APPENDIX A TO STUDENT CODE OF CONDUCT – PROCEDURES FOR ADJUDICATING COMPLAINTS OF SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING NOT FALLING WITHIN TITLE IX JURISDICTION

1.0 COMPLAINT AND CONDUCT PROCESS

1.1 Response to Complaint
Upon receipt of a Complaint¹ and request for investigation, the Dean of Students, or designee, will initiate the Formal Conduct Process outlined below. In some circumstances, an Alternate Resolution process may be appropriate and is the Complainant’s preferred resolution process. Alternate Resolution Options are outlined in section 3.0.

1.2 Conduct Process
The Formal Conduct Process provides a formal, structured mechanism for the equitable, impartial, and prompt resolution of Complaints. The steps outlined below are the exclusive process for resolving Complaints and imposing disciplinary sanctions or other remedies that are not Supportive Measures.

1.2.1 Privilege
No one facilitating the Formal Conduct Process shall require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege (such as the attorney/client privilege or the doctor/patient privilege) unless the person holding the privilege has waived the privilege.

1.2.2 Timing
Mines will make reasonable efforts to complete the investigation of Complaints within 60 to 90 calendar days of the start of the investigation. However, circumstances may affect that timeline, and the investigation and hearing may take longer than 60-90 calendar days to complete. If circumstances require an extension of this anticipated time-frame or a temporary delay of the Formal Conduct Process (such as absence of a party, a witness or a party’s Advisor, or concurrent law enforcement activity), the Dean of Students will provide written notice to Complainant and Respondent of the delay or extension, and the reasons for the action. The Complainant and/or Respondent may ask for an update from the Dean of Student’s Office at any point.

¹ In matters where the reporting party is not participating in, or attempting to participate in, a Mines Education Program or Activity at the time the report is made, the reporting party will be considered a “Complainant” under the Title IX Procedures only to the extent that this would be consistent with Federal Education Rights and Privacy Act (“FERPA”).
1.2.3 Standard of Proof
The standard of proof used to determine the amount of evidence needed to establish a Policy violation has occurred is the *preponderance of evidence* standard, which means the evidence demonstrates it is more likely than not the alleged conduct occurred. Mines bears the burden of proof with respect to establishing a Policy violation under these Procedures. A Respondent is presumed not responsible for alleged misconduct unless and until a determination of responsibility is reached at the conclusion of the Formal Conduct Process.

1.2.4 Notice of Investigation
Prior to initiating an investigation into a Complaint, the Dean of Students will provide the Parties with a Notice of Investigation that includes: (1) a description of the allegations of Sexual Harassment, Sexual Assault, or Interpersonal Violence in the Formal Complaint, including the identities of the Parties involved (if known), the date and location of the alleged misconduct, if known, the identity of the Investigator, (2) information about the Formal Conduct Process and Alternate Resolution Process, and (3) other information regarding the investigation. The Notice shall also include a statement that the Respondent is presumed not responsible for the alleged misconduct and inform the parties that they may have an Advisor of their choice who may be, but is not required to be, an attorney. If new or additional allegations are later included in the scope of the investigation, a Revised Notice will be provided to all Parties.

1.2.5 Advisor
The Complainant and Respondent may have an Advisor of their choosing present at all stages of the Formal Conduct Process, including the investigation stage, hearing stage, and appeal. An Advisor may be, but is not required to be, an attorney. Except as expressly set forth below, an Advisor may not directly participate in the proceedings. In addition, Advisors are subject to the following limitations:

A. The Advisor cannot be a witness to the alleged misconduct described in the Complaint.
B. In cases involving multiple Complainants or Respondents, the Advisor cannot be another Complainant or Respondent.
C. To minimize conflicts of interest, the Advisor should not be in a current position of supervision, authority, or Position of Trust over the party whom they are supporting or the other party.
1.2.6 Support Person
The Complainant and Respondent may have a Support Person of their choosing present at all stages of Formal Conduct Process, including the investigation stage, hearing stage, and appeal. A Support Person may be, but is not required to be, an attorney. A Support Person may also serve as an Advisor during the Hearing. If not serving as Advisor, the Support Person may not directly participate in the proceedings. In addition, Support Persons are subject to the following limitations:
A. The Support Person cannot be a witness to the alleged misconduct described in the Complaint.
B. In cases involving multiple Complainants or Respondents, the Support Person cannot be another Complainant or Respondent.
C. To minimize conflicts of interest, the Support Person should not be in a current position of supervision, authority, or Position of Trust over the party whom they are supporting or the other party.

1.2.7 Investigation Process
The allegations in the Complaint will be investigated as discreetly and expeditiously as possible with due regard to thoroughness and impartiality. Upon receipt of a Complaint, Mines will designate one or more investigators of its choosing with relevant training and experience in investigating allegations of Sexual Harassment, Sexual Assault, and Interpersonal Violence. The investigator will examine all relevant evidence, including both inculpatory and exculpatory evidence, including documents, communications and other available evidence. The investigator will interview the Parties, witnesses, and others individuals with relevant information. The investigator may interview the Respondent and Complainant more than once to address information gathered during the course of the investigation. All materials and documents prepared or compiled by the investigator, will be kept confidential to the extent possible.

1.2.8 Improper Inquiries
Investigations under these procedures may not include discussion of or inquiry into the Complainant’s attire on the date of the incident(s) or the Complainant’s sexual history as a rationale or reason for the alleged misconduct. The Complainant’s sexual predisposition and prior sexual behavior are only relevant if offered to prove someone other than Respondent committed the alleged conduct, or if they concern specific incidents with respect to the Respondent and are offered to prove consent. In addition, investigations must not access, consider, disclose or otherwise use a party's records that are made or maintained by a physician or other mental health professional in connection with the provision of treatment without first obtaining a party's voluntary, written consent.

1.2.9 Personal Participation
Mines students are expected to personally participate in the investigation. Support Persons and Advisors may not answer questions posed by the investigator during an interview. Failure of the Complainant or Respondent to
cooperate with an investigation will result in issuance of an Investigation Report based on the totality of information the investigator was able to gather at the time of the investigation.

1.2.10 Evidence Review Step
Prior to completion of the Investigation Report, the Dean of Students will send each party and the parties’ Advisors a copy (in either electronic or hard-copy form) of the evidence obtained during the investigation that is directly related to the allegations raised in the Formal Complaint, including evidence the investigator does not intend to rely upon in preparing the Investigation Report. Each party will have an opportunity to inspect and review the evidence, and ten (10) calendar days to submit a written response to the evidence, which the investigator will consider prior to completion of the Investigation Report. Following receiving the written responses, the investigator may choose to interview the Complainant, the Respondent, or a witness again. The evidence made available at this stage will also be available to each party to reference during the Hearing.

1.2.11 Confidential Investigation Report
At the conclusion of the Evidence Review Step, the investigator will prepare a confidential Investigation Report that will include information about the investigation procedures utilized, relevant policy provisions and definitions, a summary of the relevant evidence collected and reviewed, interview summaries, as well as the investigator’s factual findings, utilizing a preponderance of the evidence standard. The investigator will assess the relevance of all evidence obtained during the investigation – including both inculpatory and exculpatory evidence – and evaluate the credibility of all parties, witnesses and others. The Investigation Report will be provided to both parties at least ten (10) days prior to the Hearing. The parties may prepare and submit a written response to the Investigation Report to the hearing officer prior to or during the Hearing.

1.2.12 Pre-Hearing Conference
In order to promote a fair and expeditious hearing, the parties and their advisors will attend separate pre-hearing conference with the Dean of Students. The pre-hearing conference assures that the parties and their advisors understand the hearing process and allows for significant issues to be addressed in advance of the hearing.

1.2.13 Hearing
The Dean of Students will schedule a hearing to occur no earlier than ten (10) calendar days following issuance of the Investigation Report, and provide the parties and witnesses whose participation is invited or expected, written notice of the date, time, location, participants, identity of and contact information for the hearing officer, and other relevant information about the Hearing, including rules of decorum, the hearing format, and rules regarding the presentation of evidence and questioning of witnesses. The hearing will be conducted by a hearing officer
selected by Mines, who may or may not be the decision-maker. During the hearing, all parties will have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. The hearing shall occur in real time but, at the request of either party (or at the discretion of the Dean of Students or hearing officer), the hearing may be conducted remotely with some or all of the parties, hearing officer, and witnesses in separate rooms, so long as all participants can simultaneously see and hear one another.

A. Personal Participation
   Except as set forth below, the parties shall personally participate in all aspects of the hearing. Parties may consult with their Advisor or Support Person during the hearing. The Advisor is able to participate and advocate on behalf of a party during the hearing. The Support Person may not actively participate or advocate on behalf of a party during the Hearing.

B. Cross-Examination
   Cross-examination of the parties and witnesses will be conducted indirectly through the Hearing Officer.

C. Evidence
   The parties will have the opportunity to present the evidence they submitted, subject to any exclusions determined by the hearing officer. Generally, the parties may not introduce evidence, including witness testimony, at the hearing that they did not identify during the pre-hearing process. However, the hearing officer has discretion to accept or exclude additional evidence presented at the hearing. In addition, the parties are expected not to spend time on undisputed facts or evidence that would be duplicative.

D. Hearing Recording
   An audio or audiovisual recording or transcript of the hearing will be created, maintained, and made available to the parties for inspection and review upon request to the Dean of Students.

1.2.14 Institutional Decision-Maker
   Following the Hearing, the appropriate institutional decision-maker will issue a written determination regarding responsibility simultaneously to all Parties. If the Respondent is a student (including graduate students and student employees), the decision-maker will be the Dean of Students or their designee. The decision-maker will not be the same person who serves as the investigator. If the Respondent is found responsible for a violation of Mines’ Policy, the decision will include a determination regarding sanctions, as well as any remedies to be provided to Complainant. The Dean of Students is responsible for effective implementation of any remedies.

1.2.15 Sanctions
   Sanctions for engaging in Sexual Harassment, Sexual Assault, or Interpersonal Violence are limited by Mines institutional authority. Sanctions are effective at the time of the decision, or as identified by the decision-maker. Possible sanctions imposed by Mines include the following:
A. Educational sanctions;
B. Participation in relevant awareness and prevention training programs or seminars;
C. Oral reprimand and warning;
D. Written reprimand and warning;
E. Student probation;
F. Removal from or reassignment within campus housing;
G. Limitations on campus employment;
H. Limitations on participation in Mines-related activities;
I. Restitution;
J. Suspension,
K. Expulsion;
L. Termination of employment or appointment; and
M. Prohibition of entering the Mines campus or attending Mines’ sponsored events.

2.0 APPEAL PROCESS

2.1 General
Both the Complainant and Respondent have the right to appeal the decision or sanctions. An appeal will only be considered if it includes all of the following: (1) the specific aspect of the decision or sanction being appealed; (2) appropriate grounds for an appeal (as set forth below); and (3) a detailed description of the rationale that supports the selected reasons.

2.2 Reasons for Appeal
Not all decisions can be appealed. An appeal is not appropriate for the simple reason that a party disagrees with the decision. An appeal will only be accepted if it is demonstrably based on one (or more) of the four reasons set forth below. 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, the Hearing, and the final decision, and not contain new information that was not shared with the investigator or presented at the Hearing. Appropriate reasons for appeal:

A. Appropriateness of Sanctions: Appealing whether the sanction(s) imposed was appropriate in relation to the Policy violation for which Respondent was found responsible.

B. Procedural Irregularities: Appeal asserting irregularities in the application of these Procedures that affected the outcome of the matter. Minor procedural deviations that do not materially affect the outcome are not a basis for accepting a procedural irregularity appeal and reversing a decision.

C. New Information: Appeal requesting consideration of new information or other relevant facts that are sufficiently material to affect the outcome but only when such information was not available at the time the determination regarding responsibility or dismissal of the Complaint was made.

D. Bias: Appeal asserting that the Title IX Coordinator, investigator(s), hearing
officer, or decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

2.3 Submitting an Appeal Request
The appealing party must submit a completed Student Conduct Appeal Request Form to the decision-maker on appeal within seven (7) calendar days of the date of the decision. It is the appealing party’s obligation to complete the form in its entirety and provide any and all materials they wish to be considered along with the form. Requests for an extension of time to file an appeal must be submitted in writing to the appropriate office prior to the expiration of the appeal deadline and may be granted in the sole discretion of the decision-maker on appeal. Upon timely receipt of an appeal, the decision-maker on appeal will notify the non-appealing party, the initial decision-maker, and Title IX Coordinator that an appeal has been received and whether the appeal will be allowed to move forward. The non-appealing party will then have seven (7) calendar days to submit a written statement in support of, or challenging the decision. No late appeals will be accepted unless an extension was granted consistent with this section. If no timely appeal is received, the initial decision is final and no further appeal is permitted.

2.4 Decision-Maker on Appeal
The appeal must be filed with the Vice President of Student Life, who may designate their responsibilities to the Associate Vice President of Student Life.

2.5 Appeal Decision
If an appeal is allowed to move forward, the decision-maker on appeal, or their designee, will review the entire investigation file, hearing transcript, and any other information considered by the decision-maker. Within a reasonable period of time (generally ten (10) business days) following receipt of all pertinent information, the decision-maker on appeal will issue an Appeals Decision Letter that: 1) upholds the original decision; 2) reverses the original decision; or 3) modifies the original decision. The Appeal Decision is final and binding on the parties.

3.0 ALTERNATE RESOLUTION PROCESSES
A Complainant who files a Complaint but wishes to pursue a less formal resolution process may request an “Alternate Resolution.” There are two types of Alternate Resolutions: Restorative Process and Informal Process. Although described as Alternate Resolution Processes, both are official Mines resolution processes.
3.1 **Restorative Process**

3.1.1 **Purpose**
The goals of the Restorative Process are repairing harm and rebuilding trust through active accountability and inclusive decision-making. The process requires that both the Complainant and the Respondent voluntarily agree to participate and requires approval from the Dean of Students. The Restorative Process does not include a formal investigation and cannot result in significant sanctions, such as expulsion or suspension. The Restorative Process can be used to resolve Complaints alleging Sexual Harassment, Sexual Assault, and Interpersonal Violence. The Alternate Resolution Process may be utilized at any time prior to issuance of a determination regarding responsibility. The Dean of Students may, at their discretion, decline to approve any case to be resolved through a Restorative Process.

3.1.2. **Initial Meeting with Complainant**
If the Complainant elects the Restorative Process, they will meet with the Dean of Students, or designee, to discuss (1) the outcome they desire from the process; (2) what specific type of process best meets their needs; and (3) other pertinent information. The Dean of Students reviews the intake form and the Consent to Participate form and affirms whether a Restorative Process is appropriate for the conduct that occurred.

3.1.3. **Initial Meeting with Respondent**
The Dean of Students, or designee, will meet with the Respondent to inform them that the Complainant prefers the Restorative Process and review the Consent to Participate form. The Respondent may (1) decline to participate in the process; or (2) agree to participate in the process. If the Respondent declines participation in the Restorative Process, the process defaults to the Formal Conduct Process. If the Respondent agrees to participate in the Restorative Process, the Complainant will be notified, and the Restorative Process will begin. The Dean of Students provides the final approval for the case to move forward as a Restorative Process.

3.1.4. **Participation**
The Alternate Resolution Process may be pursued when it has been determined to be the preferred process by both the Complainant and the Respondent. However, at any point in the process, either party can decline participation and the process reverts to the Formal Conduct Process. Additionally, the Dean of Students can stop the Alternate Resolution Process if deemed inappropriate to move forward – such as the parties are not proceeding in good faith or the Respondent is not willing to acknowledge harm – and the process would then revert to the Formal Conduct process.
3.1.5. Facilitators
The Facilitators are trained to facilitate the Alternate Resolution Process. The Dean of Students Office will typically assign two Facilitators per case. The Facilitators will typically be Mines employees; however, they may also be employees of an external organization.

3.1.6. Preconference Meetings
The Complainant and the Respondent will meet with a Facilitator individually to discuss the process, answer questions, and establish expectations to ensure the process can be helpful to both parties.

3.1.7. Restorative Process Options
The following processes can be used to resolve a complaint under this section:
A. A Restorative Conference is a facilitated dialogue between Complainant and Respondent by a trained facilitator. The trained facilitators use a script to guide the dialogue. They discuss harm and what steps the Respondent can take to repair the harm. The Complainant and the Respondent are typically allowed a Support Person. Restorative Conferences can include shuttle negotiations or face-to-face (in-person or virtual) meetings.
B. A Restorative Circle is similar to a Restorative Conference, but involves a larger number of people. The Circle is typically organized in five rounds (convening, harm/concern, brainstorming, agreements, and closing reflection). The facilitator sets a tone of respect, hope, and support.

3.1.8. Agreement
Before the closing of the Restorative Process, the Complainant and the Respondent will contribute to drafting an Agreement outlining expectations, conduct, actions, and any other terms deemed relevant and appropriate by the parties and the Facilitators. Both parties will sign the Agreement. The Agreement is subject to final review by the Dean of Students. If the parties cannot come to an agreement, the issue is referred back to the Dean of Students.

3.1.8.1 Dean of Students Disapproves the Agreement
If the Dean of Students disagrees with part or all of the drafted agreement, the Dean of Students can schedule another meeting with the parties and the Facilitators to discuss modifications. The parties have independent discretion to agree to any modifications.

3.1.8.2 Dean of Students Approves the Agreement
The Alternate Resolution Process concludes when the Dean of Students approves and signs the drafted Agreement. The Agreement is retained per the recording keeping requirements.
3.1.9. Violations of the Agreement and Incomplete Actions in the Agreement
If the Respondent violates the Agreement, such violation could be considered retaliation. Such instances of alleged retaliation will be investigated and addressed as a separate policy violation. If the Respondent has not completed the decided upon actions in the Agreement by the predetermined date, a hold may be placed on the Respondent’s account until the terms of the Agreement are met.

3.2 Informal Process

3.2.1. Purpose and Timing
The informal process will focus on bringing the Complainant’s concerns to the attention of the Respondent and obtaining the voluntary cooperation of the parties to address and resolve the matter. The Informal Process is available for non-violent conduct. The informal process is typically complete within ten (10) business days of the date the complaint is received. If additional time is needed for the informal process, the Dean of Students will communicate this to the Complainant in writing, citing the reasons for the additional time and providing an estimated date of completion.

3.2.2. Process
A variety of possible means to resolve the complaint may be used at the discretion of the Dean of Students. Examples of the method and means used to try to achieve resolution may include, but are not limited to:
A. A meeting facilitated by the Dean of Students, or another administrator, including the Title IX Coordinator or a Deputy Title IX Coordinator, with the Respondent to communicate receipt of the complaint and establish a set of behavioral expectations to end the behavior(s) at issue;
B. A meeting facilitated by a faculty member, coach, department head, or other employee with whom the Respondent is comfortable to address the concerns;
C. Providing assistance to supervisory and advisory personnel to address the matter with the Respondent;
D. Providing advice to the Complainant regarding ways to handle the situation directly; and/or
E. Any other mutual agreements between the parties.

DEFINITIONS

Advisor means an individual selected by either the Complainant or Respondent, or an individual assigned to the Complainant or Respondent by Mines in instances where the Complainant or Respondent does not select their own Advisor. The Advisor’s role is further defined in section 1.2.5.
Complaint means a document filed by a Complainant (or in some circumstances the Title IX Coordinator) alleging Sexual Harassment, Sexual Assault or Interpersonal Violence, as defined herein, and requesting an investigation of the alleged misconduct. A Complaint may be filed with the Dean of Students or the Title IX Coordinator in person, by U.S. Mail, or by e-mail, and must contain a physical or digital signature, or other indication that the Complainant is the person filing the Complaint.

Complainant means a person who is alleged to be the victim of Sexual Harassment, Sexual Assault, or Interpersonal Violence.

Coercion means compelling an individual to do some act against their will through the use of psychological pressure, physical force, or threats.

Confidential Resource means individuals designated by the Office of Institutional Equity & Title IX who serve in a confidential capacity. Confidential Resources can explain options and resources to Complainants and Respondents, but they do not have authority to institute sanctions. Communications with a Confidential Resource will not automatically trigger a Report to the Office of Institutional Equity & Title IX.

Consent means positive, unambiguous, and voluntary agreement to engage in specific sexual activity throughout a sexual encounter. Consent is active, not passive. It is critical to note the nuances of consent:

- Consent must be affirmative. Consent consists of an outward demonstration indicating an individual has freely chosen to engage in sexual activity. Relying on non-verbal communication can lead to misunderstandings. Silence, in and of itself, cannot be interpreted as Consent. Consent may not be inferred from silence, passivity, lack of resistance, or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving Consent.
- 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 Incapacitated as that term is defined in these procedures.
- Consent cannot be obtained from someone who is not of legal age (Colorado Revised Statutes § 18-3-402).

Dating Violence means violence committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship shall be determined based on the: (i) length of the
relationship, (ii) the type of relationship, and (iii) the frequency of interaction between
the persons involved in the relationship.

**Domestic Violence** includes felony or misdemeanor crimes of violence committed
by a current or former spouse or intimate partner of the victim, by a person with
whom the victim shares a child in common, by a person who is cohabitating with or
has cohabitated with the victim as a spouse or intimate partner, by a person similarly
situated to a spouse of the victim under the domestic or family violence laws of the
jurisdiction receiving grant monies, or by any other person against an adult or youth
victim who is protected from that person's acts under the domestic or family violence
laws of the jurisdiction.

**Deputy Title IX Coordinators** work with the Title IX Coordinator to facilitate intakes,
serve as Process Resources, and may serve in other discreet areas of Title IX
processes.

**Education Program or Activity** includes locations, events, or circumstances over
which Mines exercises substantial control over the individual accused of misconduct,
and the context in which the misconduct occurs. It includes any buildings owned or
controlled by any student organization that is officially recognized by Mines, as well
as remote learning platforms.

**Incapacitation** may result from alcohol or other drug use, sleep, unconsciousness,
illness, mental disability or other factors. The use of alcohol or drugs, in and of itself
does not render a person incapacitated. Incapacitation is a state beyond
drunkenness or intoxication. The impact of alcohol and drugs varies from person to
person. Incapacitation is a state where a person cannot make a rational, reasonable
decision because they lack the capacity to give affirmative consent (for example, to
understand the who, what, when, where, why, and/or how of sexual interaction). An
individual's intoxication does not excuse their obligation to obtain Consent.

**Interpersonal Violence** is used as an umbrella term for Domestic Violence, Dating
Violence, and Stalking, as defined herein.

**Mandatory Reporter** means all Mines employees and some student employees
who are in Positions of Trust. Mandatory Reporters are required to contact the Title
IX Coordinator immediately whenever they observe or receive information about
instances of Sexual Harassment, Sexual Assault, and Interpersonal Violence.
Employees exempt from this requirement include Confidential Resources and
employees with some form of legal privilege.

**Person in a Position of Trust** means any person employed by Mines who has
significant influence or responsibility over a student or another employee, including,
but not limited to, their health, welfare, education, employment, or supervisory or
advisory responsibilities. All Mines non-student employees may be considered a
Person in a Position of Trust. Some student employees, by virtue of their position, are also considered a Person in a Position of Trust, including, but not limited to: Residence Life Student Staff, Peer Mentors, Teaching Assistants, Research Assistants who supervise other students, and any other student employee who meets the definition of having influence or responsibility over another student.

**Process Resource** means a resource provided by Mines to the Complainant or Respondent involved in cases of alleged Sexual Harassment, Sexual Assault, or Interpersonal Violence. Staff members who serve as Process Resource are trained to provide individual support, guidance, and information to students throughout the investigation and adjudication process. Process Resource are not confidential resources and do not “represent” the party, but are there to provide information and guidance. The Process Resource cannot serve as a Support Person.

**Report** means any disclosure of Sexual Harassment, Sexual Assault, or Interpersonal Violence received by the Title IX Coordinator. Any individual who believes a violation of the Policy has occurred may submit a Report, whether or not the person reporting is the person alleged to be the victim of conduct alleged in the Report.

**Respondent** means an individual reported to be the perpetrator of conduct that could constitute Sexual Harassment, Sexual Assault or Interpersonal Violence under the Policy.

**Retaliation** means a negative or adverse action against an individual for: reporting an allegation of Sexual Harassment, Sexual Assault, or Interpersonal Violence; cooperating or participating in an investigation or other proceeding related to such allegation; refusing to participate in any investigation or proceeding related to such allegation, or engaging in activities to oppose Sexual Harassment, Sexual Assault, or Interpersonal Violence. Complaints or incidents of Retaliation will be addressed as separate violations of this policy.

**Sexual Assault** means forcible or non-forcible sex offenses directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.

- **Rape**—(Except Statutory Rape) The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity
- **Sodomy**—Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity
- **Sexual Assault With An Object**—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is
incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity

- Fondling—The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity
- Incest—Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law
- Statutory Rape—Non-forcible sexual intercourse with a person who is under the statutory age of consent

Sexual Exploitation means when the actor knowingly observes or takes an image or recording of another individual’s intimate body parts without that individual’s Consent when the individual 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 prior consent of all recorded parties and recipients.

Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:

1. Conditioning the provision of an aid, benefit, or service of Mines (such as employment terms or conditions, employment decisions, or decisions concerning academic progress or evaluation) on an individual’s participation in unwelcome sexual conduct; OR
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Mines’ Education Program or Activities (including admissions and employment).

Examples of behavior that may constitute Sexual Harassment include, but are not limited to:

- Repeated verbal or physical sexual/romantic 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; and
- Sexual Exploitation.

Supportive Measure means a range of resources, support services, and measures to protect the safety and well-being of Impacted Party including the Complainant and the Respondent, that are non-disciplinary, non-punitive individualized services offered as appropriate and reasonably available, regardless of whether a Formal Complaint
has been filed, and designed to restore and promote equal access to the educational environment without unreasonably burdening the other party.

**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to--

1. Fear for his or her safety or the safety of others; or
2. Suffer substantial emotional distress.

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

- 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** means a person chosen by the Complainant or Respondent to provide support through the investigation, Hearing, and adjudication processes. A Support Person can be an attorney, but is not required to be an attorney. A Support Person may also serve as an Advisor during the Hearing. The Support Person’s role is further defined in section 1.2.6.

**Title IX Coordinator** is the Mines employee who is primarily responsible for Mine’s Title IX compliance efforts.