

# Session 4: Investigations and Informal Resolution

Training for Title IX Coordinators, Investigators, Hearing Coordinators, Appeals Managers and Student Conduct Administrators

Systemwide Title IX Compliance  
Office of the Chancellor  
The California State University

# The Purpose of the Investigation (Broadly Stated)

1

Gather evidence for the University to determine if Respondent violated the policy.

...y disputed  
and undisputed  
facts.

# Additional Addendum B Investigation Procedural Requirements

- f* Provide written notice at least 3 working days prior to every meeting (5 working days if initial Respondent meeting), and interview with the Parties. It will include **details of the date, time, location, participants and purpose of the interview.**
- f* University will not restrict the ability of either Party to discuss the allegation or to gather or present relevant evidence.
- f* Review of evidence (Preliminary Investigation Report) – copies sent to advisor unless Party opts out.
- f* Explicit requirement that burden rests on the University to gather evidence.
- f* Role of the Support Advisor during investigation and evidence review stage is similar to role in EO 1096/1097/Addendum A.

# Gathering Evidence

- f* Take reasonable steps to gather all **Relevant** evidence from the Parties, other witnesses or other sources.
- f* Document the steps taken to gather evidence, even when those efforts are not successful.
- f* Must include with the Preliminary Investigation Report all evidence **Directly Related** to the complaint, even that which it is anticipated will not be relied upon by the Hearing Officer.
- f* Inform Parties that any evidence that they provide during the investigation will be provided to the other Party and the Hearing Officer.
- f* **Impartiality**

# Types of Evidence



Relevant Evidence



Directly Related [Not required to be Relevant]



Evidence not directly related or relevant

# Directly Related and Relevant Evidence

## Addendum B:

**Directly Related** means anything that is not incidental to a matter at issue.

**Relevant** defined as having significant and demonstrable bearing on the matter at hand.



## **Scenario #1: Devin and Jules (Students)**

*f*Devin is accused of sexually assaulting Jules.



# Devin and Jules

*f*Question 1: Is evidence relating to what Jules

## Devin and Jules (continued)

*f*Question 2: Is evidence relating to whether Stewart, the witness, is friends with Jules "relevant"?

- A: Yes
- B: Maybe – we need more information
- C: No, it's not relevant
- D: Why did I agree to attend this training?

## Devin and Jules (continued)

*f*Question 3: Is Jules' academic major relevant?  
And if not, would it nevertheless be considered  
"directly related" to the investigation?

**WA:** Yes, it's relevant

**WB:** We need more information to determine if it's  
relevant, but it is "directly related"

**WC:** Neither

**WD:** Help!



## Hadley and Blake

*f*Question 1: Is evidence relating to Blake's father being convicted of a crime relevant?

WA: Yes

WB: Maybe –we need more information

WC: No

WD: Calgon, take me away!

## Hadley and Blake (continued)

*f*Question 2: Would evidence relating to whether Hadley sexually harassed other employees be relevant?

WA: Yes

WB: Maybe –we need more information

WC: No



# Evidence Review



# Evidence Review – Preliminary Investigation Report

Provide ALL evidence obtained as part of the investigation that is Directly Related to the allegations raised in the Formal Complaint, including inculpatory or exculpatory evidence whether obtained from a Party or other source.

Material Disputed and Undisputed Facts

Must send to Party AND Support Advisor (if any).

Discretion as to method of sending (electronic or hard copy – file sharing platform with limitations on download acceptable).

10 Working Days for review.

# Types of Evidence

## Directly Related and Relevant

- 3/4 Include in Preliminary Investigation Report.
- 3/4 Include in Final Investigation Report.

## Directly Related

- 3/4 Include in Preliminary Investigation Report.

## Not Directly Related

- 3/4 **Do not** include in Preliminary Investigation Report or Final Investigation Report.

## Privileged Materials

- 3/4 **Do not** include in Preliminary Investigation Report or Final Investigation Report.

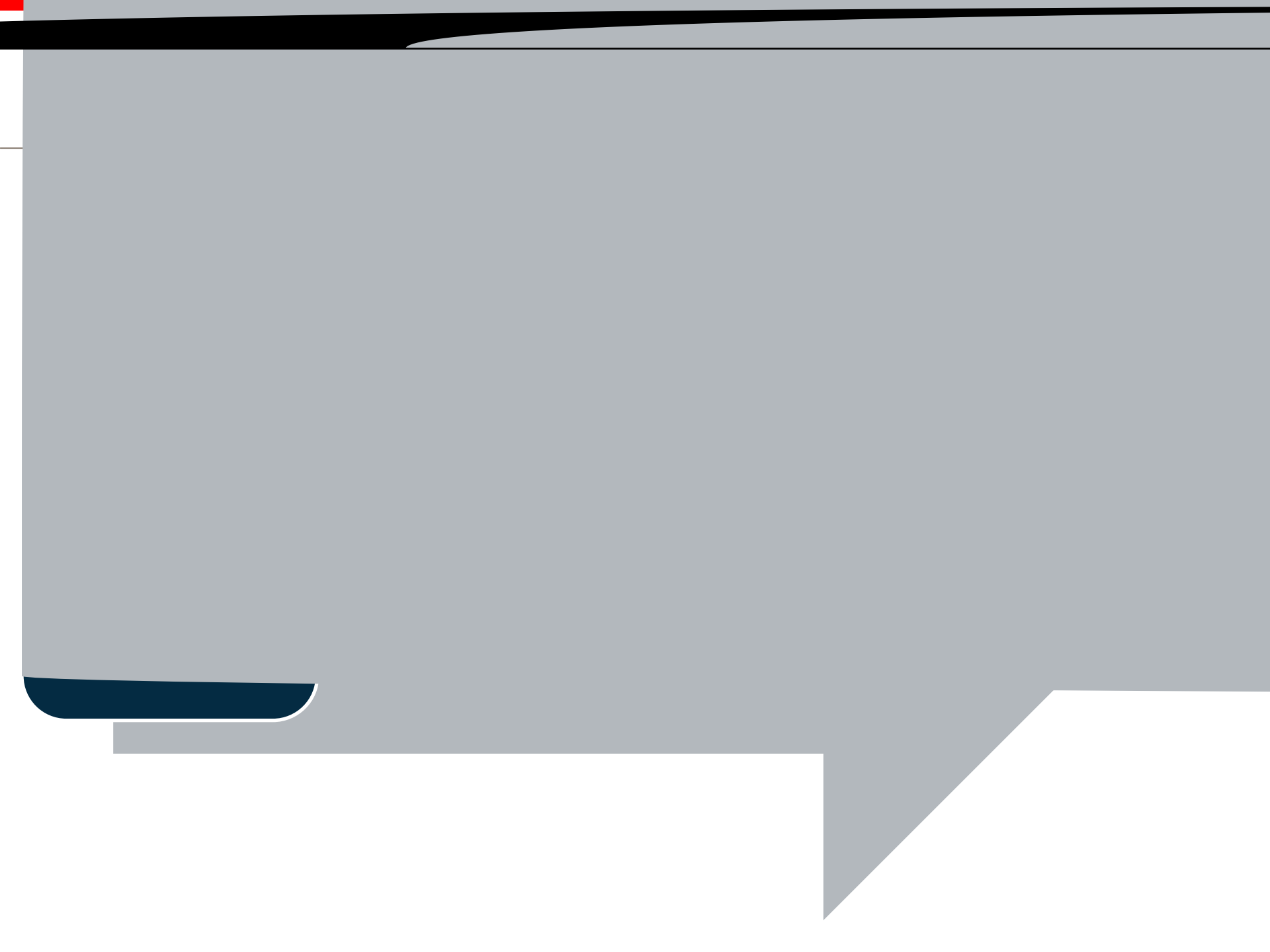
## Excluded Evidence

- f* Illegally obtained evidence (e.g., conversations recorded without the consent of the participants).
- f* Evidence not Directly Related to the complaint.
- f* Information protected by a legally recognized privilege.
- f* The Complainant's sexual history (with exceptions).
- f* A Party's treatment records if the Party has not given voluntary, written consent to the disclosure of those records.

## Treatment Records

*f*Party's treatment records require voluntary, written consent.

*f*Records include those that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party.

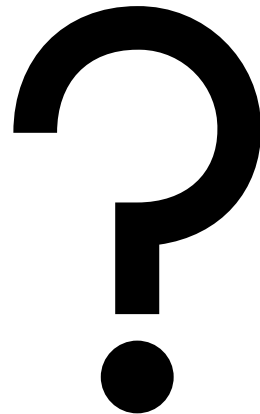


## Timeframes

*f*Absent a determination of good cause made by the Investigator or Title IX Coordinator (of which the Parties will receive written notice):

- (i) the investigation should be concluded within **100 Working Days** from the date that the Notice of Allegations 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.

**LET'S PAUSE  
FOR QUESTIONS**



# Informal Resolution



## Preliminary Assessment

- f* As part of an Informal Resolution, **at the request of both Parties**, Campuses will provide a written preliminary assessment of the evidence.
- f* The assessment will be provided by the Title IX Coordinator.
- f* Neither the fact nor the substance of the assessment will be shared with the Hearing Officer or considered Relevant at the Hearing.
- f* The written response will be attached to the Final Investigation Report and provided to the Hearing Officer, if appropriate, and the Parties.
- f* Inform Parties not to include any reference to the preliminary assessment in response to Final Investigation Report and that any such references will be redacted.

# Informal Resolution Procedural Requirements

- 9 Cannot be required.
- 9 Only available after a Formal Complaint has been filed and any time prior to reaching a determination regarding responsibility.
- 9 Requires the Parties' voluntary, written consent to engage in the Informal Resolution process.
- 9 Facilitated by the Title IX Coordinator or a Deputy Coordinator.
- 9 Unavailable in student Complainant and employee Respondent cases.
- 9 No later than 60 Working Days after both Parties provide voluntary, written consent to participate in the Informal Resolution process.



## Informal Resolution Procedural Requirements

*f*Parties must be notified that at any time prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process.

*f*Parties must be notified of **any consequences** resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

# Informal Resolution Terms





[www.calstate.edu](http://www.calstate.edu)