

	<b>Sexual Harassment Complaint, Investigation and Resolution Procedure for Complaints Involving Employees or Third Parties</b>	<b>Responsible Administrative Unit:</b> Office of Human Resources
	<b>Issued: March 13, 1992</b>  <b>Revised: May 1, 2012</b>	<b>Contact:</b> Associate Vice President, Human Resources <a href="mailto:mdougher@mines.edu">mdougher@mines.edu</a>

## 1.0 BASIS FOR THIS PROCEDURE

This procedure is promulgated under the Board of Trustees [Policy Prohibiting Sexual Harassment](#) and is intended as the means for implementing this policy.

## 2.0 GENERAL INFORMATION

### 2.1 Who May File a Complaint

Any member of the campus community who believes he or she has been the recipient of sexually harassing behavior, including retaliation, may file a complaint. Complaints may be filed against employees, students, or third parties not affiliated with the School who are present on campus or have interactions with students and employees through School-sponsored activities.

### 2.2 Choice of Remedies

No Complainant will be permitted to simultaneously file an unlawful discrimination claim under the School's Unlawful Discrimination Policy and Complaint Procedure or the State of Colorado Personnel Board Rules, and a sexual harassment claim under the School's Sexual Harassment Policy and this associated Complaint Procedure against the same individual arising out of an identical set of facts.

### 2.3 Promptness in Filing Complaint

A complaint may be filed at any time, but individuals who feel they have been victims of sexual harassment are strongly encouraged to come forward as soon as possible after the occurrence of the incident, event, or other action alleged to constitute sexual harassment or retaliation.

### 2.4 Timing

The School will address and resolve sexual harassment matters promptly and effectively. It is the School's intent that the entire process for investigating and resolving complaints be concluded within 60 calendar days following receipt of a formal complaint. However, the length of time will vary depending on the complexity of the investigation, the severity and extent of the harassment, the quantity and availability of witnesses, and other factors of significance that may affect the length of the investigation. If the formal complaint process cannot be completed within 60 calendar days from the receipt of the formal complaint by the School, the Complainant and the Respondent will be informed in writing of the reasons for the delay and provided an estimated date of completion.

## **2.5 Where to File a Complaint**

**2.5.1 Complaints about Employee or Third Party Behaviors.** All complaints alleging sexual harassment or retaliation committed by employees and/or third parties, whether informal or formal, should be submitted to the Associate Vice President for Human Resources, Human Resources Office (303/273-3250).

**2.5.2 Complaints about Student Behaviors.** All complaints alleging sexual harassment or retaliation committed by students should be submitted to the Associate Dean of Students, Student Center (303/273-3288).

## **2.6 Employee Obligation to Report**

Any employee who is aware of sexually harassing behavior or retaliation must promptly report the behavior or retaliatory action to the Human Resources Office.

## **2.7 Types of Complaints**

Complaints may be made informally or formally. Informal complaints may be made orally or in written form; formal complaints must be in writing.

## **2.8 Confidentiality**

The School treats all complaints of sexual harassment as confidential matters and will make reasonable efforts to protect the confidentiality of the complaint process, any investigation or resolution, and all individuals involved with the complaint process. If a Complainant requests confidentiality, the School will take reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality to the extent possible. The School's ability to comply with a Complainant's request for confidentiality cannot be guaranteed.

## **2.9 Title IX Coordinator**

Whenever a complaint is received, the Title IX Coordinator will be advised of the complaint and may assist in the investigation or resolution of the complaint as directed by the School. The Title IX Coordinator is the following:

Rebecca Flintoft  
Director of Auxiliary Services  
Student Center, Room 218  
Golden, CO 80401  
Telephone: 303/273-3050

## **3.0 INFORMAL COMPLAINT PROCEDURE**

### **3.1 Purpose and Timing**

Under certain circumstances, an informal sexual harassment complaint and resolution process may be appropriate, effective and desirable for a variety of reasons. Further, it may provide a more expedient path to resolution than the formal process entails. The informal resolution efforts will be focused on bringing the Complainant's concerns to the attention of the alleged harasser and, if the concerns are valid, obtaining the voluntary cooperation of the parties to address and resolve the matter.

If a complaint is filed informally, the process is expected to be completed in a relatively brief period of time, usually within 10 calendar days of the date the complaint is received by Human Resources. If additional time is needed for the informal process, Human Resources will communicate this to the Complainant and Respondent in writing, citing the reasons for the additional time and providing an estimated date of completion.

### **3.2 Process**

If the Complainant desires to informally resolve the complaint, the Human Resources Office will try to resolve the complaint expeditiously to the satisfaction of all concerned. A variety of possible means to resolve the complaint may be used at the discretion of the Human Resources Office. 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 employees in whom Complainant has trust and with whom the Complainant is comfortable to address the concerns;
- Providing assistance to supervisory personnel to address the matter with the alleged harasser;
- Engaging an external investigator; and
- Intervening directly with the alleged harasser.

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.

## **4.0 FORMAL COMPLAINT PROCEDURE**

### **4.1 Purpose and Timing**

The purpose of this procedure is to provide a formal, structured mechanism for the prompt and fair internal resolution of complaints alleging sexual harassment. The steps outlined below are the exclusive forum for the internal resolution of sexual harassment complaints regarding the actions of an employee or non-student third party at Mines. The investigation and issuance of a final decision related to a formal complaint should be completed within 60 calendar days of the School's receipt of the formal complaint, except in circumstances out of the ordinary.

### **4.2 Contents of Formal Complaint**

A formal complaint must be in writing and contain at least these four elements:

- A description of the behaviors or actions upon which the complaint is based;
- Identification of the alleged harasser or harassers (Respondent)
- A statement of the Complainant's desired outcome and resolution; and
- The signature(s) of the Complainant(s).

### **4.3 Immediate Institutional Response**

The School reserves the right to take any and all interim steps it deems necessary to protect the Complainant, witnesses, 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 pay; and
- Obtaining restraining or similar protective orders through appropriate law enforcement and judicial mechanisms.

#### **4.4 Notification of Legal Counsel, Title IX Coordinator and Management**

Promptly after receipt of the complaint, Human Resources will provide the complaint to the Mines General Counsel, the Mines Title IX Coordinator, and appropriate Mines management personnel. For the purpose of this procedure, the Mines management personnel to be notified typically include the President, the Vice President in whose area the Respondent is employed or enrolled, the Respondent’s supervisor, and the next level supervisor, if appropriate.

#### **4.5 Acknowledgment of Complaint and Notification of Respondent**

Mines will send the Complainant written acknowledgement of the complaint, notify the Respondent of the complaint in writing, and provide the Respondent with a copy of the complaint. 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 calendar days.

#### **4.6 Investigation Authorization Form**

Unless the complaint is initiated by an attorney from the Office of Legal Services or the Associate Vice President for Human Resources, the Complainant will be required to execute a Sexual Harassment Complaint Investigation Authorization Form prior to any investigation of the complaint.

#### **4.7 Investigation of Complaint**

##### **4.7.1 Timing**

The investigation phase will normally be concluded within 30 calendar days of its initiation.

##### **4.7.2 Process**

The complaint will be investigated as discreetly and expeditiously as possible with due regard to thoroughness and fairness to all parties. The investigator(s) will examine relevant documents and interview witnesses, and may interview other individuals with material information who are identified by the parties. The investigators reserve the right to assess the relevance and evaluate the credibility of witnesses to be interviewed who are offered by the Complainant and the Respondent. The School, in its sole discretion, reserves the right to assign any part or all of the investigation to an external investigator in lieu of having the complaint internally investigated.

##### **4.7.3 Confidentiality of Investigative Materials**

All materials and documents prepared or compiled by the investigators during the course of investigating a sexual harassment complaint hereunder will be kept confidential to the fullest extent of the law.

#### **4.8 Report of Investigation Findings**

After the conclusion of the investigation, the investigators will prepare and submit a joint written report of findings to the decision maker (typically, the Provost or vice president in whose area the Respondent is employed or enrolled).<sup>1</sup> The report of findings will be provided to the Complainant and Respondent within a reasonable time following the issuance of Mines' decision.

#### **4.9 Decision and Resolution of the Complaint**

The decision maker will issue a final written decision regarding the complaint to both the Complainant and the Respondent. The decision will be addressed to the Complainant and will contain a statement of whether or not sexual harassment was found to have occurred, the remedies to be provided to the Complainant, if any, and the sanctions to be imposed upon the Respondent, if any. The decision, including any sanctions, will also be communicated to the Respondent in writing. The completion of the written report of findings and the issuance of the School's decision will normally be completed within 20 calendar days from the end of the investigation.

#### **4.10 Appeal of Final Decision**

There shall be no internal appeal of a decision that sexual harassment has occurred issued pursuant to subsection 4.9 above. However, certified classified staff and faculty members who receive corrective or disciplinary action as a result of such a determination under this procedure may avail themselves of appeal processes provided through the State Personnel Rules or the Faculty Handbook, as appropriate.

### **5.0 COMPLAINANT AND VICTIM SUPPORT**

The School will provide support to the Complainant, any other victims it identifies during the course of its investigation, and the Mines campus community as reasonable and appropriate to the circumstances. Such support may take many forms, including, but not limited to the following:

- Providing counseling and victim's support services;
- Providing medical services;
- Arranging for the Complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record;
- Ensuring that the Complainant and the Respondent do not attend the same classes or that the Complainant is not enrolled in a class taught by the Respondent;
- Providing an escort to the Complainant so that he/she can move safely between classes and activities;
- Moving the Complainant or Respondent to a different residence hall;
- Providing academic support services, such as tutoring;
- Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant being disciplined;
- Additional campus-wide, office or department specific training or access to assistance; and
- Any other steps the School determines are appropriate given the nature and circumstances of the harassment.

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<sup>1</sup> If a Vice President or Provost is the Respondent, the President will be the decision maker. If the President is the Respondent, the Chair of the Board of Trustees will be the decision maker.