

## Title IX Hearings Under Addendum A – State Mandated Hearing Addendum Expectations for Party, Support Advisor, and Support Person Participation and Conduct

This document relates only to hearings under Addendum A – Stated Mandated Hearing Addendum (to CSU Executive Orders 1096 and 1097, revised August 14, 2020). It is intended to outline the hearing participation and conduct expectations for Complainants and Respondents, and their respective Support Advisors and Support Persons, if present. This document will be provided to the Parties and their Support Advisors and/or Support Persons in advance of the hearing so that they may familiarize themselves with the expectations. Parties and their Support Advisors/Support Persons will be regarded as being on notice of these expectations upon receipt. Any questions should be directed to the Hearing Coordinator.

**A live hearing before a neutral Hearing Officer allows the Parties to a complaint, the Complainant and Respondent, to indirectly cross-examine each other and relevant witnesses. The Hearing Officer will assess credibility, find facts, and determine if the policy has been violated.**

The Hearing will proceed as follows:

- Live hearings will be conducted using videoconferencing technology, unless both Parties request to be physically present. Neither Party will be required to be physically present in the same room as the Hearing Officer, each other, or witnesses. CSU will utilize technology that ensures that Parties will be able to simultaneously see and hear all of the proceedings and testimony.
- A Party's Support Advisor and Support Person may accompany them during the hearing but is **not** permitted to speak during the hearing.
- The hearing will commence with an overview of the hearing process given by the Hearing Officer, after which the Parties will be given an opportunity to ask questions about the hearing process. Each Party will be given an opportunity to make an opening statement that may not last longer than 10 minutes. Only the Parties themselves will be permitted to make opening statements. The Support Advisor and Support Person, if present, are not permitted to make the opening statement for a Party. Closing arguments will not be made.

**The Hearing Officer controls the hearing, is responsible for maintaining order during the hearing, and makes whatever rulings are necessary to ensure a fair hearing.**

**Abusive or otherwise disorderly behavior that causes a material disruption will not be tolerated.**

**The Hearing Officer may excuse any person (including either Party, their Hearing Support Advisor, or Support Person) whose behavior causes a material disruption.**

**The expectations for participation and conduct during hearings are as follows:**

1. The Family Educational Rights and Privacy Act (FERPA) covers hearings. The hearing will be closed to all persons except:
  - The Parties;
  - One Support Advisor per Party;
  - One Support Person per Party;
  - Appropriate witnesses while they are testifying;

- The Title IX Coordinator;
- The Title IX Investigator
- The Student Conduct Administrator;
- The Hearing Officer; and
- The Hearing Coordinator.

A CSU Administrator may be present but will not participate in the hearing. Campus police or a security officer may also be present if deemed appropriate or necessary by the appropriate Campus administrator, Hearing Coordinator or Hearing Officer. An individual providing technological support may also be present. No other individuals are allowed to hear or observe by any means.<sup>1</sup> Those present will be asked to identify themselves and their role in the hearing.

2. Participants who are attending the hearing remotely using videoconferencing technology will be asked to show the room from which they are participating and verbally confirm that they are alone in the room. A Party's Support Advisor and Support Person may be present with a Party in the same room.
3. The Campus will make or arrange for an official audio recording of the hearing. The recording is University property. No other recording of the hearing is permitted. A Party who records the hearing will be in violation of the Student Conduct Code (for students) or applicable professional code of conduct (for employees) and may be disciplined for doing so. The audio recording will be retained by the Hearing Coordinator or designee in accordance with the Campus records/information retention and disposition schedule. Parties may request to inspect and review the recording.
4. In order to ensure the efficiency of the hearing and the integrity of the audio recording, Parties who are participating remotely will be required to mute their microphones when they are not speaking during the hearing. Support Advisors and Support Persons who are participating remotely will be required to mute their microphone throughout the hearing.
5. Support Advisors and Support Persons are not permitted to make opening statements on behalf of a Party. Neither Parties themselves nor their Support Advisors or Support Persons will make closing statements.
6. Parties themselves are not permitted to directly question another Party or witness. All questioning must be done by Hearing Officer only.
7. The Hearing Officer will ask the questions proposed by the Parties except for questions that:
  - a. seek information about the Complainant's sexual history with anyone other than the Respondent (unless such evidence about the Complainant's sexual behavior is offered to prove that someone other than the Respondent committed the alleged misconduct);
  - b. seek information about the Respondent's sexual history with anyone other than the Complainant, unless such information is used to prove motive or pattern of conduct;
  - c. seek information that is unreasonably duplicative of evidence in the Hearing Officer's possession; or
  - d. the Hearing Officer determines are not relevant to material disputed issues, are argumentative or harassing or unduly intrude on a witness's privacy.
8. The Hearing Officer has discretion to modify or change the wording of a question proposed by a Party (for example, when a question is unclear or inappropriate in tone) as long as the substance of the question is preserved.
9. The Parties will address any questions or concerns about a question (or line of questioning) to the Hearing Officer who will use their discretion to resolve any issues consistent with the Executive Order.
10. Parties may ask for a break to consult with their Support Advisor and/or Support Person. Breaks are at the discretion of the Hearing Officer. When the Hearing Officer asks a Party a question, the Party will be expected to wait until after they have answered the question posed by the Hearing Officer to request a break. The

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<sup>1</sup> Interpreters or individuals required by ADA accommodations are permitted. If applicable, that person will also identify themselves and their role in the hearing.

Hearing Coordinator will provide a means for Parties to consult with their Support Advisors and Support Persons in private.

11. A Support Advisor or Support Person may not “coach” or otherwise communicate with a Party during the hearing about the substance of their responses while questions are pending, including through electronic means.
12. Abusive or otherwise disorderly behavior, including a failure to adhere to the above expectations, that causes a material disruption will not be tolerated. The Hearing Officer may excuse from the hearing anyone (including either Party or their Support Advisor or Support Person) whose behavior causes a material disruption.