

## Frequently Asked Questions for Complainants and Respondents

### Addendum B – Federal Mandated Hearing Addendum 1

#### Informal Resolution

##### Key Terms:

- **Complainant** means an individual who alleges they have been subjected to Sexual Harassment.
- **Respondent** means an individual who has been reported to have engaged in conduct that could constitute Sexual Harassment.
- **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 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 **Hearing Advisor** is an individual chosen by a Party or, if a Party does not have anyone to act in the role, provided by the University, who will ask questions of the other Party and witnesses during the hearing. Both the Complainant and the Respondent **must** have a Hearing Advisor for the hearing.
- 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.

##### What is Informal Resolution?

An Informal Resolution is an agreement between you and the other Party (Complainant or Respondent) that would resolve a Formal Complaint without a hearing. It could also occur after a hearing, as long as it is before the Hearing Officer makes a final decision. There are a few things to know about Informal Resolution:

- Informal Resolution may only be offered where a Formal Complaint has been filed;
- It is a completely voluntary process that can occur at any time up to the point where the Hearing Officer makes a final decision;
- The University **cannot** offer or facilitate Informal Resolution to resolve allegations that an employee sexually harassed a student;
- Neither the Complainant nor Respondent should feel pressured to agree to an Informal Resolution; and

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<sup>1</sup> The purpose of these FAQs is to provide an overview of Addendum B – Federal 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 \(June 23, 2015\)](#).

- Both Parties and the campus Title IX Coordinator have to agree to 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, who will determine if it is appropriate for your case.

### What happens during the Informal Resolution process?

If the Title IX Coordinator determines that Informal Resolution is appropriate, they will send you and the other Party a written notice regarding Informal Resolution that includes the following information:

1. The allegations of Sexual Harassment, as defined by [Addendum B – Federal Mandated Hearing Addendum](#), made in the Formal Complaint;
2. The requirements of the Informal Resolution process including that once the Informal Resolution process is finalized neither Party is permitted to file another Formal Complaint arising from the same allegations;
3. An explanation that at any time prior to agreeing to a resolution, any Party has the right to withdraw from the Informal Resolution process and resume the Formal Complaint process;
4. An explanation of any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared;
5. The Parties' right to consult with a Support Advisor, if any.

You and the other Party will both need to provide your written consent to begin the Informal Resolution process. The Title IX Coordinator will explain how to do this.

### Who will oversee the Informal Resolution process?

The Title IX Coordinator will oversee the Informal Resolution process and make the final determination on all Informal Resolutions facilitated by the Title IX Coordinator or their designee regarding whether the terms agreed to by the Parties are appropriate in light of all of the circumstances of the Formal Complaint.

### What could an Informal Resolution look like?

This will entirely depend on the circumstances of the Formal Complaint, the allegations involved, and the Parties themselves. The Title IX Coordinator, in consultation with the Student Conduct Administrator and / or other appropriate University Administrator (such as the Human Resources Officer) responsible for the implementation of the terms, must also be satisfied that any proposed terms of an Informal Resolution are appropriate in the circumstances.

An Informal Resolution could include disciplinary sanctions, educational requirements (such as additional training), agreements between the Parties to have no contact with each other, changes in work or housing locations, etc.

The Informal Resolution process may also include a written preliminary assessment of the evidence where this is requested by both Parties and an investigation has been completed such that the Title IX Coordinator has the information with which to make such an assessment.

### What is a preliminary assessment and how do I request one?

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. However, as part of an Informal Resolution, at the request of both Parties, the campus will provide a written preliminary assessment of the evidence. The assessment will be provided by the Title IX Coordinator. A preliminary assessment will only be available where an investigation has been completed to the extent that the Title IX Coordinator has the information with which to make such an assessment. This will usually mean that you and the other Party have already received a Preliminary Investigation Report with all the evidence and have both had an opportunity to respond to that Report.

To request a preliminary assessment of the evidence, please contact your Title IX Coordinator. Both you **and** the other Party will first need to agree to engage in the Informal Resolution process (if you have not already done so) and you will both need to agree to the preliminary assessment being provided.

It is important to know that if a case is not resolved through Informal Resolution and proceeds to a hearing, any preliminary assessment provided as part of the Informal Resolution process will **not** be given to the Hearing Officer and the Hearing Officer will not be informed that any assessment was made. If either Party or their Hearing Advisor tries to talk about the preliminary assessment during a hearing, it will be considered not relevant and therefore will not be considered by the Hearing Officer in making their decision. If a Party refers to a preliminary assessment in their written response to the Final Investigation Report, that reference will be redacted before the Final Investigation Report is given to the Hearing Officer.

It is important to remember that any preliminary assessment is made by the Title IX Coordinator on the basis of the information available to them at that stage before any hearing takes place. It is possible that a Hearing Officer may reach a different conclusion having considered all the relevant evidence, including that provided during a hearing. The fact that the Title IX Coordinator's preliminary assessment and a Hearing Officer's conclusion following a hearing are different does not mean that either the Title IX Coordinator or the Hearing Officer are "wrong."

### [What happens after I receive a preliminary assessment of the evidence?](#)

Once you receive a preliminary assessment of the evidence, you may wish to use this information to inform your decision whether or not to continue in the Informal Resolution process and/or what you might propose or be willing to agree to as part of an Informal Resolution. It remains an option to withdraw from Informal Resolution and continue with the investigation and hearing process under Addendum B.

### [Who can provide me advice about Informal Resolution?](#)

The Title IX Coordinator is available to answer questions about the Informal Resolution process and to facilitate that process. However, the Title IX Coordinator cannot advise you about what you should or should not agree to as part of an Informal Resolution.

You may bring a Support Advisor to any meetings regarding Informal Resolution and you are encouraged to discuss any proposals for Informal Resolution with your Support Advisor. You may choose anyone to be your Support Advisor. This could include an attorney, a union representative, a friend or family member, or any other individual of your choice. Your Support Advisor may provide support and consult with you during meetings and interviews but generally cannot speak on your behalf.

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

### [How long does Informal Resolution take?](#)

The Informal Resolution process will be completed prior to any determination of responsibility being made, but no later than **60 Working Days** after both Parties provide voluntary, written consent to participate in the Informal Resolution process. If an Informal Resolution is not reached within the 60 Working Day timeframe, the case will continue under the Formal Complaint process (investigation and hearing).

### [Do I have to participate in Informal Resolution?](#)

No, the University may not require the Parties to participate in an Informal Resolution process, nor may a Party be required to waive their right to the investigation and adjudication of a Formal Complaint as a condition of enrollment or employment, or continuing enrollment or employment.

### [What happens if I agree to participate in the Informal Resolution process but then I change my mind?](#)

You have the right to withdraw from the Informal Resolution process and resume the Formal Complaint process at any time prior to a resolution being agreed. If you wish to withdraw from the Informal Resolution process, you should contact the Title IX Coordinator to tell them. If you or the other Party withdraw from the Informal Resolution process, the Formal Complaint will continue to be handled under the Addendum B investigation and hearing processes.

### [Will the Informal Resolution be in writing?](#)

The terms of any Informal Resolution must be put in writing and signed by the Parties, and the Title IX Coordinator before the Informal Resolution is considered final.

### How can I sign the Informal Resolution?

Your Title IX Coordinator will explain how you should sign the Informal Resolution. Use of electronic signatures is permitted under Addendum B.

### Is anyone else involved in the Informal Resolution process?

Prior to signing the Informal Resolution, the Title IX Coordinator will consult with the Student Conduct Administrator and/or other appropriate University Administrator (such as the Human Resources Officer) responsible for the implementation of the terms.

### If I agree to a disciplinary sanction as a Respondent, what does that mean?

It is important to understand that any agreed-upon remedies and disciplinary sanctions will have the force and effect of sanctions imposed following a hearing. For example, if you are a student and you agree to a suspension of one year or more as part of an Informal Resolution, there will be a permanent notation placed on your transcript regarding the suspension, in the same way that this would happen if a suspension was imposed following a hearing at which you were found to have violated Addendum B.

### Can I or the other Party still file an appeal after an Informal Resolution?

No, an Informal Resolution will be final and is not appealable by either Party.

### What if I change my mind after an Informal Resolution has been finalized – can I file another Formal Complaint?

No, once the Informal Resolution process is finalized neither Party is permitted to file another Formal Complaint arising from the same allegations.

### Will the information I provide during meetings about Informal Resolution be shared with anyone else?

It is important for you to understand any consequences that might result from participating in the Informal Resolution process, including the records that will be maintained or could be shared. Your Title IX Coordinator will provide an explanation of any consequences in the written notice regarding Informal Resolution that will be sent to you before you provide your consent to engage in the Informal Resolution process. This is one reason why it is very important to read the notice carefully and to follow-up with the Title IX Coordinator if you have any questions.

### 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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