



**Procedures for Resolving
Complaints of Gender-Based
Discrimination, Sexual Harassment,
and Sexual Violence Against
Employees or Third Parties**

**Issued: March 13, 1992
Revised: November 3, 2015**

**Responsible
Administrative Unit:**
Human Resources

Contact:
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1.0 BACKGROUND, PURPOSE, AND JURISDICTION


On August 29, 2014, the Board of Trustees of the Colorado School of Mines (“Mines”) adopted the **Policy Prohibiting Gender-Based Discrimination, Sexual Harassment, and Sexual Violence Involving Employees or Third Parties (“the Policy”)**. The Policy prohibits any form of gender-based discrimination, sexual harassment, or sexual 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 here: <http://inside.mines.edu/POGO-Human-Resources>.

This Procedure applies to complaints of gender-based discrimination, sexual harassment, and sexual violence that are brought against student employees, faculty, staff, or third parties regardless of whether the alleged misconduct occurred on or off Mines property. If the alleged misconduct occurs off Mines property, Mines shall have jurisdiction to investigate complaints if the conduct occurred in conjunction with a Mines-recognized or Mines-sanctioned program or activity, or if the off-property conduct may have the impact of creating a hostile environment for a Mines Community Member.

2.0 COMPLAINTS

2.1 Who May File a Complaint: Any Mines Community Member who believes they have been subjected to gender-based discrimination, sexual harassment, and/or sexual violence may file a complaint. Further, any Mines Community Member may file a complaint on behalf of another Mines Community Member who may have been subjected to gender-based discrimination, sexual harassment, and/or sexual violence. Regardless of the complaint’s origin, the term “Complainant” will refer to the person who was the target of the alleged behavior.

2.2 Against Whom a Complaint May be Filed: Under this Procedure, complaints may be filed against Mines employees, students, and volunteers, as well as any third parties not formally affiliated with Mines who are present on campus or who have

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interactions with students and employees through Mines-sponsored activities. For purposes of this procedure, the term “Respondent” will refer to the person who is accused of the alleged behavior.

2.3 Confidentiality of Complaints: Mines treats all complaints of gender-based discrimination, sexual harassment, and sexual violence as confidential matters, and will make reasonable efforts to protect the confidentiality of the individuals involved throughout the complaint process, any resulting investigations, and resolutions. However, confidentiality cannot be absolutely guaranteed. It is critical to note that Mines has designated its employees as mandatory reporters for issues involving gender-based discrimination, sexual harassment, and sexual violence. This means that all Mines employees are required to contact the Title IX coordinator and report instances of gender-based discrimination, sexual harassment, and sexual violence. The Title IX coordinator then determines what actions are required and appropriate to address the issue.

2.4 Anonymous Reports and Requests for Anonymity: Mines accepts any complaint submitted anonymously and any complaint from an individual who requests anonymity. Although it is inherently difficult to investigate anonymous complaints, investigations of such complaints will be as thorough as is practicable and will be appropriate to the allegations. If a Complainant requests anonymity, Mines will take reasonable steps to investigate and respond to the complaint consistent with the request for anonymity to the extent possible. Specifically, the Title IX Coordinator will consider how to proceed, taking into account the Complainant’s wishes, Mines’ commitment to provide a non-discriminatory environment, and the Respondent’s right to have specific notice of the allegations if Mines were to take action that affects the Respondent. In such 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 Complainant whether anonymity can be maintained.

2.5 Choice of Procedures: Complainants will not be permitted to simultaneously file an unlawful discrimination claim under Mines’ Policy Prohibiting Unlawful Discrimination or the State of Colorado Personnel Board Rules concurrently with a claim under this Policy if the complaints are against the same individual(s) and arise out of the same facts. This provision in no way prevents the Complainant from simultaneously or subsequently filing a criminal complaint with an appropriate law enforcement agency.

2.6 Promptness in Filing Complaint: Individuals who believe they have been subjected to gender-based discrimination, sexual harassment, and/or sexual violence may file a complaint with Mines at any time, but are strongly encouraged to come forward as soon as possible after the occurrence of the incident or event.



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2.7 Mandatory Reporting: Mines has designated its employees as mandatory reporters for issues involving gender-based discrimination, sexual harassment, and sexual violence. This means that all Mines employees are required to contact the Title IX coordinator and report instances of gender-based discrimination, sexual harassment, and sexual violence. The Title IX coordinator then determines what actions are required and appropriate to address the issue.

2.8 Mines' Responsibility to Act

If the Complainant does not wish to pursue adjudication and resolution through Mines, Title IX nevertheless requires Mines to investigate and take reasonable and appropriate action in response to the complaint. When the Complainant does not wish to pursue adjudication and resolution, Mines' ability to respond and resolve the matter of concern may be more limited.

2.9 Contacts

2.9.1 Title IX Coordinator:

Karin Ranta-Curran Director of Title IX and Equity Compliance; Telephone: 303.384.2558; Email: krcurran@mines.edu

Whenever a complaint is received, the Title IX Coordinator must be advised of the complaint and may assist in the investigation or resolution of the complaint as directed by Mines.

2.9.2 Contacts for Emergency Situations:


In emergency situations, **call 911** and either Mines Public Safety or Golden Police will respond.

2.9.3 Contacts for Complaints about Employee or Third Party Behavior:

Mike Dougherty, Associate Vice President for Human Resources, Guggenheim Hall, Room 108; Telephone - 303.273.3250; Email – mdougher@mines.edu

Veronica Graves, Assistant Director of Human Resources, Guggenheim Hall, Room 106; Telephone - 303.273.3250; Email – vgraves@mines.edu

Karin Ranta-Curran, Director for EEO/Affirmative Action Title IX Coordinator, Moly Building; Telephone - 303.384.2558; Email - krcurran@mines.edu

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2.9.4 Contacts for Complaints about Student Behavior:

Rebecca Flintoft, Director of Auxiliary Services, Student Center, Telephone - 303.273.3050; Email – rflintof@mines.edu

Brent Waller, Director of Residence Life and Housing, Elm Hall, Telephone - 303.273.3046; Email – bwaller@mines.edu

2.10 False Complaints/Providing False Information: Intentionally submitting a false complaint or a complaint that is not made in good faith is prohibited and may subject the person making the complaint to disciplinary action under relevant policies, the Faculty Handbook or codes of conduct. Providing false or misleading information in an investigation is also prohibited and may subject the person providing false or misleading information to disciplinary action under the relevant policies, the Faculty Handbook, or codes of conduct.

3.0 INFORMAL AND FORMAL COMPLAINTS

Complaints may be made informally or formally. Informal complaints may be made orally or in written form; formal complaints must be made in writing. There is no required content. However, the following elements are important to facilitate the investigation process and should be provided whenever possible when filing a complaint:

- 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 victim and the alleged perpetrator of the prohibited behavior;
- 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
- The signature(s) of the Complainant(s).

3.1 Informal Complaint and Resolution Procedure

3.1.1 Purpose and Timing: Under certain circumstances, an informal complaint and resolution process may be appropriate, effective, and desirable for a variety of reasons. It may provide a quicker path to resolution than the formal process provides. The informal resolution efforts are focused on bringing the



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Complainant's concerns to the attention of the Respondent and obtaining the voluntary cooperation of the parties to address and resolve the matter in a mutually agreeable manner. If a complaint is filed informally, the informal process will be completed in a relatively brief period of time, usually within ten (10) calendar days of the date the complaint is received by the Human Resources Office. If additional time is needed for the informal process, the Human Resources Office will communicate this to the Complainant and Respondent in writing, citing the reasons for the additional time and providing an estimated date of completion. **Complaints of sexual violence cannot be resolved by the informal complaint procedure and will be resolved through the formal process.**


3.1.2 Interim Measures/Immediate Action: Upon receipt of a report, the Title IX Coordinator (or the Coordinator's designee) will take interim measures as deemed necessary. Mines reserves the right to take any and all interim steps it deems necessary to protect the Complainant, any witnesses, and/or the Respondent. Examples of these interim steps may include, but are not limited to:

- Issuing "no contact" directives;
- Issuing temporary "no trespassing" directives;
- Placing an employee on administrative leave with or without pay; and
- Obtaining restraining or other protective orders through appropriate law enforcement and judicial mechanisms.

3.1.3 Process: At the request of the Complainant, the Human Resources Office will try to resolve the complaint expeditiously to the satisfaction of all concerned using a variety of possible means. Examples of the method and means used to try to achieve resolution may include, but are not limited to:

- Providing advice to the Complainant regarding how to handle a situation;
- Working with faculty, department heads, or other, appropriate with whom the Complainant is comfortable to address the concerns;
- Providing assistance to supervisory personnel to address the matter with the Respondent; and
- Intervening directly with the Respondent.

There is no requirement that once the informal resolution process is started it must be completed prior to filing a formal complaint. The Complainant can choose at any time to stop the informal resolution process and file a formal complaint.

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3.2 Formal Complaint and Resolution Procedure

3.2.1 Purpose and Timing. The purpose of the formal resolution procedure is to provide a structured process for the prompt and fair internal resolution of complaints alleging gender-based discrimination, sexual harassment, and sexual violence. Barring unusual circumstances, the investigation and issuance of a final decision related to a formal complaint will be completed within sixty (60) calendar days of Mines' receipt of the formal complaint.


3.2.2 Interim Measures/Immediate Action: Upon receipt of a complaint, the Title IX Coordinator (or the Coordinator's designee) will work with all parties involved in an alleged incident to undertake any appropriate interim measures to protect the safety of the campus community and will seek to provide remedies for the parties that address their immediate safety and well-being. Mines reserves the right to take any and all interim steps it deems necessary to protect the Complainant, any witnesses, and/or the Respondent. Examples of these interim steps may include, but are not limited to:

- Issuing "no contact" directives;
- Issuing temporary "no trespassing" directives;
- Placing an employee on administrative leave with or without pay; and
- Obtaining restraining or similar protective orders through appropriate law enforcement and judicial mechanisms.

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. Any such interim steps will be taken in a manner that minimizes the burden on the Complainant to the extent possible.

3.2.3 Notification of General Counsel, Title IX Coordinator, and Management: Mines General Counsel, the Mines Title IX Coordinator, and appropriate Mines management personnel will be promptly notified of all complaints. Mines management personnel to be notified typically include the Vice President in whose area the Respondent is employed or enrolled, the Respondent's supervisor, and the next level supervisor, if appropriate.

3.2.4 Acknowledgment of Complaint: The Title IX Coordinator (or the Coordinator's designee) will meet with the Complainant and discuss fully the options afforded to the Complainant, the rights and responsibilities of both parties, the investigation and adjudication processes, the prohibition against retaliation, the need to preserve any relevant evidence or documentation, and the availability of victim support resources, interim measures, and other remedies. At

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that time, Mines will provide the Complainant with a written acknowledgement of the complaint.

3.2.5 Notification of Respondent: Promptly after the initial meeting with the Complainant, the Respondent will also be notified by the Title IX Coordinator (or the Coordinator's designee) that a complaint has been filed unless Mines determines that notifying the Respondent is not necessary or appropriate under the circumstances (e.g., an alleged sexual assault where the Respondent has been arrested or there are circumstances that preclude notification). The Respondent will also receive information regarding the options available under these Procedures, the rights and responsibilities of both parties, the investigation and adjudication processes, the prohibition against retaliation, the need to preserve any relevant evidence or documentation, and the availability of interim measures and remedies. Mines will provide the Respondent with written notice of the complaint that will outline the allegations. The acknowledgement and notification process from the point of accepting the complaint through the issuance of letters to the Complainant and the Respondent will normally not exceed five (5) calendar days.

4.0 INVESTIGATION FOR FORMAL COMPLAINTS

4.1 Timing: Mines will address and resolve gender-based discrimination, sexual harassment, and sexual violence matters promptly and effectively. The entire process for investigating and resolving complaints should be concluded within sixty (60) calendar days¹ following receipt of a formal complaint. If the complaint investigation and decision process cannot be completed within sixty (60) calendar days, the Complainant and the Respondent will be informed in writing of the reasons for the delay and provided an estimated date of completion. The length of time of the investigation will vary depending on the complexity of the investigation, the severity and extent of the behavior, the quantity and availability of witnesses, and other factors of significance.

4.2 Criminal Complaints and Proceedings: Certain acts of sexual violence and sexual harassment may constitute both a violation of Mines policy and a criminal offense. Mines encourages, but does not require, Complainants to report alleged criminal acts promptly to appropriate law enforcement authorities. It is important to note that standards for finding a violation of criminal law are different from the standards for finding a violation of Mines' policy. Accordingly, criminal investigations or reports may

¹ Any time frames expressed in this procedure are meant to be guidelines rather than rigid requirements. The length of time will vary depending on the complexity of the investigation, the severity and extent of the alleged behavior, the quantity and availability of witnesses, and other factors of significance that may impact the length of the investigation.



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not be determinative as to whether a violation of the Policy has occurred. Mines will cooperate with any criminal investigation to the extent permitted by law.

4.3 Standard of Proof: The standard of proof is the amount of evidence needed to establish that a violation of policy has occurred. Mines uses a “preponderance of evidence” standard in assessing alleged violations of the Policy. This means that the evidence demonstrates that it is more likely than not the alleged conduct or Policy violation has occurred.

4.4 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 gender discrimination, sexual harassment, and/or sexual violence, depending on what has been alleged. Mines will maintain a group of internal investigators who are available to investigate complaints. Mines, in its sole discretion, reserves the right to assign any part or all of the investigation to an external investigator. All investigators will be impartial fact-finders throughout the investigation process.

4.5 Process: The complaint will be investigated as discreetly and expeditiously as possible with due regard to thoroughness and fairness to all parties. Typically, the investigation process will involve the investigator(s) examining relevant documents, reviewing appropriate evidence, and interviewing fact witnesses. The parties may bring an advisor of their choice to the investigation interviews and any other meetings that may be a part of the investigation. However, the advisor may not act as a spokesperson and may not interfere with the interview or any other part of the investigation.

4.5.1 Investigation Interviews: Investigations will normally include interviews with the Complainant, the Respondent, fact witnesses, and any other individuals who may have knowledge of the events or relevant circumstances. The investigator(s) may interview other individuals with factual information who are identified by the parties or other witnesses. The investigator(s) reserve the right to evaluate the relevance of witnesses offered by the parties, and the right to assess the credibility of witnesses interviewed.

4.5.2 Confidentiality of Investigation Materials: The investigator(s) will review any available and pertinent documentation or other evidence. The investigator(s) reserve the right 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 fullest extent of the law.



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4.5.3 Failure to Assist with Investigation: Failure to cooperate with or purposefully interfering with an investigation may result in discipline up to and including discharge for employees.

4.5.4 Report of Investigation Findings: After the conclusion of the investigation, the investigator(s) will prepare an investigative report that summarizes all of the relevant information. Under certain circumstances, the identity of the Complainant and/or witnesses may be kept confidential. The investigative report will summarize and analyze the relevant facts and any supporting documentation, which may include statements by the parties, third-party witnesses, or others with information and any physical, written, or electronic or other evidence. The investigative report will be submitted to the appropriate decision-maker and Title IX Coordinator. The decision-maker will be determined as follows:

- If the Respondent is a student, the decision-maker will be either the Associate Dean of Students or Dean of Students;
- If the Respondent is an exempt employee, the decision-maker will be the appropriate Vice President or the Vice President's designee;
- If the Respondent is a classified employee, the decision-maker will be the appointing authority for the position the classified employee holds;
- If the Respondent is a Vice President or Provost, or otherwise holds a position that reports directly to the President, the decision-maker will be the President or the President's designee; and
- If the Respondent is the President, the decision-maker will be the Chair of the Board of Trustees.

4.5.5 Employees with Student Status. In situations where the Respondent is a student as well as an employee, the investigation report will also be provided to the Associate Dean of Students, who will determine, based on the investigation findings, whether the Student Code of Conduct has been violated. If a violation of the Student Code of Conduct is found to have occurred, the Associate Dean of Students will impose appropriate sanctions.

4.5.6 Decision and Resolution of the Complaint: Following receipt and review of the investigative report, the decision-maker will issue a written decision regarding the complaint simultaneously to the Complainant and the Respondent. The written decision will contain a statement of whether or not gender-based discrimination, sexual harassment and/or sexual violence were found to have occurred. The Respondent will also be informed of any sanctions to be imposed. The Complainant will be informed of any individual remedies provided, and of any sanctions to be imposed that directly relate to Complainant. The decision-



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maker will not conduct a separate or additional investigation. The completion of the written report of findings and the issuance of Mines' decision will normally be completed within 20 calendar days from the end of the investigation.

4.5.7 Sanctions: Sanctions may include, but are not limited to, the following: mandatory attendance at gender-based discrimination, sexual harassment and/or sexual violence awareness and prevention training programs or seminars; mandatory attendance at other training programs; oral reprimand and warning; written reprimand and warning; student probation, suspension, or expulsion; academic sanctions; restitution; suspension without pay; termination of employment or appointment; termination of relationship with third party; and barring a third party from entering campus or attending Mines' sponsored events.

4.5.8 Records Retention. The Title IX Coordinator is the custodian of all records of all complaints of gender-based discrimination, sexual violence and sexual harassment complaints filed under the Policy, and any documentation regarding complaint investigation and internal adjudication.

5.0 APPEAL PROCESS

5.1 Overview. Both the Complainant and the Respondent have the right to file an appeal of the decision. Any appeal must be filed in writing, and will only be considered if it includes the specific aspect of the decision being appealed, the grounds for an appeal, and the rationale that supports the selected grounds. Not all decisions can be appealed. An appeal is not appropriate for the simple reason that one disagrees with the decision.

5.2 Grounds for an Appeal. The three items listed below are the only acceptable grounds for an appeal. Except as required to explain and support an appeal based on new information, an appeal shall be limited to a review of the investigation record and supporting documents for one or more of the following purposes:

- **New Information:** To consider information or other relevant facts sufficient to alter a decision because such information and/or facts were not known to the person appealing at the time of the investigation.
- **Appropriateness of Sanctions:** To determine whether the sanction(s) imposed were appropriate for the Policy violation that the Respondent was found to have committed. If the Respondent is making the appeal solely on this ground, he/she accepts responsibility for the violation and is only appealing the severity of the sanctions.



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- **Arbitrary Decision:** To determine whether the decision reached regarding the Respondent was supported using the preponderance of evidence standard to establish that a violation of the Policy occurred.

The decision-maker hearing the appeal will conduct an initial review to determine whether the appealing party has identified acceptable grounds for an appeal and whether the appeal has been filed by the appeal deadline. If the decision-maker determines that the appeal and supporting information do not establish an acceptable basis for appeal or the appeal request form was not submitted by the appeal deadline, the appeal shall be denied.

5.3 Submitting an Appeal Request.

5.3.1 Student Appeal: When the appealing party is a student who wishes to appeal the decision or sanction, the appeal must be filed with the President or the President's designee within seven (7) calendar days of receipt of the written decision. The President or the President's designee shall review the record and issue a decision that will be final and binding on all parties within fourteen (14) calendar days of the receipt of the appeal.

5.3.2 Faculty Appeal: When the appealing party is an administrative or academic faculty member, the appeal must be filed with the President or the President's designee within seven (7) calendar days of receipt of the written decision. When the sanction imposed includes a decision to initiate either the Tenure Revocation or Termination for Cause process set forth in the Faculty Handbook, the Respondent must utilize the process and appeal provided in the Faculty Handbook, and may not separately appeal that sanction under the process set forth herein. For all other Faculty Appeals, the President or the President's designee shall review the record and issue a decision that will be final and binding on all parties within fourteen (14) calendar days of the receipt of the appeal, subject to any further appeal processes that may be available to the parties under the Faculty Handbook.

5.3.3 President Appeal: When the appealing party is the president, the appeal must be filed the Chair of the Board of Trustees within seven (7) calendar days of the written decision. The Board of Trustees shall review the record and issue a decision that will be final and binding on all parties within twenty-one (21) calendar days of the receipt of the appeal.

5.3.4 Classified Staff Appeal: When the Respondent is a classified staff member who receives corrective or disciplinary action as a result of such a decision under this procedure, the Respondent must utilize the appeal processes



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provided through the State Personnel Rules. For all other Classified Staff appeals, the appealing party must file the appeal with the President or the President's designee within seven (7) calendar days of receipt of the written decision. The President or the President's designee shall review the record and issue a decision that will be final and binding on all parties within fourteen (14) calendar days of the receipt of the appeal, subject to any further appeal processes that may be contained in State of Colorado Personnel Rules.

5.3.5 Third Party Appeal: When the appealing party is a third-party, the appeal must be filed with the President or the President's designee within seven (7) calendar days of receipt of the written decision. The President or the President's designee shall review the record and issue a decision that will be final and binding on all parties within fourteen (14) calendar days of the receipt of the appeal.

5.4 Sanctions and Conditions during a Pending Appeal. Throughout the entire appeal process, all parties must continue to comply with all conditions and/or sanctions of the original decision. However, the Respondent may request that implementation of sanction(s) be postponed while the appeal is pending. Such approvals are within the sole discretion of the decision-maker hearing the appeal.

6.0 PROHIBITION AGAINST RETALIATION

The Policy and this procedure prohibit retaliation against any individual for reporting an allegation of gender-based discrimination, sexual harassment, or sexual violence, for cooperating in an investigation or another proceeding related to such allegations, or for opposing gender-based discrimination, sexual harassment, or sexual violence. Complaints or instances of retaliation shall be addressed as separate alleged Policy violations.

7.0 AVAILABLE RESOURCES

Resources are available at Mines and within the surrounding community to assist those who have experienced gender-based discrimination, sexual harassment, and/or sexual violence. Mines will provide appropriate support to the Complainant, any other victims it identifies during the course of its investigation, and the Mines campus community if necessary and appropriate. When necessary and appropriate, support services will also be provided to the Respondent. Such support may take many forms, including, but not limited to the following:

- Providing counseling and victim's support services;
- Providing medical services;



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- Providing escorts within the Mines campus community;
- Changing reporting relationships;
- Approving leaves of absence; and
- Additional campus-wide, office or department specific training or access to assistance.

If the either party is a student, the Office of Student Life will be notified by the Title IX Coordinator, and the Office of Student Life will work directly with the student to determine what, if any, academic accommodations or other support is necessary and appropriate under the circumstances.

HISTORY:

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Revision May 1, 2012

Revision July 6, 2015

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