



Respondent Resource Guide

I. The Purpose of this Document

We understand that as a Respondent – or someone who is a member of the campus community, accused of misconduct, and involved in a disciplinary investigation – you may be experiencing a wide range of emotions and thoughts. The Office for Title IX and Equal Opportunity (the “Title IX & EO Office”) is here to support you, answer your questions, and help address your concerns.

The purpose of this document is to: 1) help dispel common misconceptions Respondents may have about the Title IX & EO Office or its investigative processes, and 2) provide you with information about the role of the Title IX & EO Office, your rights, and available support resources.

The Title IX & EO Office’s staff is available to meet with you if you have any questions. We care about your wellbeing and want to ensure that you understand your rights and remain informed throughout the process. Our door is always open, so please do not hesitate to contact us.

You can contact the Title IX & EO Office by phone and email at:

Phone: 408-924-7290 (M-F, 8AM-5PM)

669-877-0620 (Call/Text)

Email: titleixeo@sjsu.edu

You may also visit the Title IX & EO Office (M-F, 8AM to 5PM) at:

Clark Hall 1st Floor
Room 126
One Washington Square
San José, CA 95192-0126

II. Addressing Common Misconceptions About the Title IX & EO Office and its Investigative Processes

As a Respondent, we recognize you may believe you will be treated unfairly or different than the Complainant (the person who is accusing the Respondent of committing wrongdoing), or that the deck is stacked against you. The chart below is intended to help alleviate concerns about unfairness by addressing common misconceptions about the Title IX & EO Office and its investigative processes.

| What You May be Thinking | What We Want You to Know |
|---|--|
| Title IX & EO investigations are not fair to Respondents. | The investigative processes are designed to be fair and treat Complainants and Respondents equally. First, the Complainant and Respondent have the <u>same rights</u> during the process. Second, the Complainant and Respondent have <u>equal chances to share information</u> (including the names of witnesses) for consideration. Third, there is a <u>presumption that the Respondent is not responsible</u> for the alleged |



| What You May be Thinking | What We Want You to Know |
|---|--|
| | misconduct. This presumption may only be overcome if, after the investigation, it is determined that there is enough information to support the allegation(s). |
| The Title IX & EO Office, as well as the Title IX and Equal Opportunity Officer, is out to get Respondents. | <p>No personnel within the Title IX & EO Office, including the Title IX and Equal Opportunity Officer, is out to get any Respondent. In fact, the opposite is true: the Title IX and Equal Opportunity Officer is responsible for ensuring that all Respondents (and Complainants) are treated fairly and respectfully, have access to available resources, and, in most cases, can continue with their schoolwork/employment throughout the investigative process.</p> <p>The Title IX and Equal Opportunity Officer does not make determinations about whether a Respondent violated university policy.</p> |
| Student Respondents are suspended immediately after a Complainant reports alleged misconduct to the university. | <p>Not true. Sanctions may only be imposed: 1) after the investigative process is completed; and 2) if there is a finding of responsibility.</p> <p>However, in very limited circumstances, the university may place a student Respondent on interim suspension before an investigation concludes or starts. This may only happen if the university determines that the student Respondent poses an imminent and serious threat to the health or safety of someone specific or the greater campus community.</p> <p>If the university places a student Respondent on interim suspension, that Respondent will be notified and will have the ability to challenge the decision immediately following the suspension.</p> <p>Additionally, where a student Respondent is placed in emergency removal status, the Title IX and Equal Opportunity Officer will work to ensure the student Respondent is able to continue their education remotely.</p> |
| All Respondents get expelled or terminated from their employment. | Not true. Absent very limited circumstances (see the interim suspension exception above), disciplinary consequences may only be imposed if there is a finding of responsibility at the end of the investigative process. |



| What You May be Thinking | What We Want You to Know |
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| | <p>In addition, expulsion and/or termination are not among the most commonly imposed sanctions. There are a wide range of sanctions that may be imposed, which include a reprimand, disciplinary probation, suspension, and expulsion/termination.</p> <p>Finally, sanctions are only imposed after a careful consideration of a variety of factors, which include the severity of the conduct, prior disciplinary history, and input from the Respondent and Complainant.</p> |
| Respondents do not have access to university resources and other supportive services. | The Title IX & EO Office understands that the process can be traumatic to a Respondent and are here to help with academic accommodations, access to counseling, No Contact Directives, and other available campus support services. |
| The Complainant gets all the rights during the process. | Respondents are afforded the exact same rights as Complainants. |
| Respondents need to hire a lawyer to protect them in the process. | <p>The investigative process is not a legal court case; it is an administrative process managed by the university. As such, Respondents are not required to retain a lawyer. However, all Respondents have the right to an Advisor of their choice for assistance and support. While an Advisor can be an attorney, an Advisor may also be a friend, relative, or any other person a Respondent selects.</p> <p>The Title IX & EO Office will help any Respondent identify a trained (and free) Advisor should they need one.</p> |
| Everyone is going to know everything. | <p>The university protects the privacy of all individuals involved in the investigation process – including Complainants, Respondents, and witnesses – except as provided by law and university policy.</p> <p>In order to conduct a thorough investigation, there may be times during the investigation when the Investigator needs to share information related to the allegations with individuals participating in the investigation process (i.e., Complainants, Respondents, witnesses, and Advisors).</p> |



| What You May be Thinking | What We Want You to Know |
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| | While Complainants and Respondents are free to share information about their personal experiences with others, they are asked to exercise tremendous discretion and caution if they need to discuss the investigation with others. |
| Respondents will be treated harshly by their peers, excluded from their friend groups or social clubs, or experience retaliation on campus. | The university has a policy prohibiting retaliation. Generally, retaliation is any negative action taken against an individual because they are a Complainant, Respondent, or witness in an investigation. Respondents should promptly contact the Title IX & EO Office if they believe they are experiencing retaliation by others. |
| The investigation will go on forever. | The university makes every effort to complete the investigation within 100 working days. |

III. Why Did I Receive a Notice of Allegations from the Title IX & EO Office?

The Office for Title IX and Equal Opportunity issued a Notice of Allegations to you because either the Complainant or the Title IX and Equal Opportunity Officer formally requested an investigation into an allegation(s) that you violated the university's [Nondiscrimination Policy](https://calstate.policystat.com/policy/12891658/latest/#autoid-4k225) (available at <https://calstate.policystat.com/policy/12891658/latest/#autoid-4k225>).

The Notice of Allegations was provided to you because the Office for Title IX and Equal Opportunity wants to ensure that you know that an investigation is commencing, and that you understand precisely what is being investigated. Therefore, the Notice of Allegations contains important information about the nature of the allegation(s), the potential violations of the Nondiscrimination Policy, your rights, and the disciplinary process. If other potential violations of the Nondiscrimination Policy are raised during the investigation, you will receive an Amended Notice of Allegations with a full and fair opportunity to respond.

The fact that you received a Notice of Allegations does not mean that the university has reached any conclusions about whether the alleged conduct has occurred. You are presumed not responsible for the allegations, and that presumption can only be overcome if there is a finding of responsibility at the end of the investigative process.



IV. What Are the Different Investigative Processes?

There are two different investigation procedures.

For Complaints against a Student, the Interim CSU Nondiscrimination Policy – Student Procedures (the “Student Procedures”) apply.

For Complaints by Students against Employees, Third Parties, and/or Student–Employees involving allegations of Sexual Harassment¹, the Student Procedures apply.

For all other Complaints against Employees, Third Parties, and/or Student–Employees (where the alleged conduct arose out of their status as an Employee and not their status as a Student), the Interim CSU Nondiscrimination Policy – Employee or Third-Party Procedures (the “Employer Procedures”) apply.

A full description of the Student Procedures is available [here](https://calstate.policystat.com/policy/16328290/latest/) (<https://calstate.policystat.com/policy/16328290/latest/>).

A full description of the Employee Procedures is available [here](https://calstate.policystat.com/policy/16328171/latest/) (<https://calstate.policystat.com/policy/16328171/latest/>).

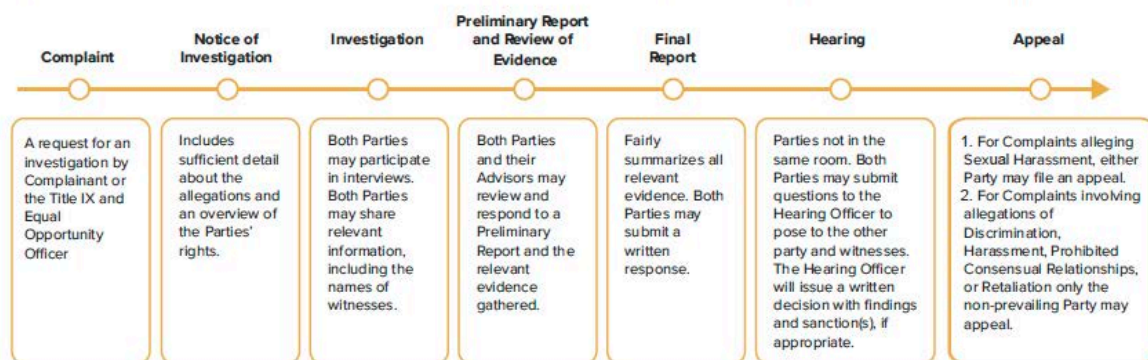
Please pay careful attention to the applicable procedure that is identified in the Notice of Allegations, as each procedure is slightly different. The main differences are summarized below.

- The Student Procedures includes an investigation, hearing, and optional appeal. In the hearing, each Party is permitted to propose questions, in writing, to the Hearing Officer and the Hearing Officer asks the questions on behalf of the Parties.
- The Employee Procedures includes an investigation and optional appeal. It does not involve a hearing.

For ease of reference, flowcharts describing each procedure are included below.

Student Procedures:

Applies to Complaints against a Student, or Complaints by Students against Employees involving an allegation of **Sexual Harassment***.



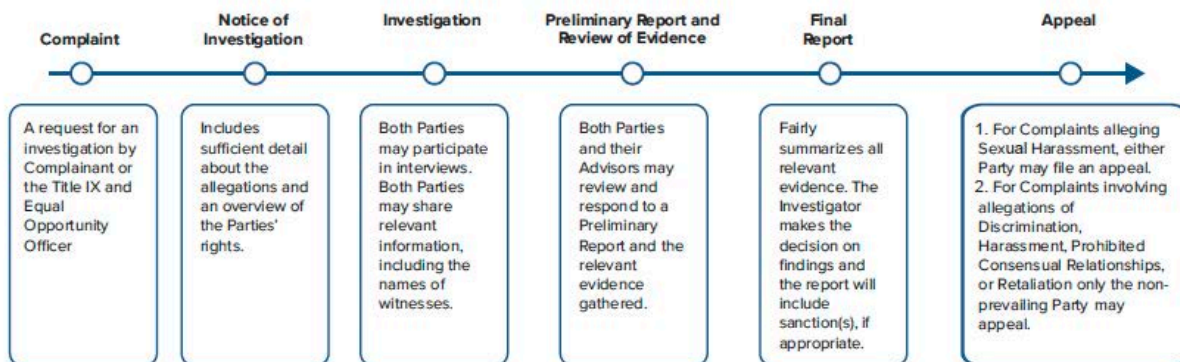
¹ This includes: Sexual Harassment and other Harassment on the basis of Sex or Gender, including Gender Expression, Gender Identity, Pregnancy or related conditions, Sex Stereotypes, Sex Characteristics, or Sexual Orientation, including:

1. Hostile environment or Quid Pro Quo Harassment;
2. Dating Violence, Domestic Violence, Sexual Exploitation, and Stalking; and/or
3. Sexual Misconduct.



Employee Procedures:

Applies to Complaints against Employees unless the Complaint is by a Student and alleges **Sexual Harassment**.*



V. What Are My Rights?

You have the following rights under the process:

- To be treated fairly, equitably, and with respect throughout the investigative process.
- To information about the applicable policies and procedures.
- To receive a Notice of Allegations that contains a summary of all known details and sufficient time to prepare a response before any initial interview. Sufficient details include the identity of the Complainant; the conduct that is alleged to constitute a violation of the Nondiscrimination Policy; and the date and location of the alleged incident.
- To choose one individual to serve as your Advisor (it is recommended that the Advisor not also be someone who is or will be a witness). Your Advisor may accompany you to any interview, proceeding, or process-related meeting.
- To be free from retaliation.
- To be interviewed by the assigned Investigator.
- To identify relevant witnesses for the Investigator who may be interviewed at the Investigator's discretion.
- To respond to contradictory or conflicting information or evidence that is provided by any witnesses, or by the Complainant.
- To decide not to participate in the investigative process or an interview with the Investigator, and the decision to not participate may not be held against you.
- To be informed about the outcome of the investigative process.
- To appeal the finding(s) on any of the grounds enumerated in the Policy.
- To receive reasonably available supportive measures such as counseling, academic and work accommodations, mutual no-contact orders, campus escorts, and other support services offered at SJSU and in the community.



VI. What Campus Resources Are Available to Me?

We understand that being accused of prohibited conduct may feel overwhelming, and that participating in a university investigation and resolution process can be stressful. There are campus resources available to you. If you would like any help connecting with these resources, please feel free to contact the Title IX & EO Office.

- **The Respondent Consultant (Only for Title IX employee and student Respondents)**

The Respondent Consultant provides guidance and information about procedures for Respondents involved in a Title IX process overseen by the Title IX & EO Office. They are not confidential and, as employees, still have a mandatory duty to report any information or reports of misconduct disclosed by the Respondent. You can meet with the consultant to review all of your rights and options available on and off campus.

Tijan White, Ed.D.

Respondent Consultant

Email: titleix-tijan@sjsu.edu

Sabrina-Moné Lamontagne

Respondent Consultant

Email: titleix-sabrina-mone@sjsu.edu

- **Counseling & Psychological Services (CAPS) (for students)**

CAPS is a confidential resource that provides short-term and crisis counseling services to students at SJSU.

For more information regarding services, visit sjsu.edu/counseling.

To request an appointment, please call 408-924-5910, or email: counseling.services@sjsu.edu.

- **LifeMatters® by Empathia (for employees)**

San José State University's confidential Employee Assistance Program (EAP), is dedicated to employee well-being. From emotional and family counseling to providing geriatric care management, LifeMatters® offers both online and in-person support.

Visit **LifeMatters®** (<https://members2.mylifematters.com/portal/welcome/sso>) online for more information. Password: SPARTANS

To speak to someone from LifeMatters® confidentially, call 800-367-7474.

Visit **Counseling for Faculty and Staff** (<https://www.sjsu.edu/up/mywell-being/mental-health/>) for personal consultations.

VII. Frequently Asked Questions

What does it mean to be a Respondent?

A Respondent is a member of the campus community who is alleged to have committed misconduct in violation of the university's Nondiscrimination Policy **and** is involved in an investigation. The term "Respondent" is derived from the fact that a Respondent in an investigation is "responding" to the allegations from a Complainant.



Who should I contact if I need a disability-related accommodation?

If you are an individual with a disability and need a reasonable accommodation in order to fully and effectively participate in the investigation process, please notify the Title IX & EO Office as soon as possible. The Title IX & EO Office will work with SJSU's Accessible Education Center to ensure that your request is evaluated and reasonable accommodations are provided. While such requests may be made at any point during the process, individuals are strongly encouraged to make their requests known at the earliest possible time and, if possible, five business days in advance of an anticipated activity where the accommodation is needed (such as an interview or other meeting).

What is retaliation and what should I do if I am experiencing retaliation?

Simply put, retaliation is any negative action taken against an individual for their involvement in the investigative process as a Complainant, Respondent, or witness. Retaliation is strictly prohibited by the university. A more complete definition of retaliation is available at:

<https://calstate.policystat.com/policy/10926024/latest/#autoid-4k225>.

Please promptly contact the Title IX & EO Office if you believe you are experiencing retaliation.

Will my parents find out about the investigation?

The Title IX & EO Office makes every effort to safeguard the privacy of information contained in new reports, as well as information received during any formal or informal resolution process.

Information received by the Title IX & EO Office is protected by the Family Educational Rights and Privacy Act ("FERPA"), a federal statute that protects information contained in a student's educational record. Absent limited exceptions, FERPA forbids the University from disclosing information in your educational record to anyone else, including your parents, without your express and informed consent. This includes information contained in investigation reports or outcome letters issued during an investigation.

In addition, information received by the Title IX & EO Office will be handled discreetly; however, the information may be shared with a limited circle of need-to-know individuals, including other SJSU administrators who assist the Title IX & EO Office with the assessment of reports, the resolution process, the provision of supportive measures, and other related issues.

Responses to additional questions are available on the Title IX & EO Office's website at:

<https://www.sjsu.edu/titleixeo>

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