

## Frequently Asked Questions for Complainants and Respondents

### Addendum B – Federal Mandated Hearing Addendum 1

#### Investigations

##### 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.

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

On May 6, 2020, the United States Department of Education, Office for Civil Rights (OCR) issued and amended Title IX Regulations (Title IX Regulations) implementing Title IX of the Education Amendments of 1972. As of their effective date, August 14, 2020, and unless and until they are rescinded, the Title IX Regulations have the force of law, and all U.S. higher education institutions who receive federal funds, including the CSU, are obligated to comply with the Title IX Regulations.

To implement the requirements of the Title IX Regulations, the CSU created an addendum to Executive Orders [1096](#) and [1097](#). This addendum is known as [Addendum B: Federal Mandated Hearing Addendum](#) (“Addendum B”), and it describes the investigation and resolution process for cases covered by the Title IX Regulations.

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

Addendum B, which incorporates the Title IX Regulation 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.

It is possible that your case will not fall within the scope of the Title IX Regulations, and therefore Addendum B may not apply. One example would be if the incident that you are alleging as a Complainant, or that you are accused of as a Respondent, did not take place in the United States. **It is important to know even if Addendum B does not apply to your case, this does not automatically mean that the case cannot be addressed. The University may have an**

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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 \(June 23, 2015\)](#).

**obligation to address the matter under other laws and policies.** The Title IX Coordinator will explain this to you, if applicable.

### How is the Addendum B 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 cases addressed using the single investigator model.

[Addendum A: State Mandated Hearing Addendum](#) (“Addendum A”) applies only when: a) The case involves a **student** Respondent; b) who is accused of sexual misconduct, or dating or domestic violence; and c) who is facing a severe disciplinary sanction if found responsible; and d) where the credibility of the Parties and/or any witnesses is at issue. Cases processed under Addendum A do involve a hearing (where the case is not resolved through Informal Resolution), but these hearings are different in that only the Hearing Officer may ask the Parties and witnesses questions, whereas in an Addendum B hearing, it is the Parties’ Hearing Advisors and the Hearing Officer who may ask these questions. We will talk more about Hearing Advisors below and you may also review [the FAQs on Hearings](#), which is a separate document.

### Does Addendum B apply to dating and domestic violence or stalking cases?

Yes, Addendum B applies to cases involving allegations of dating and domestic violence, and stalking, where that conduct is alleged to have occurred in a University Education Program or Activity against a person (including students and employees of the CSU) in the United States.

### 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 B, or possibly another process. They will explain this to you and can answer any questions you may have.

### What does it mean if my case falls under the new policy?

If your case will be handled under Addendum B, there are procedural requirements that apply to Addendum B cases. Under every process, the Title IX Coordinator can provide Supportive Measures, whether or not a formal complaint is filed. If a formal investigation is requested and the Title IX Coordinator finds that the complaint meets the requirements of Addendum B, the case will be formally investigated under Addendum B.

### What if I disagree with the Title IX Coordinator’s decision that my case does not fall within the scope of Addendum B?

In most instances, Addendum B requires that the Title IX Coordinator inform you if your case will not be handled using the Addendum B process, and whether it will instead be addressed under a different process (for example using the single investigator model under Executive Order 1096 or 1097, or the Addendum A process). Both Parties can appeal the decision that a case will not be handled under Addendum B. The Title IX Coordinator will give you information about how to appeal the decision.

### If I am a Respondent in a case, how will I know what allegations have been made against me?

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

## How will these changes most directly affect me?

Your Role in the Case	Most Significant Effects of Addendum B
Complainant / Accuser	<ul style="list-style-type: none"> <li>• At any time during the Formal Complaint 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> Informal Resolution can include a request for a written preliminary assessment of the evidence from the Title IX Coordinator, but both you and the Respondent must agree to this.</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>• A Hearing Advisor (see below) will ask questions of the Respondent and witnesses.</li> <li>• The Hearing Officer may also ask questions of you, the Respondent and other witnesses.</li> <li>• You will not speak directly to the Respondent and they will not speak directly to you. Questions may only be asked by your Hearing Advisor, the Respondent’s Hearing Advisor and 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 Formal Complaint 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> Informal Resolution can include a request for a written preliminary assessment of the evidence from the Title IX Coordinator, but both you and the Complainant must agree to this.</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>• A Hearing Advisor (see below) will ask questions of the Complainant and witnesses.</li> <li>• The Hearing Officer may also ask questions of you, the Complainant and other witnesses.</li> </ul>

<sup>3</sup> Informal Resolution will not be an available option if you, as the Complainant, are a student and the Respondent (person accused) is a University employee. The Title IX Coordinator will determine whether Informal Resolution is appropriate for your case.

<sup>4</sup> Informal Resolution will not be an available option if the Complainant is a student and you, as the Respondent (person accused), are a University employee. The Title IX Coordinator will determine whether Informal Resolution is appropriate for your case.

Your Role in the Case	Most Significant Effects of Addendum B
	<ul style="list-style-type: none"> <li>• You will not speak directly to the Complainant and they will not speak directly to you. Questions may only be asked by your Hearing Advisor, the Complainant’s Hearing Advisor and 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>
Advisors	<ul style="list-style-type: none"> <li>• There are now two kinds of advisor – a <b>Support Advisor</b> and a <b>Hearing Advisor</b>.</li> <li>• The Complainant and Respondent can choose anyone they would like to act as their Support Advisor and their Hearing Advisor. One person may take on both roles during the full Formal Complaint process, including the hearing, or a Complainant or Respondent may have two different people serve in these roles.</li> <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 do not speak during a hearing.</li> <li>• A Hearing Advisor will ask questions of the other Party and witnesses during the hearing. They may consult with a Party during the hearing but may not answer questions on behalf of a Party.</li> <li>• A Complainant or Respondent is not required to have a Support Advisor, but if their case goes to a hearing, they must have a Hearing Advisor. The University will provide a Hearing Advisor to any Complainant or Respondent who does not have one.</li> </ul>

### What are “Supportive Measures” and are they available to me?

Supportive Measures are individualized services offered as appropriate, as reasonably available, and without fee or charge to a Complainant or Respondent regardless of whether a Formal Complaint is filed. Supportive Measures are designed to restore or preserve equal access to CSU Education Programs or Activities without unreasonably burdening the other Party, including to protect the safety of all Parties or the educational environment.

Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escorts, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

The Title IX Coordinator will discuss Supportive Measures with you. However, if during the investigation process, you feel that there is a Supportive Measure that you need, please contact the Title IX Coordinator to talk about this.

### 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. This could include an attorney, a union representative, a friend or family member, or any other individual of your choice.

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** evidence that is directly related to the allegations provided by either Party will be shared with the other Party and their Support Advisor (if they have one). In addition, this evidence will also be shared with **your own** Support Advisor (if you have one), unless you notify the Title IX Coordinator or Investigator in writing that you do not want this information sent to your Support Advisor.

## What happens at the end of the investigation?

The Investigator will provide to you and your Support Advisor (if you have one) a copy of all the evidence obtained during the investigation. This is called a Preliminary Investigation Report. You will have a minimum of 10 Working Days 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. Once the Review of Evidence process is complete, the Investigator will issue a Final Investigation Report. You will be given another 10 Working Days to provide a written response. Your written response should **not** include any reference to an Investigator's preliminary assessment if one is given (see below). 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 Formal 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.

## What if I don't want my Support Advisor to receive a copy of the Preliminary Investigation and / or Final Investigation Report?

You should tell the Title IX Coordinator or Investigator in writing if you do not want your Support Advisor to receive a copy of the evidence and/or the Final Investigation Report. You should do this as early in the investigation process as possible because the information will be sent to you and your Support Advisor at approximately the same time.

## Will the Final Investigation Report include any findings?

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. The Final Investigation Report will not contain any findings. However, as part of an Informal Resolution (see below), 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. Both Parties must agree to the preliminary assessment being provided.

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 the investigation?

After the investigation and evidence review, 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 ask questions of each other and witnesses through their respective Hearing Advisors.

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.

- 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.
- 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.

## I heard that this new policy does not apply to international students or students or employees who are abroad – is that true?

Any student or employee, including international students, students or employees who are studying or working abroad, and students or employees who are undocumented can receive assistance, including Supportive Measures, from the University if they experience sexual harassment, including sexual assault, dating or domestic violence, or stalking.

It is the case that the Formal Complaint process under Addendum B (which implements the requirements of the Title IX Regulations) only applies if the alleged conduct occurred against a person **in the United States**. However, this refers to **where the conduct itself happened**. It is also important to know that even if the incident occurred outside of the United States, the Formal Complaint could possibly still be addressed under another University policy, such as Executive Order 1096 or 1097, or Addendum A. This will depend on the circumstances of the case and your campus Title IX Coordinator will be able to provide more information specific to your case.

If you will be outside the United States during the investigation and/or hearing process, your campus Title IX Coordinator will work with you to make sure you can participate, including through use of technology.

### [I heard that this new policy does not apply incidents that occur off-campus – is that true?](#)

Addendum B applies to cases where the alleged conduct occurred in a University “Education Program or Activity.” Whether or not something occurred in a University Education Program or

Activity will be assessed by the campus Title IX Coordinator, and the determination will depend on the facts of the case. In some instances, conduct that occurred off-campus may not be considered to have occurred in an Education Program or Activity. However, it is important to know that even if Title IX Coordinator decides that the alleged conduct did not occur in an Education Program or Activity, the Formal Complaint could possibly still be addressed under another University policy, such as Executive Order 1096 or 1097, or Addendum A. This will depend on the circumstances of the case and your campus Title IX Coordinator will be able to provide more information specific to your case.

### [Do you believe the hearing requirement will have a negative effect on students and employees reporting sexual harassment 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. 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?](#)

The Title IX Regulations became effective on August 14, 2020, and they are **not** retroactive. In addition, the Department of Education has clarified that the Title IX Regulations only apply to cases involving alleged incidents that occurred **on or after** August 14, 2020. This means that cases that were in progress prior to August 14, 2020 **and** reports made after August 14, 2020, but which involve an incident that occurred prior to that date will continue to be handled under Executive Order 1096 or 1097, or Addendum A (whichever is applicable). Cases that were concluded before August 14, 2020 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

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