



Campus Administrative Policy

Policy Title: **Extreme Risk Protection Order**

Policy Number: 3088A **Functional Area:** General Administration

Effective: November 1, 2023

Approved by: Donald M. Elliman, Jr.
Chancellor, CU Anschutz

Prepared by: Office of University Counsel
Reviewing Office: Office of University Counsel, University Police
Responsible Officer: Chief of Police
Applies to: CU Anschutz

A. INTRODUCTION

An extreme risk protection order (ERPO) (also referred to as the “Red Flag law,” originally enacted in 2020) is intended to pre-emptively disarm, or prevent the arming of, individuals who might be seen as a risk to themselves or others by way of filing a civil petition in a court of competent jurisdiction. The University of Colorado | Anschutz Medical Campus (“the University”) recognizes that in 2023, the Colorado legislature expanded the definition of a category of people who may file for an ERPO to include licensed healthcare professionals, mental health providers and educators. This expanded category of individuals who may petition for an ERPO includes many individuals on the CU Anschutz Medical Campus. Under the law, the University recognizes that individuals affiliated with the University and qualified under the statute have the legal right to file a petition for an ERPO. The University will not stand in the way of a CU-Anschutz affiliated individual who wishes to file a petition. The purpose of this statement is to provide information and assist in decision-making.

B. POLICY STATEMENT

1. Purpose

The purpose of this policy is to provide guidance to individuals on the CU Anschutz Medical Campus community regarding the possible filing of an ERPO. The policy also lays out factors that each individual should strongly consider prior to the filing of a request for an ERPO, including utilizing available campus resources to assist in making the determination of the appropriateness of the petition.

2. Definitions

- a. **Community member** includes a licensed healthcare professional or a mental health professional who has a direct professional relationship with the respondent, has provided care to the respondent or the respondent's child within six months prior to filing the petition or an educator who has interacted with the respondent or the respondent's child within six months prior to requesting the petition.
- b. **Educators** includes a faculty member of an institution of higher education and includes a president, dean, professor, administrator, instructor or research worker, if employed by an institution of higher education.
- c. **Licensed Healthcare Professional** includes physicians, physician assistants, advance practice nurses who are the primary provider of health services for the respondent, psychiatrists and a licensed emergency room medical care provider licensed under Title 12.
- d. **Mental Health Professionals** include psychologists, licensed professional social workers, marriage and family therapists, licensed professional counselors, addiction counselors and any individuals who are candidates for the above referenced professions.
- e. **What Must Be Included in the Petition** - the petition must state facts tending to support the establishment of an extreme risk protection order (facts that lead the petitioner to believe that the individual is a danger to themselves and/or others and has access to or intends to access a firearm).
- f. **CUPD** – campus police at the University of Colorado Anschutz Medical Campus.
- g. **Faculty and Staff Threat Assessment and Response Team (FaST)** – a team that coordinates and formalizes the work of departments responsible for safety and support functions for the campuses, specifically concerning behaviors indicating a faculty or staff member poses a danger to themselves or others. The team identifies appropriate resources to manage the situation and conducts on-going review and follow-up on cases until concerns are resolved. This team works with faculty and staff and may receive reports involving patients of CU Anschutz programs and clinics.
- h. **Campus Assessment Response and Evaluation (CARE)** – a team that was created to address the health and safety needs of students and the campus community. They assess whether individuals pose a risk to themselves or others and intervene when necessary. The team takes a preventative approach to risk assessment by offering resources, referrals, and support to both the concerning individual and those impacted by their behavior. This team works with students.

C. Expectations and Acknowledgements

1. The University acknowledges that ERPOs are statistically more likely to succeed if filed by a law enforcement officer. This is due to a variety of factors including an officer's enhanced training on risk assessment and ability to access relevant non-public databases that might impact an individual's risk level.

- a. CUPD has been specifically trained in this legislative expansion and has a heightened ability to navigate the nuances of risk assessments and the law.
 - b. CUPD further regularly participates on, and has the ability to collaborate with, the CARE and FaST teams to obtain additional information and monitor an at-risk individual.
 - c. CUPD is therefore best equipped to determine the appropriateness of an ERPO and should serve as the primary point of contact for an individual on the CU Anschutz Medical Campus who is considering filing for an ERPO.
2. The University further acknowledges that the filing of an ERPO might undermine an educator/student, provider/patient or supervisor/employee relationship. Allowing CUPD to investigate the matter may allow a longstanding relationship to be preserved while still permitting intervention.

Notes

1. History:
Initial Policy Effective Date: November 1, 2023
2. Cross References/Appendix:
 - [FAQ Sheet](#)
 - FaST - <https://www.cuanschutz.edu/offices/human-resources/faculty-and-staff-threat-assessment-response-team>
 - CARE – <https://www.ucdenver.edu/student/wellness/care-team>
 - CUPD - <https://www.cuanschutz.edu/police> 303-724-4444

Frequently Asked Questions (FAQs)

What is an Extreme Risk Protective Order, and what can it do?

An Extreme Risk Protective Order (ERPO) is a court-issued civil order temporarily requiring a person to:

- surrender any firearms or ammunition to law enforcement; and
- not purchase or possess firearms or ammunition.

Who is an Extreme Risk Protective Order filed against?

A person who poses an immediate and present danger of causing personal injury to self or others by having firearms is called the **respondent**. A respondent may demonstrate risk by the following factors:

- A recent credible threat that might or might not involve a firearm;
- A pattern of acts or credible threats made within the last year;
- The violation of a civil protection order (including red flag protection order);
- A conviction that has an underlying factual basis of domestic violence;
- Access to a firearm (current or prospective);
- Unlawful use of a firearm;
- A history of stalking or unlawful physical force (attempted or actualized);
- Arrest history;
- Substance use disorder;
- Whether carrying a firearm is a condition of the respondent's employment;
- Recent acquisition of a firearm or ammunition.

Prior to issuing an ERPO, a court shall consider whether the respondent meets the standard for a court-ordered evaluation for mental health disorders or emergency commitment due to substance use/substance use disorder.

Who can file an Extreme Risk Protective Order?

The person requesting an ERPO is the **petitioner**. A petition may be filed by a:

- Spouse, intimate partner or family member;
- cohabitant who has lived with the respondent within the last six months;
- person with child(ren) in common;
- current or former legal guardian;
- law enforcement officer;
- Community Members which includes:

- Licensed healthcare professional or a mental health professional who has a direct professional relationship with the respondent, has provided care to the respondent or the respondent's child within six months prior to filing the petition or an educator who has interacted with the respondent or the respondent's child within six months prior to requesting the petition.
- Educator includes: a faculty member of an institution of higher education and includes a president, dean, professor, administrator, instructor or research worker, if employed by an institution of higher education.
- Licensed healthcare professional includes: physicians, physician assistants, advance practice nurses who are the primary provider of health services for the respondent, psychiatrists and a licensed emergency room medical care provider licensed under Title 12.
- Mental health professionals include: psychologists, licensed professional social workers, marriage and family therapists, licensed professional counselors, addiction counselors and any individuals who are candidates (students) for the above referenced professions.

A Step-by-Step Guide

Step One:

I am a community member (licensed mental health professional, medical provider, educator, etc.) and my patient/student/employee has made some concerning statements about their mental health, and I know they have access to firearms. What do I do?

Contact University Police Department (CUPD)

The CUPD will assist providers and faculty in determining whether the filing of an ERPO is appropriate. The Police Operations Commander will act as the extreme risk protection order coordinator. The Operations Commander will provide information on law, procedure and appropriate jurisdiction. The Operations Commander, after obtaining information from a University employee and determining that an ERPO is legally appropriate, will work with the Office of University Counsel to file the ERPO.

Step Two:

What information will CUPD collect from me?

- They will ask how the respondent presents an immediate and present danger of hurting themselves or others if they have a firearm.
- They will ask you to describe the respondent's behaviors and any statements made about hurting themselves or others.
- They will collect any information related to firearms, such as whether the respondent possesses firearms; provide a description and the location for each firearm.
- If you are a medical provider, under the statute you should make reasonable efforts to limit the disclosure of PHI to the minimum necessary to filing the petition.
- CUPD will sign the petition.

Step Three:

Filing of the petition and setting for temporary hearing

- CUPD will file the Petition for Extreme Risk Protective Order in a court of competent jurisdiction.
- The petition will be set for a temporary hearing. If the community member is the petitioner, they will have to attend the hearing.
- The judge may issue a temporary order if they reasonably believe the respondent, by having firearms, poses an immediate and present danger of causing injury to themselves or others.
- **NOTICE TO RESPONDENT IS NOT REQUIRED FOR A TEMPORARY ORDER. This means for a temporary order, the respondent (person the petition is filed against) might have no warning that this is going to happen.**
- The temporary order, if granted will last 14 days.
- A community member can expect to be named in the petition.

Step Four:

Final hearing

- The court will schedule a hearing within 14 days after the respondent is served the Temporary ERPO. Respondent is served by law enforcement from the county where the respondent resides.

- The judge may hold the final hearing with or without the respondent being present if the respondent has been served. The petitioner would still have to present the case.
- The Final ERPO period not to exceed one (1) year.

***** The respondent has the right to request to terminate the ERPO and the court will set the request for a hearing.**

What are the fees/costs associated with Extreme Risk Protective Order filings? Do I need an attorney?

- There are no filing fees or service fees for Extreme Risk Protective Orders.
- The Office of University Counsel will assist CUPD in filing.

Are court records relating to an Extreme Risk Protective Order confidential?

- Per statute, all medical records and protected health information (PHI) are sealed. But remember, you must limit the disclosure of PHI to the minimum necessary to accomplish the filing of the petition.
- However, the following parties do have access:
 - personnel of the court;
 - parties to the case, including respondent or counsel for the respondent;
 - law enforcement agencies.

Am I immune from liability if I file or provide information for the petition?

The statute does not provide *immunity* from legal action if the petitioner chooses to provide health records. The statute simply disallows the disclosure of records to be the *basis* for liability. This means that a provider could still be subject to suit for disclosure of health records.

What are the advantages of working with CUPD?

Law enforcement officers have been at the forefront of filing ERPOs since the statute was adopted in 2019. Statistically, ERPOs filed by law enforcement are more likely to prevail than those filed by individuals without law enforcement expertise. *See <https://www.cpr.org/2023/01/30/erpo-red-flag-cases-in-colorado/>*. Not only are they experts, but allowing law enforcement to be decisionmakers allows providers and educators to report a potential credible threat while continuing to maintain a relationship with the respondent. Additionally, as CUPD serves the University community, CUPD can work with the FAST or CARE teams to assess risk and link

the respondent with resources available as a member of the University community. Members of these teams should refer cases to CUPD.

Sources:

Court Step by Step Instruction

<https://www.courts.state.co.us/Forms/PDF/JDF572.pdf>

Petition for ERPO

<https://www.courts.state.co.us/Forms/PDF/JDF573.pdf>

ERPO Information Sheet, including an option to omit address

<https://www.courts.state.co.us/Forms/PDF/JDF%20577-%20Extreme%20Risk%20Protection%20Order%20Information%20Sheet.pdf>