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|  | Prohibiting Sexual Misconduct, Discrimination & Retaliation | |
| | Responsible Administrative Unit: Office for Institutional Equity | Policy Contact: Director, Office for Institutional Equity and Title IX Coordinator ois@mines.edu |

1.0 BACKGROUND AND PURPOSE

The Colorado School of Mines (“Mines”) is committed to inclusivity and access for all persons and strives to create learning and workplace environments that exclude all forms of unlawful discrimination, harassment and retaliation. Mines commitment to non-discrimination on the basis of sex is reflected in the administration of its policies procedures, programs, and activities.

As part of this commitment, the Board of Trustees of the Colorado School of Mines promulgates this policy pursuant to the authority conferred by §23-41-104(1), C.R.S., Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 et seq., and its implementing regulations, 34 C.F.R. Part 106; and relevant sections of the Violence Against Women Reauthorization Act of 2013 (42 U.S.C. §§ 14043e et seq.), and in accordance with applicable federal and Colorado civil rights laws.

2.0 POLICY STATEMENT(S)

Mines prohibits discrimination and harassment on the basis of age, ancestry, creed, marital status, race, color, ethnicity, religion, national origin, sex (including Gender Based Stalking, Intimate Partner Violence, Non-Consensual Sexual Contact, Non-Consensual Penetration, Sexual Exploitation, and Sexual Harassment), pregnant and parenting status, gender, gender identity, gender expression, disability, sexual orientation, genetic information, veteran status, or military service within any of its education programs or activities (including admissions and employment), or sponsored conferences and events. This prohibition applies to all students, employees, contractors, visitors (including conference attendees), and volunteers.

Allegations of violations of this policy are subject to resolution using one of the following Mines Procedures, as determined by the Title IX Coordinator:

- Procedure A will be applied when alleged Sexual Misconduct occurs under the following circumstances:
 - Alleged Sexual Misconduct occurs in a Mines education program or activity or sponsored conferences and events, including locations, events, or circumstances over which Mines exercises substantial control over both the Respondent and the context in which the Sexual Misconduct occurred, including any building owned or controlled by a student organization that is officially recognized by Mines;

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- Alleged conduct occurred in the United States;
- Procedure B will be applied when alleged Sexual Misconduct, Discrimination and Retaliation occurs under the following circumstances:
 - The alleged conduct does not meet criteria for Procedure A and impacts party participation in Mines programs and activities, sponsored conferences and events or employment;
 - Mines exercises substantial control over the Respondent.

3.0 RESPONSIBILITIES

Mines Board of Trustees directs the President or the President's delegates to develop, administer, and maintain the appropriate administrative policies, procedures, and guidelines to implement this policy. The Board further directs the President or the President's delegates to develop, administer, and maintain robust sexual violence prevention programs, including appropriate training for students, faculty, and administrative staff. Mines has designated a Title IX Coordinator to steward this policy and related procedures.

The Title IX Coordinator can be contacted in the following ways:

- In person: 1600 Jackson St., Suite 190, Golden, Colorado, 80401
- By phone: 303-273-3260
- By email: ojie@mines.edu
- Anonymous Reporting:
https://cm.maxient.com/reportingform.php?COSchoolofMines&layout_id=30

Mines has designated all of its employees (with the exception of designated confidential resources) as mandatory reporters of Sexual Misconduct and Discrimination within the Mines campus community. Mandatory reporters are required to contact the Title IX Coordinator and report instances of Sexual Misconduct and Discrimination in a timely manner.

The Title IX Coordinator is responsible for the following:

- Responding to reports of Sexual Misconduct, Discrimination, and Retaliation in a timely fashion; development and administration of policies and procedures for timely response and resolution to Complaints of Sexual Misconduct, Discrimination and Retaliation;
- Development and delivery of education for Mines students, faculty, and staff regarding policies and procedures related to prevention, reporting, and investigation of Sexual Misconduct and Discrimination;
- Taking reasonable action in an effort to prevent incidents (or the recurrence of incidents) of Sexual Misconduct, Discrimination, and Retaliation;
- Ensuring ongoing training for all Title IX and process administrators; and
- Providing reporting mechanisms for the Mines community including an anonymous reporting option.

4.0 COMPLIANCE/ENFORCEMENT

A violation of this Policy may result in the imposition of sanctions. Sanctions imposed by Mines may include, but are not limited to, the following: mandatory attendance at relevant awareness and prevention training or other educational programs; oral reprimand and warning; written reprimand and warning; student probation, suspension or expulsion; employment disciplinary action up to and including termination; educational sanctions; restitution; and prohibition of entering the Mines campus or attending Mines' events. Sanctions will be based on the severity of the infraction.

5.0 EXCLUSIONS/DISCLAIMER

None.

6.0 DEFINITIONS

Complainant means individual who files a Formal Complaint alleging violation of the policy Prohibiting Sexual Misconduct, Discrimination, and Retaliation by another person.

Consent means affirmative, knowing, mutual, unambiguous, ongoing, and voluntary agreement through word or action to engage in specific sexual activity throughout a sexual encounter. Consent cannot be inferred by a current or previous relationship. Consent can be withdrawn at any time. Consent cannot be obtained by fear, threat, Coercion, intimidation, and/or Force or from someone who is Incapacitated.

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

Discrimination means unequal treatment based on a Protected Class.

Discriminatory Harassment means conduct that creates an environment a reasonable person would deem hostile, intimidating, offensive, oppressive, or abusive to the extent that it unreasonably interferes, limits, or deprives someone from participating in or benefiting from Mines programs. Discriminatory Harassment can occur in the following ways:

- **Quid pro Quo.** Conditioning the provision of an aid, benefit, employment, education, or service of Mines on an individual's participation in unwelcome discriminatory conduct; OR
- **Hostile Environment.** A hostile environment means that someone has experienced unwelcome behavior that is severe, persistent, or pervasive enough that it unreasonably interferes, limits, or deprives them of participating in or benefitting from university programs or activities.

Education Program or Activity means locations, events, or circumstances over which Mines exercises substantial control over the individual accused of

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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.

Force means the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.

Formal Complaint means a written document filed by a Complainant or signed by the Title IX Coordinator alleging violation of the Policy Prohibiting Sexual Misconduct, Discrimination, and Retaliation by another person.

Formal Grievance Process means the procedure the used to investigate allegations of Sexual Misconduct and to determine whether an individual more likely than not engaged in conduct that violates the policy Prohibiting Sexual Misconduct, Discrimination, and Retaliation.

Gender Based Stalking means engaging in a Course of Conduct, on the basis of sex and/or actual or perceived gender, directed at a specific person, that would cause a Reasonable Person to fear for the person's safety, or the safety of others; and/or suffer Substantial Emotional Distress.

- **Course of Conduct** means two or more acts, including, but not limited to, acts in which the Respondent 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 to the Complainant.
- **Substantial Emotional Distress** means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- **Harassment** means to engage in, or the act of engaging in, any unwelcome physical or verbal conduct or any written, pictorial, or visual communication directed at an individual or group of individuals because of that individual's or group's membership in, or perceived membership in, a protected class, and the conduct is subjectively offensive to the individual alleging harassment and is objectively offensive to a reasonable individual who is a member of the same protected class.

Incapacitation means a state wherein a person lacks the ability to actively agree to sexual activity because the person is asleep, unconscious, under the influence of an anesthetizing or intoxicating substance such that the person does not have control over their body, is otherwise unaware that sexual activity is occurring, or their mental, physical, or developmental abilities renders them incapable of making a rational informed judgment.

Intimate Partner Violence (IPV), often referred to as relationship violence, domestic, and dating violence means any act of violence or threatened act of violence when used as a method of coercion, control, punishment, intimidation or revenge against a person with whom the individual was previously or is currently involved in a sexual, romantic, parenting, marital, or dating relationship. This includes relationships between spouses, former spouses, past or present unmarried couples, dating relationships and sexual partners. IPV includes, but is not limited to, threats or acts of physical violence, emotional abuse, financial abuse and sexual abuse.

Mandatory Reporters means individuals that are required to contact the Title IX Coordinator and report observations or disclosures of Sexual Misconduct and Discriminatory Harassment in a timely manner. Mines has designated all of its employees as mandatory reporters unless they are otherwise designated as confidential resources.

Non-Consensual Sexual Contact means an intentional act of sexual touching, however slight, with any body part or object by a person upon a person that is without consent and/or by force, or during a period of incapacitation that can be reasonably construed as being for the purposes of sexual arousal, gratification, or abuse.

Non-Consensual Sexual Penetration means an act of sexual penetration (anal, oral, or genital), however slight with any body part or object, or, sexual intercourse by a person upon a person that is without consent and/or by force.

Protected Class means a person's membership or perceived membership in any of the following categories:

- age
- ancestry
- creed
- marital status
- race
- color
- ethnicity
- religion
- national origin
- sex
- pregnant and parenting status
- gender
- gender identity
- gender expression
- disability
- sexual orientation
- genetic information
- veteran status

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- military service

Respondent means individual responding to a Formal Complaint and is alleged to have violated the policy Prohibiting Sexual Misconduct, Discrimination, and Retaliation by another person.

Retaliation means any negative or adverse action against an individual for reporting an allegation of Sexual Misconduct or Discrimination for cooperating or participating in an investigation or another proceeding related to such allegation, for refusing to participate in any investigation or proceeding related to such allegations. A complaint or report of Retaliation will be addressed as a separate or additional violation of this policy.

Sexual Exploitation means a situation when an individual takes nonconsensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this policy.

Sexual Harassment means conduct on the basis of an actual or perceived sexual nature, that may include, but is not limited to, slurs, taunts, stereotypes, or name calling as well as sex/gender-motivated physical threats, attacks, or other hateful conduct. To be considered Sexual Harassment, the conduct must also satisfy one or more of the following:

- **Quid pro Quo.** 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
- **Severe, Pervasive, and Objectively Offensive (for the purpose of Title IX).** Unwelcome conduct on the basis of sex that can be 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.

Supportive Measures means individualized services reasonably available that are non-punitive, non-disciplinary and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.

Title IX Coordinator means the Mines employee who is primarily responsible for Mines Title IX compliance efforts.

7.0 RESOURCES or ATTACHMENTS

- All inquiries regarding application of Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 et seq., and its implementing regulations, 34 C.F.R. Part 106, may be directed to the Mines Title IX Coordinator (Telephone: 303.273.3260; Email: oie@mines.edu) AND/OR The Assistant Secretary of

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- the Department of Education, Office of Civil Rights (<https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>).
- Reporting form for Discrimination: https://cm.maxient.com/reportingform.php?COSchoolofMines&layout_id=31
- Reporting form for Sexual Misconduct: https://cm.maxient.com/reportingform.php?COSchoolofMines&layout_id=30
- Statement of Equal Opportunity, Access and Nondiscrimination (<https://www.mines.edu/equal-opportunity/>)
- Procedure A: Resolution for Complaints of Sexual Misconduct under Title IX.
- Procedure B: Resolution for Complaints of Sexual Misconduct and Discrimination.
- Student Code of Conduct
- Workplace Violence Policy
- Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 et seq., and its implementing regulations, 34 C.F.R. Part 106
- Violence Against Women Reauthorization Act of 2013 (42 U.S.C. §§ 14043e et seq.)
- The Office of Institutional Equity & Title IX website: <https://www.mines.edu/institutional-equity-title-ix/>

KEY WORDS

Sex, Sexual Misconduct, Discrimination, Protected Class, Equity, Gender, Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, Violence, Intimate Partner Violence.

7.0 HISTORY AND REVIEW CYCLE

The policy will be reviewed at least every 2 years, or as needed by the Responsible Administrative Unit.

Promulgated: March 13, 1992.

Amended: March 26, 1998

Amended: June 10, 1999

Amended: June 22, 2000

Amended: June 7, 2003

Amended: December 15, 2011

Amended: August 29, 2014

Amended: February 8, 2019 (clarify which policy applied to sexual harassment)

Amended: August 14, 2020 (update to format and compliance with new regulations)

Amended: January 1, 2023 (incorporated discrimination and harassment policy, added definitions, updated procedures)

Amended: September 15, 2023 (updated for compliance with new regulations)

Updated: November 12, 2024 (updated definition of sexual harassment, updated address, expanded scope to include sponsored conferences and events)