including rape-facilitating drugs (such as Rohypnol, Ketamine, GHB, etc.), are involved, a person will be considered unable to give Consent if they cannot fully understand the details of a sexual interaction because they lack the capacity to reasonably understand the situation. Administering a rape-facilitating drug to another individual is a violation of this policy. More information on these drugs can be found at [http://www.911rape.org/](http://www.911rape.org/).

This policy also prohibits sexual activity with a person whose incapacity results from mental or physical disabilities, sleep, unconsciousness, or involuntary physical restraint.

Lack of Consent is not excused when:
• The Responding Party’s belief in affirmative Consent arose from their own intoxication or recklessness; or
• The Responding Party did not take reasonable steps under the circumstances to determine whether the Impacted Party Consented to sexual activity.

Consensual Relationships Involving CSU Employees

The University has a policy defining Consensual Relationships and providing procedures to be followed when such relationships arise between students and faculty or other employees, or between employees. When the policy on Consensual Relationships is violated, a violation of this policy may also result.

SECTION 5. JURISDICTION & APPLICABILITY

Members of the University Community

All University community members are prohibited from engaging in or assisting another’s engagement in conduct that would violate this policy. This includes, without limitation, all students, faculty, employees, and affiliates.

Non-Members of the University Community

Employees and agents of contractors, visitors to the University, and others over whom the University does not have authority to take corrective or disciplinary action (“third parties”) are also expected to comply with this policy when:

• The conduct occurs on university property, in the context of university employment or education program or activity, including, but not limited to, university-sponsored academic, athletic, extracurricular, study abroad, research, on-line or internship programs or activities; or
• The conduct occurs off university property and outside the context of a university employment or education program or activity but has a continuing adverse effect on or creates a hostile environment for students, employees, or third parties while on university property or in any university employment or education program or activity.

When the prohibited conduct is by an individual or external entity (such as an employer, a person employed by an outside contractor, program provider, or internship provider) doing business with the University, the University may terminate its contract and relationship with the individual or entity.

SECTION 6. THE ROLE OF THE TITLE IX COORDINATOR

CSU has appointed a Title IX Coordinator and Deputy Title IX Coordinators to oversee and coordinate its compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq. (Title IX), and its implementing regulations, 34 C.F.R. Part 106. Title IX prohibits discrimination on the basis of sex in education programs or activities by
recipients of federal financial assistance. The University’s Title IX Coordinator oversees the University's compliance with Title IX, including its policy, procedures, education and prevention efforts, and coordinates training for members of the CSU community. The Title IX Coordinator also monitors Title IX investigators and reviews information about all forms of Sexual Misconduct and Gender-Based Discrimination occurring in the University community in order to identify and address systemic problems that arise from complaints. In so doing, the Title IX Coordinator provides appropriate resources and interim measures to those involved in a complaint or investigation.

The Title IX Coordinator is available to meet with any member of the University community or campus organization that would like to make a report involving matters of Sexual Misconduct and Gender-Based Discrimination, discuss reporting options, and to answer questions about the University’s Title IX compliance, efforts, policy and procedures.

**Deputy Title IX Coordinators**

Deputy Title IX Coordinators provide support for the University and the CSU community on Title IX-related matters and concerns and answer questions about Title IX policy, procedures, and resources.

Contact information for the Title IX Coordinator and Deputy Title Coordinators is found below under How to Report.

**SECTION 7. DUTY TO REPORT & REPORTING OPTIONS**

Any member of the CSU community who has witnessed, suspects, or is aware of any incident involving conduct prohibited by this policy is strongly encouraged to report it to the Title IX Coordinator or a Deputy Title IX Coordinator (see How to Report, below).

A “Responsible Employee” is defined above in this policy. Responsible Employees have special responsibilities with respect to reporting incidents of misconduct. All Responsible Employees must report incidents of prohibited conduct to the Title IX Coordinator or a Deputy Title IX Coordinator within 24 hours after becoming aware of the incident (see How to Report, below).

**Privacy and Sharing of Information**

The University will protect the identity of persons involved in reports of sexual misconduct to the best of its ability. The University will only share personally identifiable information with those who have a legitimate need to know in order for the University to investigate and respond or to deliver resources or support services. The University does not publish the names or post identifiable information about persons involved in a report of sexual misconduct in the CSU Police Department’s Daily Crime Log or elsewhere online. However, the University cannot promise complete confidentiality or privacy in the handling of sexual
misconduct reports. For those seeking completely confidential services and support, see Confidential Support Options below.

How to Report

Non-confidential reports may be made to the Title IX Coordinator or Deputy Title IX Coordinators whose contact information is located on the Title IX Office website. To reach the Title IX Office, call 970-491-7407. For incidents involving employees of the University (non-students), contact the Office of Equal Opportunity at 970-491-5836 or visit OEO.colostate.edu.

When an emergency exists such as a person needing immediate medical attention or a crime in progress, call 911 from any phone and provide the dispatcher with your location.

Reports may also be made online on the Student Resolution Services website under Create an Incident Report.

Law Enforcement Reporting Options

In an emergency or to report a crime in progress dial: 9-1-1. To report a crime that is not in progress or whenever police assistance is needed in a non-emergency, call CSU Police at 970-491-6425, day or night.

CSU Police Department
Phone: (970) 491-6425 (non-emergency)
In-Person: 750 Meridian Street, Campus Police- Green Hall
Online (Anonymous): https://police.colostate.edu/reportcrimeanonymous/
Online (NON-emergency): https://police.colostate.edu/crime-reporting/

Fort Collins Police Services
Phone: (970) 221-6540 (non-emergency)
In-Person: 2221 S. Timberline Road, Fort Collins
Monday through Friday 8 a.m. – 6 p.m.
Saturday and Sunday 8 a.m. – 2 p.m.

Larimer County Sheriff’s Office
2501 Midpoint Dr, Fort Collins, CO 80525
Phone: (970) 416-1985

Clery Act Crime Reporting

Actions or conduct that occur in geographical locations defined under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act") and that constitute crimes defined under the Clery Act will be reported without personally identifying information by CSU to the U.S. Department of Education to be included within
the annual crime statistics reported by the University to students, employees, prospective students and employees, parents of students and prospective students, and the public.

Other University Reporting Options (Non-Confidential)

Tell Someone
(970)491-1350
Website:
http://supportandsafety.colostate.edu/tellsomeone

Bias Incident Report
Website:
https://dsawptest4.colostate.edu/biasreport

Student Resolution Center Incident Report
Website:

Confidential Support Options

Individuals who wish to seek advice or assistance or to discuss options for addressing Sexual Misconduct and Gender-Based Discrimination confidentially may do so by speaking with licensed counselors, clergy, medical providers in the context of providing medical treatment, and interpersonal violence advocates and counselors who specialize in IPV trauma. Students, staff, and faculty who wish to speak to someone on a strictly confidential basis may contact the following confidential resources:

On-Campus Confidential Support

Victim Assistance Team (VAT): Women and Gender Advocacy Center:

Confidential Victim Advocates are available to provide crisis intervention and emotional support through the Women and Gender Advocacy Center. Advocates in the office are full time staff members dedicated to working with students of all genders who have experienced trauma. Advocates provide information about academic, legal, medical, emotional, and student conduct resources available to survivors of sexual assault, relationship violence and stalking. Advocates can also offer support to secondary survivors, such as intimate partners, friends, and family.

All information shared with advocates is confidential unless the person is a danger to themselves, someone is in imminent danger, a child currently under 18 has been abused or if the perpetrator is currently in a position of power over minors (even if the survivor is over the age of 18).

Location for drop-in or appointment:
112 Student Services (corner of Libby Coy Way and University)
Monday – Friday, 8am-5pm.
Phone: 970-492-4242 (24-Hour Hotline)
Phone: 970-491-6384 (WGAC Office)
Email: wgac@colostate.edu
Website: https://wgac.colostate.edu/support/about-advocacy/

**CSU Health and Medical Center Counseling Services**
Provides counseling and spiritual care services.
Location for drop-in or appointment:
151 W. Lake St., 3rd Floor
(corner of College Ave. and Prospect Rd.)
Monday – Friday, 8am-5pm.
Phone: 970-491-6053
Phone: 970-491-7111 (After-hours)
Website Information to Make an Appointment:
https://health.colostate.edu/make-a-counseling-appointment/

**Women’s Care Services at CSU Health Network**
Provides care services, including, but not limited to, women’s examinations, birth control counseling, and sexual transmitted infection (STI) testing, counseling, and treatment.
Location for drop-in or appointment:
151 W. Lake St., 2nd Floor
(corner of College Ave. and Prospect Rd.)
Monday – Friday, 8am-5pm.
Phone: 970-491-1754
Website: https://health.colostate.edu/womens-care/

**Off-Campus Confidential Support**

**Sexual Assault Victim Advocate Center (SAVA)**
Provides counseling, crisis intervention, and advocacy services.
Phone: 970-472-4200 (24-Hour Rape Crisis Hotline)
Phone: 970-472-4204 (Fort Collins Office)
Website: http://savacenter.org/

**Crossroads Safehouse**
Provides counseling, crisis intervention, and advocacy services for individuals experiencing dating violence or domestic violence.
Phone: 970-482-3502 (24-Hour Crisis Hotline)
Phone: 970-530-2353 (Fort Collins Office)
Website: http://www.crossroadssafehouse.org/
SECTION 9. PROCEDURES

CSU has adopted procedures to implement this policy and to govern the conduct of investigation and hearing procedures for complaints of Sexual Misconduct and Gender-Based Discrimination.

Procedures when the Responding Party is a CSU student follow the Student Conduct Code.

Procedures when the Responding Party is a CSU employee (faculty, staff, student employee or other) are prescribed by the Office of Equal Opportunity.

SECTION 10. COMPLIANCE WITH THIS POLICY

Compliance with this policy is required of every member of the University community and all others who are subject to it. When an individual is found to have violated this policy, consequences will result, up to and including dismissal from CSU in accordance with the applicable procedures. Any disciplinary action for a tenured faculty member must follow the procedures outlined in Section E.15, Disciplinary Action for Tenured Faculty, of the Faculty and Administrative Professional Manual.

[We should list here all possible sanctions].

SECTION 11. REFERENCES AND LEGAL AUTHORITY

C.F.R. Parts 106.51-106.61


- Colo. SB19-007, C.R.S. § 23-5-146 – 147, Prevention of Sexual Misconduct on Higher Education Campuses

- CSU Student Conduct Code