



What to Expect from the Title IX Complaint Process

[A. Overview of Procedural Options](#)

[B. Role of the Title IX Coordinator](#)

[C. Time Frames for Resolution](#)

[D. Initial Title IX Assessment](#)

[E. Early Resolution Process](#)

[F. Investigation Procedure](#)

[G. Outcome](#)

[H. Hearing Process](#)

A report can come through various locations, but California State University San Marcos (CSUSM) is committed to ensuring that all reports of sexual misconduct, domestic violence, dating violence, stalking, and harassment or discrimination based on a gender/sex are referred to the Title IX Coordinator, or their designee. This ensures a consistent application of Executive Order 1097, Systemwide *Policy* Prohibiting Discrimination, Harassment and Retaliation Against Students and Systemwide *Procedure* for Handling Discrimination, Harassment and Retaliation Complaints by Students and Executive Order 1096, Systemwide *Policy* Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and *Procedure* for Handling Discrimination, Harassment and Retaliation Allegations by Employees and Third Parties to all individuals and allows CSUSM to respond promptly and equitably to eliminate the harassment, prevent its recurrence, and eliminate its effects. The Title IX Coordinator may enlist the Title IX Team to assist in the review, investigation, and/or resolution of the complaint. Members of this team include the Title IX Coordinator, Discrimination, Harassment and Retaliation (DHR) Administrator, deputy Title IX coordinator (s), Title IX/DHR Investigator, the Dean of Students Office, Student Conduct Administrators, and appropriate University Police Department employees. Depending on the relationship of the complainant and the respondent to CSUSM (student, staff, faculty, or third party) and the nature of the report, additional team members may include Appropriate Human Resources employees, the Associate Vice President for Faculty Affairs, and others as may be necessary. The members of this team oversee the resolution of the complaint through the Executive Order 1096 and Executive Order 1097 complaint processes.

A. Overview of Procedural Options

When a complaint is received, the Title IX Coordinator or a member of the Title IX team will conduct an initial assessment. The goal of this assessment is to provide an integrated and coordinated response to the complaint. The assessment will consider the nature of the complaint; the safety of the individuals involved and of the campus community, and the complainant's expressed preference for resolution.

Following this assessment, the complaining party or CSUSM may seek an early resolution process that offers a remedies based resolution, but does not involve disciplinary action against a respondent. Alternately, the matter may be referred for investigation. The goal of the investigation is to gather all relevant facts that will aid in determining if there is sufficient information to refer the report for disciplinary action using CSUSM's Student Conduct Procedures (Executive Order 1098).

<http://www.calstate.edu/eo/EO-1098-rev-3-29-19.pdf>

The policy and procedure followed will depend on the wishes of the complaining party, the relationship of the complainant and respondent to CSUSM, and the safety of the campus community.

Executive Order 1097 is the Systemwide *Policy* Prohibiting Discrimination, Harassment and Retaliation Against Students and Systemwide *Procedure* for Handling Discrimination, Harassment and Retaliation Complaints by Students. <http://www.calstate.edu/eo/EO-1097-rev-3-29-19.pdf>

Executive Order 1096 is the Systemwide *Policy* Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and *Procedure* for Handling Discrimination, Harassment and Retaliation Allegations by Employees and Third Parties. <https://www.calstate.edu/eo/EO-1096-rev-3-29-19.pdf>

Resources are available for both students and employees, whether as complainants or respondents, to provide support and guidance throughout the investigation and resolution of the complaint. Please see the following site for further information regarding available resources: <http://www.csusm.edu/title9/>

B. Role of the Title IX Coordinator

In addition to coordinating training, education and preventive measures in the areas of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking, the Title IX Coordinator also oversees all complaints and corresponding processes. The Title IX Coordinator or their designee will inform you prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University's response. The Title IX Coordinator will remain mindful of your well-being, and will take ongoing steps to protect you from retaliation or harm, and work with you to create a safety plan. Retaliation against you, whether by students, or employees, will not be tolerated. The University and Title IX Coordinator will also:

- Provide interim remedies requested by you, if they are reasonably available, regardless of whether you choose to report Sexual Violence to campus or local police;
- Assist you in accessing other available victim advocacy, academic support, counseling, disability, medical/health or mental health services, and legal assistance both on and off campus;
- Provide other security and support, which could include issuing a no-contact order, helping arrange a change of campus-based living or working arrangements or course schedules (including for the perpetrator pending the outcome of the investigation) or adjustments for assignments, tests, or work duties; and
- Inform you of your right to report a crime to University or local police – and provide you with assistance if you wish to do so.

The University will not require you to participate in any investigation or disciplinary proceeding if you do not wish to participate.

The Title IX Coordinators other duties include:

- Meeting with the complainant on a regular basis to determine what steps (interim and ultimate) should be taken to protect him/her from any hostile or unsafe environment resulting from Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and/or Stalking, and ensuring that such steps are taken;
- Working with appropriate campus divisions (e.g., University Police, Human Resources, Academic Affairs, and Student Affairs) to provide employees and students education programs and information, as required by Title IX, VAWA/Campus SaVE Act, and other applicable laws;

- Overseeing *all* complaints of Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and/or Stalking, including related investigations, interim and/or ultimate remedies, resolution, and coordination with disciplinary decision-makers regarding any resulting discipline against the accused;
- Reviewing the outcome of employee and student disciplinary proceedings involving cases of alleged Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and/or Stalking, to determine whether any additional remedies need to be provided to the victim;
- Creating a committee of employees, students and campus officials to identify strategies for ensuring that employees and students know how to identify and report Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking, and know what remedies are available to victims;
- Regularly assessing employee and student activities to ensure that no practices or behaviors violate policies against Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking, and using the results of such assessments to inform proactive remedial steps; and
- Identifying and addressing any systemic or other patterns of Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking, and implementing corrective measures, as appropriate.

C. Time Frames for Resolution

CSUSM seeks to resolve all complaints filed under Executive Order 1096 and Executive Order 1097 within sixty (60) or ninety (90) working days, depending on the nature of the complaint. Circumstances may arise that require the extension of time frames, including extension beyond sixty (60) or ninety (90) working days. Such circumstances may include the complexity of the allegations, the number of witnesses involved, the availability of the parties or witnesses, or other unforeseen circumstances.

In general, a complainant and respondent can expect that the process will proceed according to the time frames provided in the appropriate policy. In the event that the investigation and resolution exceed the time frame, CSUSM will notify all parties of any appropriate extension of the timeframe. Best efforts will be made to complete the process in a timely manner.

At the request of law enforcement, CSUSM may agree to delay its fact finding until after the initial stages of a criminal investigation. CSUSM will nevertheless communicate with the complainant and respondent regarding this delay and their Title IX rights, options, and the implementation of interim measures to ensure safety and well-being. CSUSM will promptly resume its fact finding as soon as law enforcement has completed its initial investigation.

D. Initial Title IX Assessment

In every report of sexual violence, the Title IX coordinator or designee, will make an immediate assessment of any risk of harm to individuals or to the campus community and will take steps necessary to address those risks. The Title IX coordinator may consult with members of the Title IX team to assist in this assessment. These steps may include interim protective measures to provide for the safety of the individual and the campus community.

The first step of the assessment will usually be a preliminary meeting between the complainant and the Title IX coordinator or a member of the Title IX team. The purpose of the preliminary meeting is to gain a basic understanding of the nature and circumstances of the complaint. At this meeting, the complainant will be provided with information about resources, procedural options, and interim remedies. This meeting is not intended to be a full investigation interview.

The initial assessment will proceed to the point where a reasonable assessment of the safety of the individual and of the campus community can be made. Thereafter, an investigation may be initiated, depending on a variety of factors, such as the complainant's wishes, the risk posed to any individual or the campus community by not proceeding, any concerning pattern regarding the alleged respondent, the nature of the allegation, or other factors as necessary.

As part of the initial assessment of the facts, the Title IX Coordinator or designee(s) will:

- assess the nature and circumstances of the allegation
- address immediate physical safety and emotional well-being of the complainant
- notify the complainant of the right to contact law enforcement and seek medical treatment
- provide the complainant with the Notice of Rights and Options Document, which includes information about resources available to them both on and off campus, including counseling and advocacy services
- notify the complainant of the range of interim remedies, and assess immediate needs
- provide the complainant with an explanation of the procedural options
- identify an adviser, advocate, and/or support person for the complainant;
- assess for pattern evidence or other similar conduct by respondent;
- discuss the complainant's expressed preference for the manner of resolution and any barriers to proceeding
- explain CSUSM's policy prohibiting retaliation
- assess the reported conduct for the need for a timely warning under the Clery Act;

If a complainant requests confidentiality, that their name or other identified information not be shared with the respondent, that no formal action be taken, or expresses that they are not willing to participate in an investigation, CSUSM will balance these requests with its dual obligations to provide a safe and non-discriminatory environment for all members of the campus community.

CSUSM will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation, but its ability to do so may be limited based on the nature of the request by the complainant. CSUSM will assess any barriers to proceeding, including retaliation, and will inform the complainant that Title IX and Executive Orders 1096 and 1097 prohibit retaliation and CSUSM will take strong responsive action to protect the complainant. Where CSUSM is unable to take action consistent with the request of the complainant, a member of the Title IX team will communicate with the complainant about the CSUSM's chosen course of action.

At the conclusion of the Title IX assessment, the report will be referred to the appropriate party for informal resolution or investigation. The determination as to how to proceed will be communicated to the complainant. A respondent will be notified when the CSUSM seeks action that would impact a

respondent, such as protective measures that restrict the respondent's movement on campus, the initiation of an investigation or the decision to involve the respondent in an informal resolution.

E. Early Resolution Process

Where the Title IX assessment concludes, or the complainant requests, that early resolution may be appropriate, CSUSM will initiate reasonable requested remedies designed to maximize the complainant's ability to participate in or benefit from the services, activities or opportunities offered by the University. As outlined in Executive Order 1097, "examples may include offering the victim the option of psychological counseling services, changes to academic or living situations, completing a course and/or courses online (if otherwise appropriate), academic tutoring, arranging for the re-taking of a class or withdrawal from a class without penalty, and/or any measure as appropriate to stop further alleged Discrimination, Harassment or Retaliation until an investigation is concluded or an informal resolution is reached". Other potential remedies may include targeted or broad-based educational programming or training, and safety accommodations such as safety escorts, additional lighting in areas on campus, etc.

A complainant can request to end their participation in an early resolution process at any time, and request an investigation at any time.

F. Investigation Procedure

Where the complainant requests an investigation or a Title IX assessment concludes that an investigation is appropriate, CSUSM will initiate an investigation. CSUSM will designate an investigator of its choosing, provided that the investigator has specific training and experience investigating allegations of sexual misconduct. CSUSM will provide annual training for all investigators, and any investigator chosen to conduct the investigation must be impartial and free of any conflict of interest. The investigator may be an employee of CSUSM, an external investigator engaged to assist CSUSM in its fact-gathering, or a team of investigators.

The investigator(s) will conduct the investigation in a manner appropriate in light of the circumstances of the case, which will typically include interviews with the complainant, the respondent, and any witnesses. As part of the investigation, CSUSM will provide equal opportunity for both parties to present statements, relevant witnesses, and other evidence in connection with the investigation. The interviews with all parties will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available. The process is thus designed to provide a fair and reliable gathering of the facts. The investigation will be thorough, impartial, and fair, and all individuals will be treated with appropriate sensitivity and respect. CSUSM will conduct the investigation in a manner that is respectful of individual privacy concerns, but information regarding the complaint may also be shared on a "need to know basis" with appropriate campus employees. Upon inquiry, the status of the investigation shall be disclosed to both the complainant and the respondent.

Prior to the conclusion of the investigation, both the complainant and respondent will be notified of evidence to which the findings will be based, and be offered the opportunity to respond to the evidence, and provide further argument, information, or evidence that could alter the final outcome.

At the conclusion of the investigation, the investigator (s) will prepare a report outlining the process of the investigation, the facts gathered, and appropriate findings, which will then be forwarded to the Title IX Coordinator for review.

G. Outcome

If the case does not allege Sexual Misconduct by a Student that, if substantiated, could result in a severe sanction (suspension or expulsion), and where credibility of any Party or witness is central to the finding, then within 10 working days of the receipt of the investigation report, the Title IX Coordinator will notify all parties that the investigation is complete through a notice of investigation outcome. Per Executive Order 1097, this outcome “shall include a summary of allegations, the investigative process, the Preponderance of the Evidence standard, the evidence considered, the findings of fact, a determination as to whether this Executive Order was violated, and if so, any Remedies to be afforded to the Complainant. The notice shall advise the Complainant and Respondent of their right to file an appeal under the Executive Order, and to request a final investigation report with exhibits/attachments, if any, redacted as appropriate.” The notice of outcome will also provide information about next steps in the process.

Disciplinary action against a respondent may only be taken through the appropriate conduct procedures, and not through Executive Order 1096 or Executive Order 1097 procedures. Because the relationship of students, staff, and faculty to CSUSM differ in nature, the procedures that apply when seeking disciplinary action necessarily differ as well. Each of the procedures, however, is guided by the same principles of fundamental fairness and respect for all parties, which require notice, an equitable opportunity to be heard, and an equitable opportunity to respond to a report.

For more information regarding Student Conduct, please contact the Dean of Students Office, <http://www.csusm.edu/dos/>

For more information regarding Faculty Conduct, please contact Faculty Affairs at CSUSM, <http://www.csusm.edu/fa/>

For more information regarding conduct for all other employees, please contact Human Resources at CSUSM, <http://www.csusm.edu/hr/>

If the case does allege Sexual Misconduct by a Student that, if substantiated, could result in a severe sanction (suspension or expulsion), and where credibility of any Party or witness is central to the finding, then the outcome of the investigation will be determined through the CSUSM hearing process, explained below.

Based on the information gathered in the initial Title IX assessment and/or investigation, CSUSM will take appropriate measures designed to end the misconduct, prevent its recurrence, and address its effects.

H. Hearing Process

When the case alleges Sexual Misconduct by a Student that, if substantiated, could result in a severe sanction (suspension or expulsion), and where credibility of any Party or witness is central to the finding, then within 10 Working Days after what is referred to as the Review of Evidence, the complainant or respondent will be provided the Final Investigation Report. Within 10 working days after each Party has

received the Final Investigation Report, both the complainant and respondent will be informed of the timelines that will apply to the pre-hearing and hearing processes through means of written notice of hearing. If deemed appropriate by the Title IX Coordinator, or the complainant or respondent that the complaint be settled via Early Resolution, the option to do so is possible and will be considered so as to not move forward in a hearing. If Early Resolution is not agreed upon or appropriate, a hearing will be scheduled at least 15 Working Days after the date of notice of hearing, to which a Hearing Coordinator and a Hearing Officer will be assigned to the case. During specified dates within the timeline, the complainant and respondent will work with the Hearing Coordinator to help gather appropriate information that will then be shared with the Hearing Officer, prior to the day of the hearing. During the live hearing, the complainant and respondent are required to be present at all times (unless otherwise noted by the Hearing Officer), along with any witnesses, and other campus officials. An overview of the hearing process, opening statements by the complainant and respondent, possible questions asked of appropriate persons in attendance, and follow-up questions will be encompass the process of the hearing.

In cases where a violation of policy has been determined, 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. The complainant and respondent will be made aware of the decision via a Decision Letter that will include the outcome of the hearing, any imposed sanctions, and the right to appeal to the Chancellor's Office.

The preceding's are based on an Addendum to CSU Executive Orders 1096 (pg. 36-46), 1097 (pg. 31-43) and 1098 (pg. 34-46) (revised March 29, 2019). For further detail regarding the Investigation and Hearing Process for Students Accused of Sexual Misconduct, please visit the specified pages listed previously in each Executive Order: <https://www.csusm.edu/title9/interimchanges1096-1097.html>

Adapted from "Title IX Review, Investigation, and Resolution" <http://www.swarthmore.edu/>