

Executive Order 1097
Revised March 29, 2019

Complaints of student misconduct are governed by the following CSU policies.

Alleged Misconduct	Applicable Policy
Sexual misconduct by student that could result in severe sanction (suspension or expulsion), where credibility is central to finding	Executive Order 1097 (Revised March 29, 2019) (except Article III.B.7-9 and Article IV) and Addendum -- Investigation and Hearing Process for Students Accused of Sexual Misconduct
Discrimination, harassment or retaliation based on protected status (including sexual misconduct by student that, if substantiated, would <u>not</u> result in suspension or expulsion)	Executive Order 1097 (Revised March 29, 2019) and Executive Order 1098 (Revised March 29, 2019) (Article IV) re sanctions process
All other student misconduct prohibited by CSU Standards for Student Conduct (5 California Code of Regulations, Section 41301)	Executive Order 1098 (Revised March 29, 2019)

Complaints that are in process as of the effective date of this executive order will be processed in accordance with the *procedures* outlined herein, however utilizing the *policy and definitions* set forth in the executive order in place at the time of the alleged misconduct. A Complaint is “in process” if the time to appeal to the Chancellor’s Office under Executive Orders 1097 or 1098 has not expired.

In accordance with policy of the California State University, the campus president has the responsibility for implementing executive orders where applicable and for maintaining the campus repository and index for all executive orders.

If you have questions regarding this executive order, please call systemwide Equal Opportunity and Compliance at (562) 951-4400.

TPW/kn

Attachments

- c: CSU Office of the Chancellor Leadership
- Provosts and Vice Presidents, Academic Affairs
- Vice Presidents, Administration and Finance
- Vice Presidents, Student Affairs
- Human Resources Officers
- Chief Diversity Officers
- DHR Administrators
- Title IX Coordinators
- Student Conduct Administrators

**ADDENDUM TO CSU EXECUTIVE ORDERS
1096, 1097 & 1098 (Revised March 29, 2019)**

**INVESTIGATION AND HEARING PROCESS – FOR STUDENTS
ACCUSED OF SEXUAL MISCONDUCT**

This Addendum, entitled “Investigation and Hearing Process — For Students Accused of Sexual Misconduct,” **supersedes Article III.C.7-9 and Article IV of California State University Executive Order 1096 (Revised October 5, 2016); Article III.B.7-9 and Article IV of California State University Executive Order 1097 (Revised October 5, 2016); and Article IV of California State University Executive Order 1098 (Revised June 23, 2015), and applies to Complaints alleging Sexual Misconduct committed by a Student Respondent.**³⁰

Article I. Scope of this Addendum

This Addendum **supersedes** the existing investigation and resolution process under Article III.C.7-9 and Article IV of EO 1096 (Revised March 29, 2019); Article III.B.7-9 and Article IV of EO 1097 (Revised March 29, 2019); and Article IV of EO 1098 (Revised March 29, 2019) (sanctions) for cases (i) alleging Sexual Misconduct by a Student that, (ii) if substantiated, could result in a severe sanction (suspension or expulsion), **and** (iii) where credibility of any Party or witness is central to the finding.³¹ Allegations of other misconduct set forth in the same Complaint that arise out of the same facts and/or incidents will also be investigated and resolved (including sanctions) in accordance with this Addendum.

Article II. Investigation Procedure

The Title IX Coordinator will either promptly investigate the Complaint or assign this task to another Investigator. If assigned to another Investigator, the Title IX Coordinator will monitor, supervise, and oversee all such delegated tasks, including reviewing all investigation draft reports before they are final to ensure that the investigation is sufficient, appropriate, impartial, and in compliance with the relevant Executive Order, including this Addendum.

At the onset of the investigation, the Title IX Coordinator will simultaneously provide both Parties a Notice of Investigation. The Notice of Investigation will include:

1. a summary of the Complaint (e.g., “who,” “what,” “when,” and “where”);

³⁰ Capitalized terms are defined in this Addendum and in CSU Executive Order 1096 (*Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Employees and Third Parties and Systemwide Procedure for Addressing Such Complaints by Employees and Third Parties*) and CSU Executive Order 1097 (*Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Students and Systemwide Procedure for Addressing Such Complaints by Students*).

³¹ In most Sexual Misconduct cases, credibility will be central to the finding. Therefore, Parties should presume that this Addendum applies to all matters alleging Sexual Misconduct.

2. a copy of, or internet link to, the relevant Executive Order, including this Addendum;
3. a description of the investigation and resolution procedure (including the right to hearing and appeal);
4. the estimated timeline for completion of the investigation;
5. a description of the University's policy against Retaliation; and
6. information about the Parties' right to an Advisor. The Complainant and Respondent will have equal opportunities to present relevant witnesses and evidence in connection with the investigation and at any hearing. Upon request, the Complainant and Respondent will be advised of the status of the investigation. If new allegations are raised during the investigation that are materially different from those described in the Notice of Investigation, a revised Notice of Investigation will be issued to the Parties.

Article III. Evidence

A. Gathering of Evidence. The Investigator will take reasonable steps to gather all relevant evidence from the Parties, other witnesses or other sources. The Investigator will document the steps taken to gather evidence, even when those efforts are not successful.

The Investigator will notify the Parties in writing that they may:

1. submit documentary information to the Investigator;
2. submit a list of potential witnesses to the Investigator; and/or
3. request that the Investigator attempt to collect documents and other information that are not reasonably accessible to the requesting Party.

B. Basis for Declining Request. The Investigator may decline a Party's request to gather information if:

1. the request seeks 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, or if the evidence concerns specific incidents of the Complainant's sexual behavior with respect to the Respondent and is offered to prove consent);
2. the request seeks 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;

3. the request seeks information that is unreasonably duplicative of evidence in the Investigator's possession;
4. the Investigator determines that the information is not relevant to disputed issues;
5. the request seeks information that can be reasonably and adequately obtained by the requesting Party from other independent or publicly available sources;
6. the burden of obtaining the information is likely to substantially outweigh the benefit that the evidence bears on a disputed issue; or
7. the requested information can be reasonably obtained through other means less likely to intrude on a person's privacy.

In determining the relevance of evidence, consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity, and consent given to sexual activity on one occasion does not constitute consent on another occasion.

Article IV. Review of Evidence

Before issuing a final investigation report (Final Investigation Report), the Investigator will share with the Complainant and Respondent a preliminary report of the evidence, along with all relevant evidence gathered as described above (Preliminary Investigation Report), redacted if and to the extent required by law. The Preliminary Investigation Report will: (a) describe the allegations; (b) identify the material facts – undisputed and disputed – with explanations as to why any material fact is disputed; and (c) describe the evidence presented and considered.

The Investigator may use discretion in determining how to provide access to the Preliminary Investigation Report with the Parties in light of the particular circumstances and any Party or witness privacy concerns. The Preliminary Investigation Report will also identify any evidence offered by the Parties or any other witnesses that the Investigator concluded is not relevant to a material disputed fact, and will briefly explain why it is not relevant. Such evidence need not be attached to the report, but will be available for reasonable review upon request during the review of evidence process.

This process is collectively referred to as the "Review of Evidence."

Each Party will be given a reasonable opportunity to respond to the list of disputed facts and evidence and ask questions. In particular, each Party may:

1. meet again with the Investigator;
2. identify additional disputed facts;
3. respond to the evidence in writing;

4. request that the Investigator ask specific questions to the other Party and other witnesses;
5. identify additional witnesses; and
6. request that the Investigator gather additional evidence.

The Investigator will share with the Parties the answers to questions posed during the Review of Evidence. If additional disputed material facts are identified or relevant evidence is gathered, it will be included in the Preliminary Investigation Report (or in a separate addendum) and shared with all Parties, who will be given a reasonable opportunity to respond to the new evidence and ask questions. The Investigator determines when it is appropriate to conclude the Review of Evidence.

Article V. Investigation Report, Pre-Hearing Disposition, and Scheduling of Hearing

1. The Final Investigation Report will include all of the information included in the Preliminary Investigation Report as well as additional relevant evidence received during the Review of Evidence. Any relevant documentary or other tangible evidence provided by the Parties or witnesses, or otherwise gathered by the Investigator will be attached to the Final Investigation Report as exhibits or otherwise made available for reasonable review by the Parties and at the hearing. Evidence offered by the Parties or any other witnesses that the Investigator concluded is not relevant to a material disputed fact will also be accessible to the Hearing Officer during the hearing.
2. Absent good cause (of which the Parties will receive written notice): (i) the investigation should be concluded within **90 Working Days** from the date that Notice of Investigation is provided to the Parties; and (ii) the Final Investigation Report should be completed and provided to the Parties within **10 Working Days** after the Review of Evidence has concluded. Any extensions will be granted, and notice to the Parties given, as set forth in Article V. E. of EO 1096 and EO 1097.
3. If assigned to another Investigator, the Title IX Coordinator will monitor, supervise, and oversee all delegated tasks, including reviewing all draft reports before they are finalized to ensure that the investigation was sufficient, appropriate, impartial, and in compliance with the relevant Executive Order, including this Addendum.
4. Within **10 Working Days** after the Parties have been provided the Final Investigation Report, the Parties will be informed of the timelines that will apply to the pre-hearing and hearing processes described in Article VII below.

Article VI. Early Resolution³²

If the Title IX Coordinator or either Party believes that it may be possible to resolve the Complaint in a prompt, fair, and reasonable manner without a hearing, the Title IX Coordinator may suggest that the Parties consider an Early Resolution subject to the following:

1. both Parties must agree to engage in the Early Resolution process;
2. any agreed-upon remedies and disciplinary sanctions will have the force and effect of sanctions imposed following a Hearing;
3. the terms of any resolution must be memorialized in writing and signed by the Parties and the Title IX Coordinator; and
4. the resolution will be final and not appealable by either Party.

Article VII. Pre-Hearing and Hearing Processes

1. The Student Conduct Administrator, Title IX Coordinator, or other appropriate Administrator (Hearing Coordinator) will be responsible for coordinating the hearing process. The Hearing Coordinator's duties will include: scheduling the hearing; notifying witnesses of the hearing; ensuring that the Hearing Officer is provided with appropriate materials including a copy of the report and any exhibits; coordinating videoconferencing (if necessary); and securing a location for the hearing. The Hearing Coordinator will also act as liaison between the Parties and the Hearing Officer on procedural matters.
2. The Parties will be given written notice of the date, time, and location of the hearing as well as the identity of the Hearing Officer. Notification of the hearing will be sent to the designated CSU campus e-mail address, unless the recipient has specifically requested in writing to the Hearing Coordinator that notice be given to a different e-mail address. Communications will be deemed received on the date sent. The hearing will not be set sooner than **15 Working Days** after the date of notice of hearing.
3. Timelines:

Hearing Officer

Any objections to an appointed Hearing Officer will be made in writing to the Hearing Coordinator within **5 Working Days** after notice of the identity of the Hearing Officer has been provided.

The objection must be based on an actual conflict of interest. A conflict of interest exists if the Hearing Officer has a personal relationship with one of the Parties or witnesses or has demonstrated actual bias towards a Party or witness.

³² The Early Resolution process is available at any time prior to the issuance of the Hearing Officer's Report.

The fact that a Hearing Officer has previously served as a Hearing Officer in university proceedings will not constitute a conflict of interest. The Hearing Coordinator will determine if a conflict of interest exists. In that event, the Parties will be notified in writing of the name of the new Hearing Officer. The date for the hearing may need to be rescheduled. Any objection to the new Hearing Officer will be made in accordance with this section.

Hearing Process

No later than **10 Working Days** before the hearing, each Party will:

- a. Provide to the Hearing Coordinator the name of, and contact information for, the Party's advisor and support person (if any);
- b. Make any requests to the Hearing Coordinator to consolidate pending cases for hearing;
- c. Provide to the Hearing Coordinator a proposed witness list that includes the names of, and current contact information for, that Party's proposed witnesses as well as an explanation of the relevance of each proposed witness's testimony and the disputed issue to which the witness's testimony relates. Absent extenuating circumstances, such witnesses should have been identified to the investigator during the investigation process, and referenced in the investigation report.

The Hearing Officer will make all determinations regarding pre-hearing matters, including witness participation and questions, and will promptly notify the Hearing Coordinator who, in turn, will promptly notify the Parties.

No later than **5 Working Days** before the hearing, the Hearing Coordinator will:

- a. Share a final witness list with the Parties.
- b. Notify each witness of the date, time and location of the hearing. Witnesses will be instructed to attend the hearing and to promptly direct any questions or concerns about their attendance at the hearing to the Hearing Coordinator.

No later than **5 Working Days** prior to the hearing, the Parties will submit a list of proposed questions to the Hearing Coordinator.

No later than **3 Working Days** before the hearing, the Parties will submit to the Hearing Coordinator any: (i) objections to, or questions about, the witness list or (ii) requests for permission to participate in the hearing remotely or out of the physical presence of the other Party. All communications will be in writing.

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No later than **1 Working Day** before the hearing, the Hearing Officer will resolve all pending requests regarding participation at the hearing. The Hearing Coordinator will give prompt notice to the Parties (and witnesses) as appropriate.

The hearing is closed to all persons except the Parties; the Parties' respective Advisors; one support person per Party; appropriate witnesses while they are testifying; the Student Conduct Administrator; Title IX Coordinator; Hearing Officer; and Hearing Coordinator. A CSU administrator may also 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 Vice President for Student Affairs, Hearing Coordinator or Hearing Officer. The University will take reasonable steps to instruct witnesses employed by the University to attend the hearing, and to arrange for such witnesses to be available to attend, provided that such employee witnesses are timely identified to the Hearing Coordinator in accordance with this Executive Order.

4. The University will instruct Student witnesses to attend the hearing, provided that such Student witnesses are timely identified to the Hearing Coordinator in accordance with this Executive Order. Students who fail to comply may be subject to discipline, depending on the circumstances. The University will take reasonable steps to accommodate Student witnesses including arranging for them to be excused from class attendance, if necessary.
5. 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. Generally, the Investigator or the Title IX Coordinator (if not the Investigator) will be the first witness and will describe the complaint, investigation process, and summarize the evidence. Each Party will be given an opportunity to make an opening statement that will last no longer than 10 minutes. The Advisor and any support person are not permitted to make the opening statement or speak during the hearing. The Parties will not make closing statements.
6. The Hearing Officer may ask questions of the Complainant, Respondent, Investigator, any University official (e.g., Title IX Coordinator or Student Conduct Administrator), and any witness.
 - a. The Complainant and Respondent may be present at all times during the hearing unless the Hearing Officer determines that a Party should be excused for extraordinary circumstances.
 - b. As set forth above, the Parties will give the Hearing Coordinator a written list of any questions that they would like the Hearing Officer to ask the witnesses. The Parties may also propose follow-up questions to the Hearing Officer during the hearing, at appropriate times designated by the Hearing Officer.

- c. The Hearing Officer will ask the questions proposed by the Parties except for questions that:
 - i. 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);
 - ii. 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;
 - iii. seek information that is unreasonably duplicative of evidence in the Hearing Officer's possession; or
 - iv. the Hearing Officer determines are not relevant to material disputed issues, are argumentative or harassing or unduly intrude on a witness's privacy.
 - d. 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.
 - e. The Parties will address any questions, concerns or objections 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. Advisors may not speak on behalf of a Party.
 - f. Formal rules of evidence applied in courtroom proceedings (e.g., California Evidence Code) do not apply in the hearing. All information that responsible persons are accustomed to rely upon in the conduct of serious affairs is considered.
7. Hearsay may be considered, but will only be given the weight appropriate under all of the circumstances, with due consideration given to the importance of credibility assessment. Absent extenuating circumstances, the Hearing Officer will not rely on prior statements made by the Parties or witnesses during the investigation whose credibility is central to the determination unless those Parties or witnesses make themselves available for examination by the Hearing Officer.
 8. The Hearing Officer will not, prior to preparing the Hearing Officer's Report (described below), have substantive communications about the facts of the case with either Party or the Investigator unless in the presence of both Parties and a University official (e.g., Hearing Coordinator, Title IX Coordinator or Student Conduct Administrator).

9. New evidence not reasonably available at the time of the investigation to the Party seeking to introduce the evidence may be considered in the Hearing Officer's discretion.
10. The Hearing Officer will make an official audio recording of the hearing. The recording is University property. No other recording of the hearing is permitted. The audio recording will be retained by the Hearing Coordinator or designee in accordance with the Campus records/information retention and disposition schedule.
11. If either Party fails to appear at the hearing without good cause the hearing will nevertheless proceed. Whether good cause exists is determined by the Hearing Officer.
12. The Respondent will not be found to have violated University policy solely because the Respondent failed to appear at the hearing. Nor will the Respondent be found not to have violated the University policy solely because a Complainant or other witness failed to appear at the hearing.
13. Abusive or otherwise disorderly behavior that causes a material disruption is not tolerated. The Hearing Officer may eject or exclude anyone (including either Party, their advisors, and support persons) whose behavior causes a material disruption.
14. 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. The Hearing Officer's decisions in this regard are final.
15. Where there is more than one Respondent or Complainant in connection with a single occurrence or related multiple occurrences, the Hearing Officer and the Parties may agree to a single hearing. A Party may request consolidation with other cases, or the Student Conduct Administrator may initiate the consolidation (subject to FERPA and other applicable privacy laws). All such requests will be made in accordance with timelines set forth in this section. The Hearing Officer makes consolidation decisions, which are subject to review by the Vice President of Student Affairs or designee.

Article VIII. Standard of Proof, Report, and Hearing Officer's Report

1. After the hearing, the Hearing Officer will make findings of fact and conclusions about whether the Respondent violated University Policy (Hearing Officer's Report). The standard of proof the Hearing Officer will use is whether each allegation is substantiated by a Preponderance of the Evidence. The Title IX Coordinator will review the Hearing Officer's Report to ensure compliance with this Executive Order. The Hearing Coordinator will transmit the Hearing Officer's Report promptly to the Parties, the Title IX Coordinator, and the Student Conduct Administrator, usually within **10 Working Days** of the close of the hearing. If no violation is found, the president (or designee) will also be notified.

2. If a violation is found, within **5 Working Days** of receiving such finding the Parties may submit to the Hearing Coordinator an impact statement or other statement regarding discipline that is no more than 2000 words in length. 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 Student Conduct Administrator and/or Title IX Coordinator may also submit a written statement regarding aggravating and mitigating factors, including whether the Respondent was previously found to have violated the Student Code of Conduct.

3. Within **5 Working Days** after receiving and considering any impact or other statements submitted by the Parties and other statements described above, the Hearing Officer will submit the Hearing Officer's Report to the president (or designee), including recommended sanctions (as defined in EO 1098) if a Respondent has been determined to have violated University policy. The Hearing Officer's Report will attach the Investigation Report and will include:
 - a. the factual allegations and alleged policy violations;
 - b. the Preponderance of the Evidence standard;
 - c. the evidence considered including an analysis of the credibility of the Parties and witnesses, when credibility assessments are required to resolve factual disputes;
 - d. any material evidence identified by the Parties or witnesses that the Hearing Officer determined was not relevant (or duplicative) and the reason why the evidence was not considered to be relevant;
 - e. a list of all questions proposed by the Parties at the hearing, and if any questions were not asked, why;
 - f. a summary of the procedural issues raised by the Parties before or during the hearing;
 - g. the factual findings and the evidence on which the factual findings are based;
 - h. to the extent that the factual findings required a determination concerning of the relative credibility or lack of credibility of the Parties or witnesses, an explanation as to how that determination was reached; and
 - i. a determination of whether the Executive Order was violated and an analysis of the basis for that determination.

Article IX. Final Decision/Notification

In cases where the Hearing Officer has found a violation of policy, the president (or designee) will review the Investigation Report and the Hearing Officer's Report and issue a decision

concerning the appropriate sanction within **10 Working Days** of receipt of the Hearing Officer's Report.

1. The president may impose the recommended sanctions, adopt a different sanction or sanctions, or reject sanctions altogether. If the president adopts a sanction other than what is recommended by the Hearing Officer, the president must set forth the reasons in the Decision Letter.
2. The president will simultaneously send the Decision Letter electronically to the Respondent and Complainant at the University-assigned or other primary e-mail address linked to their University accounts.³³ The decision will also be sent to the Student Conduct Administrator and the Hearing Officer.
3. The Decision Letter will include:
 - a. the outcome of the hearing, including any sanction imposed, and the name of the Respondent(s);
 - b. a copy of the Hearing Officer's Report, redacted as appropriate or as otherwise required by law; and
 - c. notice of the Complainant's and Respondent's right to appeal to the CO.
4. The president will also send the Decision Letter to the Title IX Coordinator so that they may determine whether any additional Remedies (or other supportive measure) will be afforded or undertaken in order to maintain a safe and nondiscriminatory University environment.
5. Unless the CO notifies the campus and Parties that an appeal has been filed, the president's sanction decision becomes final **11 Working Days** after the date of the Decision Letter.

Article X. Appeal of Decision

A. Filing an Appeal to the CO. Any Complainant or Respondent who is not satisfied with a Campus hearing outcome may file an appeal with the CO no later than **10 Working Days** after the date of the Decision Letter.

B. Written Appeal. The appeal will be in writing and will be based only on one or more of the appeal issues listed below:

³³ The copy of the Decision Letter issued to the Complainant will be redacted as to findings regarding conduct that does not constitute a "crime of violence," Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking (34 C.F.R. § 99.31 et seq.).

1. The hearing outcome is not supported by substantial evidence (in other words, there was no reasonable basis for such findings or conclusions);
2. Prejudicial procedural errors impacted the hearing outcome to such a degree that the hearing did not comply with this Executive Order;
3. New evidence that was not reasonably available at the time of the hearing and would have affected the Hearing Officer's decision about whether the Respondent violated CSU policy; or
4. The sanction(s) imposed constituted an abuse of discretion based on the substantiated conduct.

C. Issues and Evidence on Appeal. The issues and evidence raised on appeal will be limited to those raised and identified during the hearing, unless new evidence becomes available after the Campus hearing process and is made part of the appeal by the appealing party. The CO may conduct an interview, at the CO's discretion, with the appealing party and/or the Campus to clarify the written appeal. Appeals will be addressed to:

Equal Opportunity and Whistleblower Compliance Unit
Systemwide Human Resources
Office of the Chancellor
401 Golden Shore, 4th Floor
Long Beach, California 90802
eo-wbappeals@calstate.edu

D. Acknowledgement of Appeal. The CO will provide prompt written acknowledgement of the receipt of the appeal to the appealing Party, and will provide prompt written notification of the appeal, including a copy of the appeal, to the non-appealing Party and the Campus Title IX Coordinator. The notice will include the right of the non-appealing Party and the Campus to provide a response to the appeal within **10 Working Days** of the date of the notice.

E. Reasonable Accommodation. The CO will provide reasonable accommodations to any Party or witness in the appeal process with a qualified Disability upon request by the person needing the accommodation. A reasonable accommodation may include an extension under these procedures. The timeframe for the CO Appeal Response will automatically be adjusted for the time needed, if any, to provide reasonable accommodations.

F. Scope of CO Review. The CO review will not involve a new hearing by the CO and will not consider evidence that was not introduced during the Campus hearing, unless the new evidence was not reasonably available at the time of the Campus hearing process. The CO may make reasonable inquiries to determine if the new evidence could have affected the hearing determination. If the CO review determines the hearing should be reopened to cure any defects in the hearing and/or consider new evidence introduced for the first time on appeal (that could have affected the hearing determination), the matter will be remanded back to the Campus and the

hearing reopened at the Campus level. Under very limited circumstances, the CO can reverse the Hearing Officer's decision, provided that the factual findings remain intact.

G. Reopening a Campus Hearing. The CO will return the matter to the Campus and will specify in writing the timeline by which a reopened hearing must be completed. The CO will simultaneously notify the Parties of the reopening of the hearing and the timeline for completion of the reopened hearing. The Campus will complete the reopened hearing and provide the CO with an amended Hearing Officer's Report. The Campus will also provide the Parties with amended Notices of Hearing Outcome, and such Notices will provide the Parties the opportunity to appeal any new or amended findings, in accordance with this Executive Order. Upon receipt of the amended hearing report, the CO will contact the appealing party to determine whether that Party wishes to continue with the appeal.

H. Reversal by CO. If the hearing outcome (determination regarding policy violation) is not supported by the facts as determined by the Hearing Officer, the CO may vacate and reverse the Hearing Officer's decision, but only with respect to whether University policy was violated.

I. Timeline. The CO will respond to the appealing Party no later than **30 Working Days** after receipt of the written appeal unless the timeline has been extended as specified in Article V, E. of EO 1096 and EO 1097.

J. CO Appeal Response. The CO Appeal Response will include a summary of the issues raised on appeal, a summary of the evidence considered, the scope of review, and the determination(s) reached regarding the issue(s) identified within the written appeal. A copy of the final CO Appeal Response will be forwarded to the Complainant and Respondent, as well as the Campus Title IX Coordinator. The CO Appeal Response is final and concludes the Complaint and CO review process under this Executive Order.

K. Notifications to the Parties. The Complainant and the Respondent will be simultaneously informed, in writing, whenever there is a change to the outcome of the proceedings (findings and/or sanctions).

CSU Student Complaint Procedure Timeline

Pursuant to Executive Order (EO) 1097, a “Student”, defined as an applicant for admission to the CSU, an admitted CSU Student, an enrolled CSU Student, a CSU extended education Student, a CSU Student between academic terms, a CSU graduate awaiting a degree, a CSU Student currently serving a suspension or interim suspension, and a CSU Student who withdraws from the University while a disciplinary matter (including investigation) is pending, may file a Complaint related to Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence or Stalking.

- **Immediately following an act/action/incident that falls under Executive Order 1097** or as soon as possible thereafter, Students who believe they are or may have been victims of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence or Stalking, may initiate the **Article III. Campus Procedure for Responding to Complaints** to receive information about the procedures that exist for resolving such matters. All incidents should be reported even if a significant amount of time has passed. However, delaying a report or Complaint may impede the ability to conduct an investigation or take appropriate remedial actions.

For the purpose of this Executive Order, Working Days are defined as Monday through Friday, excluding all official holidays or Campus closures at the Campus where the Complaint originated or at the Chancellor’s Office (CO) where the Complaint Appeal is reviewed.

- **Within ten (10) Working Days after receipt of a Complaint**, an intake interview shall be conducted with the Complainant.
- **Within ten (10) Working Days** after reviewing all written Complaints and the information received during the intake interview, the Discrimination/Harassment/Retaliation (DHR) Administrator or Title IX Coordinator will notify the Complainant that the Complaint has been accepted for investigation and the timeline for completion of the investigation. If the DHR Administrator or Title IX Coordinator determines the Complainant has failed to state a Complaint within the scope of this Executive Order, s/he will provide the Complainant with written notice of this determination within **ten (10) Working Days**. The DHR Administrator or Title IX Coordinator will also inform the Complainant that if additional information is provided, the Complaint will be reviewed again.
- **Within sixty (60) Working Days after the intake interview**, the Investigator shall complete the investigation, write and submit an investigation report to the campus designated DHR Administrator or Title IX Coordinator. If this timeline is extended pursuant to Article V. E, it shall not be extended for a period longer than an additional **thirty (30) Working Days** from the original due date.
- **Within ten (10) Working Days of receiving the investigation report**, the DHR Administrator or Title IX Coordinator shall review the investigation report and notify the Parties in writing of the investigation outcome. If the DHR Administrator or Title IX Coordinator performed the investigation, s/he shall notify the Parties in writing of the investigation outcome within **ten (10) Working Days** of completing the investigation report. The Notice shall indicate whether or not this Executive Order was violated and the Complainant’s and Respondent’s right to file an Appeal under this policy.

CSU Student Complaint Procedure Timeline

- **Within ten (10) Working Days after the date of the Notice of Investigation Outcome**, the Student may file a written Appeal with the CO.
- **Within thirty (30) Working Days after receipt of the written Appeal**, the CO designee shall respond to the appealing party, unless the timeline has been extended pursuant to Article IV. G. or Article V. E. A separate notification shall be provided to the non-appealing party, indicating whether or not the allegations were substantiated on Appeal by a Preponderance of the Evidence.
- **Closure.** The CO Appeal Response is final and concludes the Complaint and Appeal process under this Executive Order.

Pursuant to EO 1097 Article V. E, the timelines noted above may be extended as follows:

The timeline for the procedures contained within this Executive Order may be extended for any reason deemed to be legitimate by the Campus investigator/CO Appeal reviewer or by mutual agreement of the Parties. The timelines stated within this Executive Order will be automatically adjusted for a reasonable time period that should not exceed an additional **thirty (30) Working Days** for a Campus investigation or an additional **thirty (30) Working Days** for a reopened Campus investigation under Article IV. The Complainant and Respondent shall receive written notification of any period of extension.

***Note that for matters that fall under the scope of the 2019 Addendum, these timelines are not applicable. Please contact your campus Title IX Coordinator for additional guidance.