

## Frequently Asked Questions for Complainants and Respondents

### Addendum A – State Mandated Hearing Addendum<sup>1</sup>

#### Investigations

##### Key Terms:

- **Complainant** means an individual who is eligible to file a Complaint or report a violation of CSU Executive Order 1096 or CSU Executive Order 1097 (both revised August 14, 2020). It also includes any person who is reported to have experienced a violation of policy in cases where some other person has made a report on that person's behalf. A Complainant may also be referred to as a party to the Complaint.
- **Respondent** means the CSU, a CSU Employee, a Student, or a Third Party who is alleged to have violated CSU Executive Order 1096 or CSU Executive Order 1097.
- **The Parties** means the Complainant and the Respondent collectively.
- **The Title IX Coordinator** is the individual designated by a campus with primary responsibility to monitor, supervise, and oversee all campus-wide implementation of and compliance with Title IX and the associated CSU Executive Orders.<sup>2</sup>
- **The Investigator** is the person tasked by a Campus with investigating a Complaint.
- **The Hearing Officer** is a neutral, third party who oversees a Title IX hearing.
- **The Hearing Coordinator** is a university administrator who is responsible for coordinating the pre-hearing and hearing processes.
- **A Support Advisor** is an individual chosen by a Party to provide support to that Party during the investigation and hearing processes. The Support Advisor may not answer questions regarding the subject matter of the investigation for the Complainant or the Respondent or speak on behalf of a Complainant or Respondent. However, the Support Advisor may observe and consult with the Complainant or Respondent.

##### Why has the CSU revised its Title IX policy?

In January 2019, a California Court of Appeal ruled (in a case involving another university) that students accused of sexual misconduct who face severe discipline (expulsion or suspension) at any California university have the right to a hearing to cross-examine (question), directly or indirectly, their accusers and other witnesses if witness credibility is “central” to the case. Until that time, the University process did not include a hearing. In May 2020, following another California Court of Appeal decision, the right to a hearing was extended to students accused of engaging in dating or domestic violence where credibility is central to the case and the student is facing severe discipline if found responsible.

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<sup>1</sup> The purpose of these FAQs is to provide an overview of Addendum A – State Mandated Hearing Addendum to CSU Executive Orders 1096 and 1097 (effective August 14, 2020) and to answer what are anticipated to be frequently asked questions. **These FAQs do not constitute CSU policy, nor do they purport to represent a comprehensive statement of CSU policy.** Please direct any questions about CSU Title IX-related policy to your campus Title IX Coordinator.

<sup>2</sup> [CSU Executive Order 1095 \(June 23, 2015\)](#).

To implement the new requirements, the CSU created an addendum to Executive Orders [1096](#) and [1097](#). This addendum is known as [Addendum A: State Mandated Hearing Addendum](#) (“Addendum A”), and it describes the investigation and resolution process for cases that meet the above requirements.

### What kinds of cases are impacted by this new policy?

The revised policy applies only to certain cases that meet the following three criteria:

- Student (Respondent) is accused of Sexual Misconduct, or Dating or Domestic Violence as defined by Executive Orders (EOs) 1096/1097 (Revised August 14, 2020);
- Student accused of Sexual Misconduct, or Dating or Domestic Violence faces suspension or expulsion; and
- The credibility of the accuser (Complainant) or other witnesses is central to a determination of whether the accused student engaged in Sexual Misconduct, or Dating or Domestic Violence.

### What policy applies if the circumstances of my Title IX (sex discrimination/harassment) case do not fall under Addendum A?

If the circumstances of your case do not fall under Addendum A, your case may be handled under the Executive Order 1096 or 1097 (Revised August 14, 2020) “single investigator model” or Addendum B: Federal Mandated Hearing Addendum. Please see below for more information.

### Do I need to figure out which policy applies to my case?

No, the Title IX Coordinator will make an assessment as to whether your case will be handled under Addendum A, or possibly another process. They will explain this to you and can answer any questions you may have.

### How is the Addendum A process different to other CSU processes?

The procedures under Executive Orders 1096 and 1097 are what we call a “single investigator model.” This means that an Investigator interviews the Parties and witnesses, gathers any documentary evidence, **and** decides whether or not the Respondent violated the policy. This means that there is no hearing in a case addressed using the single investigator model.

[Addendum B: Federal Mandated Hearing Addendum](#) (“Addendum B”), which incorporates the United States Department of Education Title IX Regulation (May 2020) requirements, applies to cases involving allegations that are defined by the Title IX Regulations as Sexual Harassment in an Education Program or Activity against a person (including, but not limited to students and employees) in the United States. This is a very specific definition and your campus Title IX Coordinator will determine whether Addendum B is applicable to your case by looking at all the facts and circumstances.

## How will these changes most directly affect me?

Your Role in the Case	Most Significant Effects of Addendum A
Complainant/Accuser	<ul style="list-style-type: none"> <li>• At any time during the process, you may ask to resolve your complaint (with the assistance of the campus Title IX Coordinator) without a hearing - through the Informal Resolution Process.<sup>3</sup></li> <li>• If the case is not resolved through Informal Resolution, a hearing will be scheduled. You will identify witnesses and prepare questions that you want to be asked of the Respondent and other witnesses.</li> <li>• The Hearing Officer will ask questions of you, the Respondent, and witnesses.</li> <li>• You will not speak directly to the Respondent and they will not speak directly to you. Questions may only be asked through the Hearing Officer.</li> <li>• You will participate in the hearing by answering questions and, if you choose, giving an opening statement.</li> <li>• The Hearing Officer will consider all relevant evidence and decide whether the Respondent violated University policy.</li> <li>• If the Respondent is found responsible, the Hearing Officer will also make a recommendation as to any appropriate disciplinary sanctions.</li> <li>• Both you and the Respondent will have the opportunity to appeal the outcome of the hearing to the CSU Chancellor's Office.</li> </ul>
Respondent/Accused	<ul style="list-style-type: none"> <li>• At any time during the process, you may ask to resolve the complaint (with the assistance of the campus Title IX Coordinator) without a hearing - through the Informal Resolution Process.<sup>4</sup></li> <li>• If the case is not resolved through Informal Resolution, a hearing will be scheduled. You will identify witnesses and prepare questions that you want to be asked of the Complainant and other witnesses.</li> <li>• The Hearing Officer will ask questions of you, the Complainant, and witnesses.</li> <li>• You will not speak directly to the Complainant and they will not speak directly to you. Questions may only be asked through the Hearing Officer.</li> <li>• You will participate in the hearing by answering questions and, if you choose, giving an opening statement.</li> <li>• The Hearing Officer will consider all relevant evidence and decide whether you, as the Respondent, violated University policy. If you are found responsible, the Hearing Officer will also make a recommendation as to any appropriate disciplinary sanctions.</li> <li>• Both you and the Complainant will have the opportunity to appeal the outcome of the hearing to the CSU Chancellor's Office.</li> </ul>
Support Advisors	<ul style="list-style-type: none"> <li>• A Support Advisor may be anyone, including a union representative from the Complainant's or Respondent's collective bargaining unit, an</li> </ul>

<sup>3</sup> The Title IX Coordinator will determine whether Informal Resolution is appropriate for your case.

<sup>4</sup> The Title IX Coordinator will determine whether Informal Resolution is appropriate for your case.

	<p>attorney, or, in the case of the Complainant, a Sexual Assault Victim's Advocate, provided the Support Advisor is not a person with information relevant to the allegations who may be interviewed by the Investigator during the investigation.</p> <ul style="list-style-type: none"> <li>• A Support Advisor may accompany a Party to interviews and meetings and help a Party prepare for the hearing. They may provide support to and consult with a Party during meetings/interviews but generally cannot speak for or on behalf of the Complainant or Respondent. Support Advisors may be present but do not speak during a hearing.</li> <li>• A Support Advisor may consult with a Party during the hearing but may not answer questions on behalf of a Party.</li> </ul>
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[If I am a Respondent in a case, how will I know what allegations have been made against me?](#)

The Title IX Coordinator will send you a document called a Notice of Investigation, which will include information about the allegations against you. You will receive the Notice of Investigation before you attend an interview with the Investigator so that you can prepare.

[What if I need accommodations for a disability during the investigation and/or hearing processes?](#)

Please let the Title IX Coordinator or Hearing Coordinator know as soon as possible if you require reasonable accommodations for a disability to enable you to fully participate in the investigation and/or hearing processes.

[What happens during the investigation?](#)

An Investigator will interview the Parties involved, as well as any witnesses. The Investigator will also gather any documentary evidence. The Parties can provide documentary evidence (such as text messages, e-mails or pictures, or any other information they believe is relevant) and they may also ask the Investigator to gather evidence. The Parties may suggest witnesses who they believe have relevant information for the Investigator to interview.

[Can I bring someone with me to meetings for advice and support?](#)

Yes, you may bring a Support Advisor to any interviews or meetings that you have with anyone from the Title IX Office during the investigation. You may choose anyone to be your Support Advisor provided they are not a person with information relevant to the allegations who may be interviewed by the Investigator during the investigation. A Support Advisor could be an attorney, a union representative, a friend or family member.

In choosing a Support Advisor, you may wish to consider what is likely to be shared during the investigation and whether you will feel comfortable with that person being present to hear that discussion. This may be a particular consideration if you are planning to bring a family member with you. However, it is ultimately your choice who to bring.

Your Support Advisor may provide support and consult with you during meetings and interviews but generally cannot speak on your behalf.

[What if I do not have a Support Advisor?](#)

Contact the Title IX & DHR Prevention Office and we can connect you with someone that can potentially serve as a Support Advisor.

[Will the evidence I provide be shared with the other Party?](#)

Yes. It is very important for you to understand that with only a few exceptions, **all** relevant evidence provided by either Party will be shared with the other Party.

[What happens at the end of the investigation?](#)

The Investigator will provide to you a copy of all relevant evidence obtained during the investigation. This is called a Preliminary Investigation Report. You will have an opportunity to review the Preliminary Investigation Report and any

attached evidence, and to provide a written response. You will receive detailed instructions from your campus Title IX Office about this at the appropriate time. This part of the process is called the Review of Evidence.

Once you and the other Party have provided any written response/s to the Preliminary Investigation Report, your response may be shared with the other Party (and theirs with you), and there may be a further opportunity to respond. The Investigator will decide when it is appropriate to finish the Review of Evidence process. Once the Review of Evidence stage is complete, the Investigator will issue a Final Investigation Report. A hearing will then be scheduled. You will be given at least 20 Working Days' notice of the hearing.

### What counts as a "Working Day"?

Working Days means Monday through Friday, excluding all official holidays or campus closures at the campus where the complaint originated or at the Chancellor's Office where an appeal is reviewed. If you are unsure about working days on your campus, please speak with your Title IX Coordinator.

### Will the Final Investigation Report include any findings?

When a case is being handled under Addendum A, findings as to whether the Respondent is responsible for the conduct as alleged by the Complainant can only be made by the Hearing Officer following a hearing. Therefore, the Final Investigation Report will not contain any findings.

### What happens after the investigation?

After the investigation and evidence review stages are complete, the case will be scheduled for a hearing for the decision as to whether the Respondent violated University policy. The decision will be made by a neutral, third-Party Hearing Officer after a hearing. During the hearing, both the Complainant and the Respondent will have the opportunity to pose questions for the Hearing Officer to ask the other Party and witnesses.

The Title IX Coordinator will provide you with more information about the hearing at the appropriate time. You may also review [the FAQs on Hearings](#), which is a separate document.

### Is there any alternative to having a hearing?

Yes. An Informal Resolution is an agreement between you and the other Party that would resolve the matter without a hearing. It could also occur after a hearing, as long as it is before the Hearing Officer makes a final decision.

- It is a completely voluntary process that can occur at any time up to the point where the Hearing Officer makes a final decision
- Neither the Complainant nor Respondent should feel pressured to agree to an Informal Resolution
- Both Parties and the campus Title IX Coordinator have to agree with the terms of the Informal Resolution before it can become final

If you would like to pursue Informal Resolution, you can discuss this option with your campus Title IX Coordinator. You may also review [the FAQs on Informal Resolution](#), which is a separate document.

### Do you believe the hearing requirement will have a negative effect on individuals reporting sexual misconduct, or dating or domestic violence, or moving forward with their cases?

We hope not and will do our best to make the process as fair and compassionate as possible for everyone involved. All Hearing Officers receive training about our investigation and hearing process as well as the complex and sensitive issues surrounding allegations of sexual misconduct and dating and domestic violence. We encourage students and employees to speak with their campus Title IX Coordinators and confidential campus resources, including psychological services, confidential advocates, and respondent advisors to discuss their experience and concerns.

### What effect does the new policy have on pending and closed cases?

Cases that were concluded before January 2019 if the case involves sexual misconduct, or May 2020 if the case involves dating or domestic violence, were properly addressed under CSU policy and in compliance with law. Please direct any questions to your campus Title IX Coordinator.

## Who can I contact if I have further questions?

Please contact your campus Title IX Coordinator:

Allan Ford

Interim Title IX Coordinator and DHR Prevention Administrator

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