

Frequently Asked Questions for Complainants and Respondents

Addendum B – Federal Mandated Hearing Addendum¹

Hearings

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.²
- **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 a hearing?

A hearing is a meeting that occurs once an investigation under [Addendum B – Federal Mandated Hearing Addendum](#) (“Addendum B”) has finished. During the hearing an independent Hearing Officer listens to the witnesses, including you and the other Party

¹ 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.

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

(Complainant or Respondent) and analyzes the evidence. The Hearing Officer will ask questions of the Parties and witnesses and decide about whether the Respondent is responsible for the conduct as alleged. The Complainant's and the Respondent's Hearing Advisors may ask questions of the other Party and witnesses. The Hearing Officer will oversee and guide the hearing.

[I already gave my statement to the Investigator, and they took notes – why do I have to attend a hearing?](#)

The Federal Title IX Regulations require that the Parties (the Complainant and Respondent) have an opportunity to ask questions (through their Hearing Advisors) in a live hearing. The Hearing Officer may also ask the Complainant, Respondent, or a witness questions of their own. You will not ask questions directly to the other Party or witnesses, and the other Party will not directly question you. Instead, you and the other Party will each have a Hearing Advisor who will ask questions of the other Party and witnesses on your behalfs.

[I heard that the new process involves cross-examination – what does this mean?](#)

Cross-examination means asking questions of a witness (including the Complainant or Respondent) about the witness's statements or to challenge their credibility (or believability). In the hearing process, the Respondent's and Complainant's Hearing Advisors will "cross-examine" the other Party and witnesses on behalf of the Party. Hearing Advisors will either be individuals of the Parties' choice or provided by the University if a Party does not have their own Hearing Advisor. This means that the Complainant and Respondent will **not** communicate directly with each other or witnesses and such direct communication will not be permitted at any time during the hearing. This process of providing for "indirect" questioning by the Hearing Advisors is intended to minimize anxiety for the participants in the hearing.

[Why do Hearing Advisors ask the questions rather than the Hearing Officer?](#)

The Federal Title IX Regulations require that only the Hearing Officer and Parties' Hearing Advisors ask questions of the other Party and witnesses. Hearing Officers may also ask questions of their own and will usually ask their questions before the Hearing Advisors begin their questioning.

[Can I ask questions during the hearing?](#)

At the start of the hearing there will be an opportunity for you to ask the Hearing Officer any questions you have about the hearing. You will also be able to make a 10-minute opening statement. However, you will **not** be permitted to directly ask any questions of the other Party or witnesses. Those questions can only be asked by your Hearing Advisor.

[Can my Hearing Advisor ask me questions during the hearing?](#)

No, your Hearing Advisor can only ask questions of the other Party and any witnesses. They cannot ask you questions.

How will I know when and where the hearing will be?

Your campus Title IX Office will provide you with all the details of the hearing, including the date, time, location, participants, and purpose of the hearing, as well as the identity of the Hearing Officer. This information will be sent to you in a communication called a "Notice of Hearing." If you have any questions about the hearing, you should contact the Hearing Coordinator. The Hearing Coordinator is a university administrator who is responsible for coordinating the pre-hearing and hearing processes.

What if I have class, practice, or work at the time of the hearing?

It is recommended that you consult your schedule as soon as you receive the Notice of Hearing, which tells you the date and time of hearing. The Hearing Coordinator can arrange reasonable accommodations, including an excused absence from class, practice, or work to enable you to participate in the hearing. It is important that you communicate to the Hearing Coordinator your need for any accommodations as soon as possible.

If you absolutely cannot attend the hearing for some reason, it is important that you communicate this to the Hearing Coordinator as soon as possible, providing your reasons. If you do not attend the hearing without providing a valid reason, the hearing may still proceed in your absence.

If you have questions, or are concerned about attending the hearing, the Hearing Coordinator is available to talk to you and answer any questions you may have.

Where will the hearing take place?

The hearing will be conducted using videoconferencing technology, unless circumstances are such that videoconferencing would not be appropriate. Neither Party will be required to be physically present in the same room as the Hearing Officer, each other, or witnesses. The University will utilize technology to ensure that both Parties will be able to see and hear all of the proceedings and statements made during the hearing.

Do I have to be in the same room as the other Party (Complainant or Respondent)?

No, the hearing will take place using videoconferencing technology (unless circumstances are such that videoconferencing would not be appropriate), which means that you can participate in the hearing from wherever you choose, although you should try to ensure that you have a private space from which you can participate. You will **not** be required to be physically present in the same room as the Hearing Officer, the other Party, or the witnesses.

What does a private space mean and why does that matter?

The topics that are discussed during a hearing can be very sensitive and personal for everyone involved. You may not want family members or others who are around you to hear these details. Therefore, it is important that you are able to participate from a location that is quiet and where other people will not be in the same room as you. You might also consider using headphones to further increase your privacy and that of others involved in the hearing.

What if I do not have access to technology for videoconferencing or I do not have a private space from which I can participate?

Please discuss these concerns with the Hearing Coordinator, who can make arrangements to ensure that you can fully participate in the hearing.

What if I am far from my campus at the time the hearing will be held?

In most instances, the hearing will take place using videoconferencing technology, which means you can participate from any private space of your choice. Therefore, you do not need to be close to your campus.

If you will be participating in the hearing from another state or from outside the United States, please inform the Hearing Coordinator as soon as possible so that they can consider any time differences while preparing for the hearing.

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.

Can I bring someone with me to the hearing for advice and support?

The Complainant and Respondent may both bring one Hearing Advisor **and** one Support Advisor each to the hearing. You may choose anyone to be your Hearing Advisor and Support Advisor. This could include an attorney, a union representative, a friend or family member, or any other individual of your choice. However, if you do not have anyone to be your Hearing Advisor, the University will provide one for you from a group of trained Hearing Advisors who have agreed to serve in this role.

In choosing a Hearing Advisor and Support Advisor, you may wish to consider what is likely to be shared during the investigation and discussed during the hearing, 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 Hearing Advisor will participate in the hearing by asking questions of the other Party and any witnesses on your behalf. You will not be allowed to ask these questions yourself. However, you will be expected to **answer** questions yourself – your Hearing Advisor cannot answer questions on your behalf.

Your Support Advisor, if you have one, will not be allowed to speak during the hearing. However, you may consult with your Support Advisor and/or your Hearing Advisor as needed. If you would like to speak with either or both of your Advisors privately during the hearing, please

ask the Hearing Officer to pause the hearing and excuse you. If the other Party's Hearing Advisor or the Hearing Officer asks you a question, you will be expected to answer that question before taking a break.

What if I do not have a Hearing Advisor?

Please contact the Hearing Coordinator as soon as possible to request that a Hearing Advisor be assigned to you.

What if I do not have a Support Advisor?

The University is not required to provide a Support Advisor. However, you may contact the Hearing Coordinator who can connect you with various resources for support on campus, which might include someone who can act as your Support Advisor.

How should I prepare for the hearing?

The Hearing Coordinator will provide you with information regarding the pre-hearing and hearing processes, including timeframes for information that you may need to submit (for example, the name and contact information of your Hearing Advisor, if you have one).

You will likely wish to meet with your Hearing Advisor to discuss the questions that you would like to be asked of the other Party and witnesses during the hearing.

What if I don't want to participate in the hearing?

You are not required to participate in a hearing, but there is risk in not attending.

- If you are a Complainant and choose not to participate in the hearing, the University's ability to take action regarding your Formal Complaint may be limited. The hearing will happen, but statements you made during the investigation (even if described in the Final Investigation Report) cannot be considered by the Hearing Officer because you will not be available to answer questions about those statements. If you do not appear at the hearing, your Hearing Advisor will still be able to question the other Party.
- If you are a Respondent and choose not to participate in the hearing, the hearing will happen, but statements you made during the investigation (even if described in the Final Investigation Report) cannot be considered by the Hearing Officer because you will not be available to answer questions about those statements. If you do not appear at the hearing, your Hearing Advisor will still be able to question the other Party.

Who else will be present at the hearing?

The hearing will be "closed" – this means that only those who need to be present will be part of the hearing. Who is present may vary depending on the circumstances; however, usually the following individuals will be present:

- Hearing Officer;

- Complainant;
- Respondent;
- Hearing Advisor and Support Advisor for Complainant;
- Hearing Advisor and Support Advisor for Respondent;
- Title IX Coordinator;
- Title IX Investigator (if not also the Title IX Coordinator);
- Hearing Coordinator;
- Student Conduct Administrator or other appropriate University administrator;
- An administrator from the CSU Chancellor's Office; and
- Witnesses (who will only be present during the part of the hearing that is relevant to their statement).

Sometimes, it may be necessary to have additional people present, such as an information technology employee to assist with technology.

What will the hearing be like?

The hearing is a meeting at which the Hearing Officer listens to the witnesses, including you and the Complainant/the Respondent and analyzes the evidence. The Complainant and Respondent's Hearing Advisors ask questions of the other Party and witnesses. The Hearing Officer may also ask questions of the Parties and witnesses and decides about whether the Respondent is responsible for the conduct as alleged. The Hearing Officer will oversee and guide the hearing.

You will have the opportunity to make an opening statement during the hearing. Your opening statement will be no longer than 10 minutes. Your Hearing Advisor will **not** be permitted to make an opening statement on your behalf.

Generally, the Hearing Officer will start the questioning of witnesses and Parties. The Investigator or the Title IX Coordinator (if not the Investigator) will be the first witness and will describe the Formal Complaint, investigation process, and summarize the evidence. Hearing Advisors will be permitted to ask relevant questions once the Hearing Officer has concluded their questioning of the other Party and each witness.

During the hearing, the other Party's Hearing Advisor and the Hearing Officer will ask you questions. Each time the other Party's Hearing Advisor asks you a question, and before you answer the question, the Hearing Officer will determine whether the question is "relevant." You are only required to answer questions that the Hearing Officer says are relevant. If the Hearing Officer decides that a question is not relevant, they will give a brief explanation as to why the question is excluded.

Your job is to answer the questions truthfully. It is important to listen to the questions carefully, and ensure you understand the question before you answer. Remember to pause after you are asked a question by the other Party's Hearing Advisor so that the Hearing Officer can say

whether the question is relevant. It is okay to ask the Hearing Advisor or Hearing Officer to repeat the question if you do not hear or understand it the first time. However, if you answer a question, the Hearing Officer will assume that you understood the question. If you do not know the answer to a question, or you cannot remember, you should say so – try not to guess.

What happens if the other Party's Hearing Advisor is abusive toward me?

Addendum B requires that all questions must be asked in a respectful, non-abusive manner. The Hearing Officer determines whether a question satisfies this requirement and may require that Hearing Advisor rephrase a relevant question or repeat the question in a respectful manner when the Hearing Officer determines that the question was asked in a disrespectful or abusive manner.

Abusive or otherwise disorderly behavior that causes a material disruption to a hearing will not be tolerated. The Hearing Officer may excuse from the hearing anyone (including either Party or their Hearing Advisor) whose behavior causes a material disruption. If a Hearing Advisor is removed from a proceeding, the University will provide an alternative Hearing Advisor. The Hearing Officer, in their discretion, may postpone the hearing.

It is important to know that you might be asked some questions that seem personal or intrusive. This does not automatically mean that the person asking the question is being rude or abusive. The nature of cases that are addressed through a hearing means that personal or intimate details can sometimes be relevant. Hearing Officers are trained to recognize those questions that are personal but relevant and to distinguish those from questions that are simply intended to be abusive or humiliate someone.

How long will the hearing take?

It depends. A hearing will usually be scheduled for one full day, and you should plan to make yourself available for that day unless the Hearing Coordinator tells you otherwise. Sometimes, a hearing may be scheduled across two or more days, for example if there are a significant number of witnesses to be heard, or if a case is very complex. If your hearing is expected to last longer than one day, the Hearing Coordinator will notify you.

Will the hearing be recorded?

Yes. An audio recording of the hearing will be made. It is important that you speak clearly and perhaps a little louder than you might usually so that your statements can be picked up on the recording. The audio recording will remain the property of the University, but you may request to review the recording after the hearing. No one other than the University is permitted to make a recording of the hearing.

What if I start to feel overwhelmed or upset during the hearing?

If you feel like you need a break, please speak up and tell the Hearing Officer. You may be able to take a brief break, including to consult with your Hearing Advisor and, if you have one, your Support Advisor, visit the restroom, have some water and a snack, or just to get some fresh air.

Even if you do not have someone accompanying you to the hearing as Support Advisor, you may find it helpful to arrange to speak with a trusted counselor, friend, or family member after the hearing.

The Hearing Coordinator can provide information about and help connect you to resources on and off campus, such as the counseling center or the Employee Assistance Program, if you would like to talk to someone after the hearing.

Can I submit new evidence at the hearing or ask the Hearing Officer to interview a new witness?

All available evidence should be provided to the Investigator during the investigation phase of the process. If relevant evidence, or a witness, was not reasonably available during the investigation phase, then the Hearing Officer may decide to permit the evidence or witness at the hearing. However, if the Hearing Officer concludes that the evidence or witness actually was reasonably available during the investigation or is not relevant, the Hearing Officer may not allow the evidence or witness at the hearing.

What happens after the hearing?

After the hearing, the Hearing Officer will make written findings of fact and conclusions about whether the Respondent violated Addendum B. The Hearing Coordinator will send you a copy of the Hearing Officer's Report, usually within 15 Working Days after the hearing is finished.

The standard of proof the Hearing Officer will use is whether each allegation is substantiated by a "Preponderance of the Evidence," which means the evidence on one side outweighs the evidence on the other side, or in other words, whether it is more likely than not that the alleged conduct occurred. A finding that a Respondent violated the Addendum does not mean that the Hearing Officer concluded with absolute certainty the conduct occurred. Instead, it means that having considered all the relevant evidence, the Hearing Officer concluded that it was more likely than not that the conduct occurred. Likewise, a finding that the Respondent did not violate the Addendum does not reflect a determination on the part of the Hearing Officer that the conduct absolutely did not occur as alleged.

Finding of No Violation

If the Respondent is found **not** to have violated Addendum B, both Parties will be notified and informed of their right to appeal the outcome. Information will be provided as to how an appeal may be submitted. Appeals are handled by the CSU Chancellor's Office.

Finding of a Violation

If the Respondent is found to have violated Addendum B, both Parties will be notified and will have an opportunity to submit a statement that is no more than 2000 words in length regarding discipline. The document is an opportunity for the Parties to suggest disciplinary outcomes and to provide information that they believe is important for the Hearing Officer to consider. The Title IX Coordinator and another appropriate University administrator responsible for discipline (such as the Student Conduct Administrator or Human Resources Officer) may also submit a statement regarding aggravating and mitigating factors that provides a recommendation regarding the disciplinary outcome, including information about prior disciplinary outcomes for similar conduct and whether the Respondent was previously found to have violated university policy.

The Hearing Officer will then consider the information provided and make a recommendation as to discipline, submitted in writing to the campus president or their designee. The president or their designee will make the final decision regarding discipline and will communicate this decision to both the Complainant and Respondent in writing. Both Parties will have an opportunity to appeal the outcome and information will be provided as to how an appeal may be submitted. Appeals are handled by the CSU Chancellor's Office.

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 **[campus to consider inserting link]**, which is a separate document.

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.

[Who can I contact if I have further questions?](#)

Please contact your campus Title IX Coordinator:

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