



CALIFORNIA STATE UNIVERSITY, SAN BERNARDINO

Respondent Resource Guide

Office of Civil Rights & Title IX

Information for individuals responding to allegations under the CSU Nondiscrimination Policy.

CALL US (909) 537-5669 Monday to Friday 8:00 a.m. to 5:00 p.m.	EMAIL US OCR@csusb.edu We respond to most messages within 2 business days.	VISIT US Sierra Hall 103 Santos Manuel Student Union South 103
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READ THIS FIRST

Receiving a Notice of Investigation does not mean the University has decided anything. You are presumed not responsible. That presumption can be set aside only if, at the end of the process, the evidence supports a finding of responsibility.

This guide is general information only. It is not legal advice and it does not create rights. If anything in this guide conflicts with the CSU Nondiscrimination Policy or the applicable procedures, **the Policy and procedures control.**

I. About This Guide

If you have been named as a Respondent, you may be feeling anxious, angry, embarrassed, or unsure of what happens next. That is a common reaction. A Respondent is a member of the campus community who has been accused of conduct that may violate the CSU Nondiscrimination Policy and who is involved in a University investigation.

The Office of Civil Rights & Title IX (OCRTIX) administers this process for CSUSB. Our role is not to advocate for either party. Our role is to make sure the process is prompt, fair, and equitable for everyone involved, and that both parties understand their rights and have access to support.

THIS GUIDE IS DESIGNED TO

- Correct common misunderstandings about OCRTIX and how our investigations actually work.
- Explain your rights, what is expected of you, and how decisions are made.
- Point you to confidential support and other campus resources.
- Answer the questions Respondents ask us most often.

If you have a question that is not answered here, contact us. We would rather answer a question early than have you guess.

II. First Steps: What to Do Now

The following steps will help you participate effectively and avoid problems that are difficult to undo later.

- 1. Read the Notice of Investigation carefully.** It identifies the allegations, the policy provisions at issue, the procedures that apply, and your rights.
- 2. Write down the assigned Investigator's name and contact information.** Direct case-specific questions to the Investigator. Direct process, resource, and accommodation questions to OCRTIX.
- 3. Choose an Advisor.** You may select one Advisor of your choice.
- 4. If you are a represented employee, contact your union.** You may have the right to representation in an investigatory interview that could reasonably lead to discipline.
- 5. Preserve anything that may be relevant.** Save text messages, emails, social media content, photographs, calendars, key-card or timekeeping records, and similar material. Do not delete, edit, or alter it.
- 6. Follow any no-contact directive or interim measure exactly.** If you are unsure whether something is permitted, ask OCRTIX before you act. Nothing in the process prevents you from discussing the allegations or gathering relevant evidence, but a no-contact directive still binds you and careless contact can create a second matter.
- 7. Ask about support.** Supportive measures are available to Respondents as well as Complainants, and they are not discipline. See Section X.

PLEASE DO

- Respond promptly to communications from the Investigator, even if only to ask for more time.
- Tell the Investigator about witnesses and evidence you believe are relevant.
- Ask questions if a deadline, term, or step is unclear.
- Speak with OCRTIX before you contact a potential witness. You are permitted to gather evidence, but how you go about it matters.
- Request a disability accommodation as early as possible if you need one.
- Raise any concern about bias or conflict of interest promptly and in writing.
- Take care of your health, and use the confidential resources in Section X.

PLEASE DO NOT

- Do not contact the Complainant, except to the extent a no-contact directive expressly permits.
- Do not delete, alter, or hide messages, photos, or other potential evidence.
- Do not pressure, coach, or discourage a witness, and do not ask anyone to change their account or to skip an interview.
- Do not discuss the case on social media or with people who do not need to know.
- Do not take any negative action against a person because they reported, participated, or were named as a witness.
- Do not record interviews or meetings without express permission.

Retaliation goes both ways. The Policy protects you from retaliation, and it also prohibits you from retaliating. Contacting a Complainant or witness, or pressuring someone through a friend or family member, can result in a separate complaint and separate discipline, even if you are ultimately found not responsible for the original allegations.

III. Common Misconceptions About OCRTIX and Its Investigations

Respondents often tell us they expect to be treated less favorably than the Complainant, or that the outcome has already been decided. The chart below addresses the concerns we hear most often.

What You May Be Thinking	What We Want You to Know
“OCRTIX investigations are not fair to Respondents.”	The process is designed to be fair and to treat Complainants and Respondents equitably. Both parties receive written notice of the allegations. Both have the same opportunity to be interviewed, to submit evidence, to identify witnesses, to have an Advisor, to review the evidence gathered, to respond to a preliminary report, and to appeal on the grounds set out in the Policy. The Respondent is presumed not responsible. That presumption is set aside only if the evidence gathered during the investigation supports a finding of responsibility.
“OCRTIX and the Title IX Coordinator are out to get Respondents.”	No one in OCRTIX, including the Title IX Coordinator/DHR Administrator, is trying to reach a particular result. The Title IX Coordinator/DHR Administrator is responsible for making sure both parties are treated fairly and respectfully, have access to resources, and can generally continue their studies or employment while the matter is pending. Investigators are trained and must be free from conflicts of interest and bias.
“Student Respondents are suspended as soon as a report is made.”	Sanctions may be imposed only after the process is complete. In limited circumstances, the University may place a student Respondent on interim suspension or emergency removal before an investigation concludes. This requires an individualized safety and risk analysis and a determination that the student poses an immediate threat to health or safety. A student placed on interim suspension or emergency removal receives written notice and may challenge the decision immediately. Where a student is removed, OCRTIX works with campus partners so the student can continue their education remotely where that is feasible.
“Employees are placed on leave automatically.”	No. Most employee Respondents continue working throughout the process. In limited circumstances the University may use temporary measures such as administrative leave, a schedule change, or a change in reporting or supervisory duties. These measures are precautionary and are not discipline or a finding of responsibility.
“Everyone gets expelled or fired.”	No. Except in the limited interim circumstances described above, consequences may be imposed only after a finding of responsibility. Expulsion and termination are not the most common outcomes. The range of possible sanctions includes a warning or reprimand, required training or counseling, probation, restrictions on activities or access, suspension, and expulsion or termination.

What You May Be Thinking	What We Want You to Know
	Sanctions are decided only after considering factors such as the nature and severity of the conduct, its impact, any prior findings, and information submitted by both parties. Employee discipline is also subject to the applicable collective bargaining agreement and Education Code requirements.
“Respondents cannot get support or accommodations.”	Supportive measures are available to Respondents. They may include academic or work adjustments, counseling referrals, no-contact directives, schedule or housing changes, and safety escorts. Supportive measures are not discipline and are not evidence that you did anything wrong. Contact OCRTIX to request them.
“The Complainant gets all the rights.”	Both parties have equitable procedural rights at every stage: notice, an opportunity to be heard, an Advisor, access to the evidence, an opportunity to respond, and the right to appeal on the grounds the Policy allows. Some steps differ because the parties occupy different positions in the process. For example, a Complainant may withdraw a complaint, and the University may still continue where required. Equitable does not mean identical in every respect, but it does mean neither party is given an advantage.
“I have to hire a lawyer.”	No. This is an administrative University process, not a court proceeding, and you are not required to retain an attorney. You have the right to one Advisor of your choice. Your Advisor may be an attorney, but may also be a friend, family member, colleague, union representative, or anyone else you select. If the same conduct is also the subject of a criminal investigation, you may wish to consult an attorney. See Section XI.
“Everyone is going to know everything.”	The University protects the privacy of everyone involved, including Complainants, Respondents, and witnesses, except as required by law and University policy. To investigate thoroughly, the Investigator will need to share some information about the allegations with people who are participating in the process. Information is otherwise shared only with University employees who need it to carry out their responsibilities. Parties may discuss their own experiences, but we ask everyone to use discretion. Sharing details widely can cause harm and, depending on what is said and to whom, may raise retaliation concerns.
“The investigation will never end.”	The University makes every effort to complete an investigation within 100 working days of the Notice of Investigation. Complex matters, breaks in the academic calendar, party or witness availability, and parallel criminal proceedings can extend that timeline. If more time is needed, both parties receive written notice of the extension and the reason for it.

IV. Why Did I Receive This Notice?

You received written notice because a Complainant, or the Title IX Coordinator/DHR Administrator, requested an investigation into an allegation that you violated the CSU Nondiscrimination Policy. The Policy is available at calstate.policystat.com/policy/10926024/latest.

Your notice is titled either a **Notice of Allegations** or a **Notice of Investigation**. The title tells you which track your matter is on. A Notice of Allegations means Track 1, the Federal Mandated Hearing Process. A Notice of Investigation means Track 2 or Track 3. Section V explains the difference and why it matters.

Either way, the notice exists so that you know an investigation is beginning and understand precisely what is being investigated. It identifies the reported conduct, the date and location if known, the Complainant, the specific provisions of the Policy at issue, the procedures that apply, the estimated timeline, and your rights. On request, you may be advised of the status of the investigation at any point.

If additional potential violations are identified during the investigation, you will receive a revised or amended notice and a full and fair opportunity to respond to the new allegations.

Receiving a notice is not a finding. It does not mean the University has concluded that the conduct occurred. You are presumed not responsible, and that presumption is set aside only if there is a finding of responsibility at the conclusion of the process.

V. Which Procedures Apply to My Case?

Two sets of systemwide procedures sit under the Nondiscrimination Policy: the Student Respondent Procedures and the Employee or Third-Party Respondent Procedures. Within them are three tracks. Which track applies depends on what is alleged and on whether the Respondent is a student or an employee. The written notice you receive names your track. Read it carefully, because the steps, the deadlines, and the appeal rights are not the same in each.

	Track 1	Track 2	Track 3
Applies to	Conduct that meets the 2020 federal Title IX definition of Sexual Harassment, in a University program or activity, in the United States. Students and employees alike.	Other sex-based misconduct where the Respondent is a Student.	All other covered conduct, including complaints against Employees and Third Parties.
Starts with	A signed Formal Complaint, filed by the Complainant or by the Title IX Coordinator, plus a Notice of Allegations.	A Notice of Investigation.	A Notice of Investigation.
Live hearing	Yes. Required.	Yes.	No.
Who asks the questions	Your hearing advisor questions the other party and witnesses directly, orally, and in real time. You may not question anyone yourself.	Each party submits proposed questions to the Hearing Officer, who asks them.	The Investigator.
Who decides responsibility	Hearing Officer.	Hearing Officer.	Investigator.

	Track 1	Track 2	Track 3
Who decides discipline	The President or designee, after a recommendation from the Hearing Officer.	The President or designee, after a recommendation from the Hearing Officer.	The President or designee
Appeal	Chancellor's Office, within 10 Working Days of the decision letter.	Chancellor's Office.	Chancellor's Office.

Track 1: the Federal Mandated Hearing Process

Track 1 applies when the alleged conduct meets the definition of Sexual Harassment in the 2020 federal Title IX regulations, occurred in a University education program or activity, and occurred in the United States. When Track 1 applies, it replaces the Student Respondent Procedures and the Employee or Third-Party Respondent Procedures. It applies to students and employees alike.

Tracks 2 and 3

Where Track 1 does not apply, the matter proceeds under Track 2 or Track 3. Track 2 involves an investigation followed by a hearing before a Hearing Officer, and generally applies where the Respondent is a student. Track 3 involves an investigation without a hearing, and the Investigator makes the findings. Both carry the right to review the evidence, to respond to a preliminary report, and to appeal.

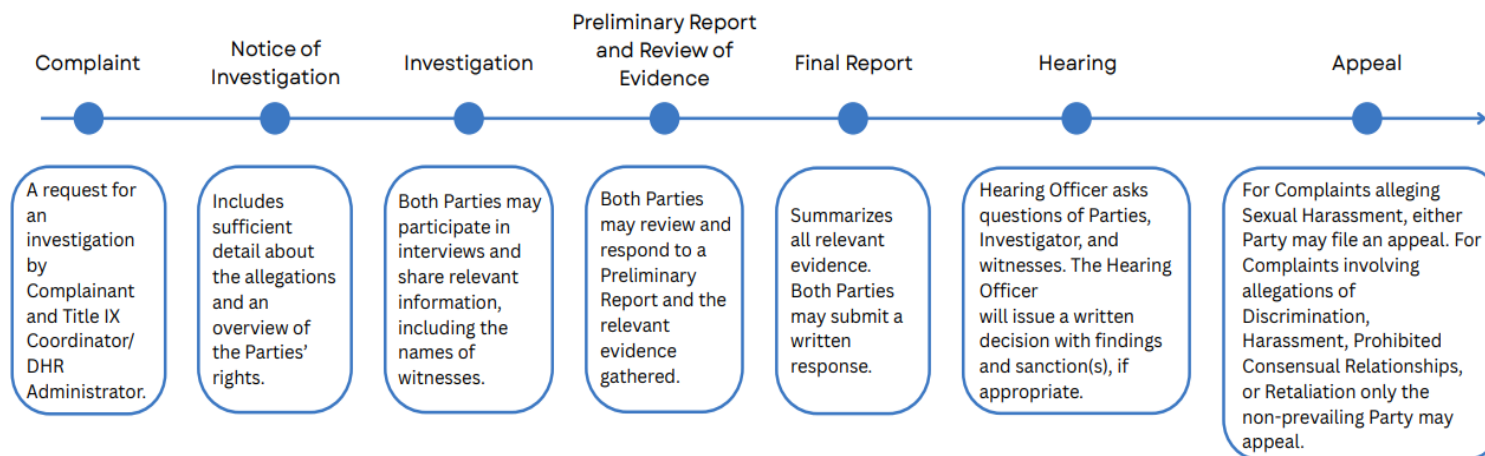
- Nondiscrimination Policy: calstate.policystat.com/policy/10926024/latest
- Student Respondent Procedures: calstate.policystat.com/policy/17650729/latest
- Employee or Third-Party Respondent Procedures: calstate.policystat.com/policy/17650990/latest

The flowcharts on the following page summarize Track 2 and Track 3. They are a summary only, and they do not depict Track 1.

Formal Resolution at a Glance

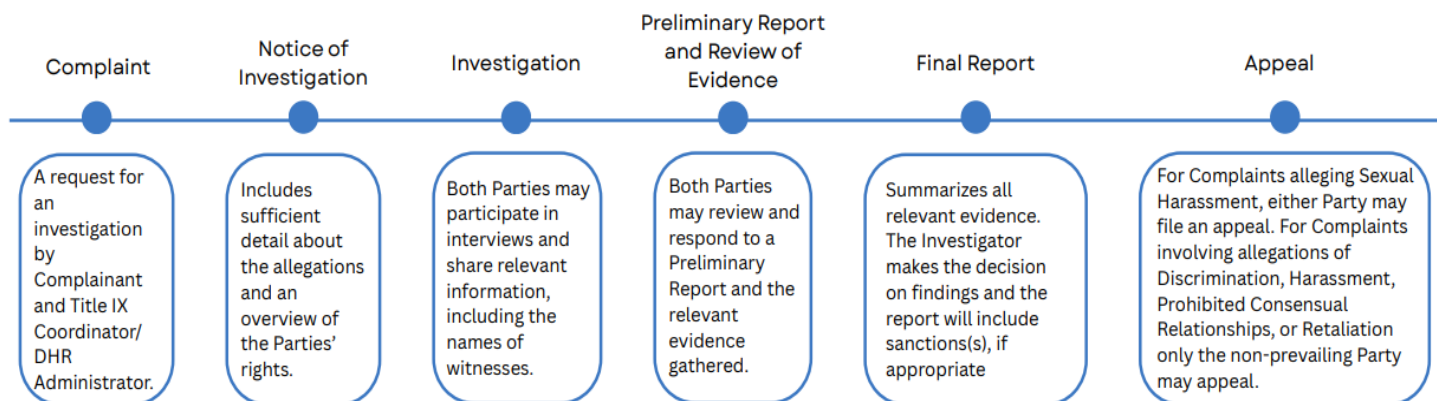
Student Procedures:

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



Employee Procedures:

Applies to Complaints against an Employee unless the Complaint is by a student and alleges **Sexual Harassment***.



* Sexual Harassment is used in the flowcharts as the umbrella term defined in the Nondiscrimination Policy, which includes sexual harassment, sexual misconduct, sexual exploitation, dating violence, domestic violence, and stalking.

VI. Your Rights

Throughout the process, you have the right:

- To be treated fairly, equitably, and with respect, and to a prompt and impartial process.
- To information about the policies and procedures that apply to your matter.
- To receive a written Notice of Investigation with sufficient detail to prepare a response, including the identity of the Complainant, the conduct alleged to violate the Policy, and to have adequate time to prepare before any initial interview.
- To be presumed not responsible unless and until there is a finding of responsibility at the conclusion of the process.
- To one Advisor of your choice, who may accompany you to any interview, proceeding, or process-related meeting. It is recommended that your Advisor not be someone who is or may become a witness.
- To an investigation conducted by a trained Investigator who is free from conflict of interest and bias, and to raise any concern about conflict or bias with the Title IX Coordinator/DHR Administrator.
- To be interviewed and to present your account, including any information you believe supports your position.
- To identify relevant witnesses and to submit relevant evidence for the Investigator's consideration. The Investigator determines which witnesses to interview and which evidence is relevant.
- To respond to information that conflicts with your account, including information from the Complainant or witnesses.
- To review the relevant evidence gathered and to respond in writing to the Preliminary Investigation Report before findings are finalized, within the 10-working day period stated in the Policy.
- To reasonable accommodations if you have a disability, so you can fully participate in the process.
- To be free from retaliation for participating, or for declining to participate.
- To receive reasonably available supportive measures, such as counseling referrals, academic and work adjustments, no-contact directives, schedule changes, campus escorts, and other services at CSUSB and in the community.
- To be informed in writing of the outcome, including the findings and the rationale.
- To appeal on the grounds stated in the Policy.

VII. What Is Expected of You

Rights come with a small number of obligations. The following expectations apply to every participant.

- Be truthful. Knowingly providing false information during an investigation may itself violate University policy.
- Do not retaliate, and do not ask anyone else to. This includes indirect contact through friends, family, or social media.
- Do not destroy, alter, or conceal evidence, and do not attempt to influence what a witness says.
- Comply with no-contact directives and any interim measures exactly as written. If compliance is difficult because of a shared class, workspace, or living space, tell OCRTIX so the terms can be adjusted rather than violated.
- Meet deadlines, or request an extension in writing before the deadline passes.
- Understand the Advisor's role. Your Advisor is there to support and advise you. Advisors generally may not speak on your behalf, answer questions for you, or disrupt a meeting or proceeding.
- Do not record interviews or meetings unless you have express written permission.

VIII. How Decisions Are Made

Resolution without a hearing

Not every matter reaches a determination. Depending on the track and the allegations, an informal or alternative resolution may be available. Participation is voluntary for both parties and cannot be required as a condition of enrollment or employment. Under Track 1 it requires a Formal Complaint and the written consent of both parties, and it is never available where an employee is alleged to have sexually harassed a student. Ask OCRTIX whether any alternative is available in your matter.

The standard of evidence

Findings are made using the preponderance of the evidence standard. This asks whether it is more likely than not that the alleged conduct occurred. It is not the criminal standard of proof beyond a reasonable doubt, because this is an administrative process rather than a criminal one. The burden of proof and the burden of gathering evidence rest on the University, not on the parties. You do not have to prove your innocence.

What the decision maker considers

The decision maker weighs the relevant evidence gathered during the investigation, which may include the parties' statements, witness statements, documents, messages, records, and physical or electronic evidence. Where accounts conflict, credibility is assessed using factors such as consistency, detail, plausibility, corroboration, and the opportunity to observe. Credibility is never assessed based on a person's status as a Complainant or Respondent.

If there is a finding of responsibility

Sanctions are determined separately from the findings and are individualized. For students, the range includes a warning, required education, probation, restrictions, suspension, and expulsion. For employees, discipline is governed by the applicable collective bargaining agreement, the Education Code, and CSU systemwide requirements, and can range from a letter of reprimand through suspension or dismissal.

IX. Appeals

If you disagree with the outcome, you may appeal. Appeals are decided outside the campus, by the CSU Chancellor's Office. An appeal is not a new investigation and is not a re-argument of the facts. The Chancellor's Office does not reweigh the evidence or revisit credibility determinations. Deadlines are short and are strictly applied, so calendar yours the day the outcome arrives.

X. Campus and Community Resources

Being accused of prohibited conduct can be overwhelming, and participating in an investigation is stressful. Support is available to you. If you would like help connecting with any of these resources, contact OCRTIX and we will assist.

CONFIDENTIAL SUPPORT

Confidential resources will not report what you share to OCRTIX and will not trigger an investigation.

Counseling & Psychological Services (CAPS) STUDENTS

Short-term individual counseling, crisis support, and referrals for CSUSB students.

Phone: (909) 537-5040 **Location:** Health Center Building, north of The Meeting Center and east of SMSU North

Web: csusb.edu/caps

Appointments must be made by phone or in person. They cannot be made online or by a third party.

LifeMatters® by Empathia (Employee Assistance Program) EMPLOYEES

CSUSB's confidential EAP. Counseling for emotional, family, financial, and legal concerns, plus work-life referrals and geriatric care management. Online and in person.

Phone: (800) 367-7474 **Password:** CSUSB

Web: members2.mylifematters.com

XI. 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 engaged in conduct that violates the Nondiscrimination Policy and who is involved in an investigation. The term comes from the fact that a Respondent is responding to allegations raised by a Complainant. It is a procedural label. It is not a finding, and it is not a judgment about you.

Do I have to participate?

No. You may decline to be interviewed or to participate at all, and that decision may not be held against you or treated as evidence that you are responsible.

You should understand the practical consequence: the investigation will continue, and the findings will be based on the information available. Declining to participate means your account is not part of that record. Most Respondents find it helpful to participate with an Advisor present.

What happens if there is also a police report or criminal case?

The University process is administrative and separate from any criminal investigation or prosecution. The two use different standards and can reach different results, and one does not control the other.

The University generally will not delay its process while a criminal matter is pending, although a short delay is sometimes appropriate to allow law enforcement to complete initial evidence gathering.

If you are facing or may face criminal charges, consider consulting an attorney before you give a statement. What you say in the University process may be obtainable later. An attorney may serve as your Advisor.

Can I bring someone with me?

Yes. You may bring one Advisor of your choice to any interview, meeting, or proceeding. Your Advisor may be a friend, family member, colleague, union representative, attorney, or anyone else you select, as long as they are not a witness in the matter.

If you are a represented employee, you may also have the right to union representation in an investigatory interview that could reasonably lead to discipline. Contact your union for guidance about how that right works alongside your choice of Advisor.

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

Notify OCRTIX as soon as possible if you need a reasonable accommodation to participate fully and effectively. OCRTIX will coordinate with Services to Students with Disabilities, or with Employee and Labor Relations for employees, so your request is evaluated and reasonable accommodations are provided.

You may request an accommodation at any point, but please make the request as early as possible.

What is retaliation, and what should I do if I experience it?

Retaliation is any adverse action taken against a person because they reported, participated in, declined to participate in, or were named in a proceeding under the Policy. It is strictly prohibited, and the protection applies to Respondents just as it does to Complainants and witnesses.

Contact OCRTIX promptly if you believe you are experiencing retaliation. Do not respond to it yourself. A complete definition appears in the Policy at calstate.policystat.com/policy/10926024/latest.

Will my parents find out?

For students, information held by OCRTIX that is part of your education record is protected by the Family Educational Rights and Privacy Act (FERPA). Absent limited exceptions, the University may not disclose that information to anyone, including your parents, without your written consent. This includes investigation reports and outcome letters.

There are narrow exceptions, including a health or safety emergency and, for students under 21, certain alcohol and drug violations. If you have questions about how this applies to your matter, ask us.

For employees, FERPA does not apply. Employment investigation records are handled as confidential personnel records under state law and University policy and are shared only with those who need access to carry out their responsibilities.

Who will know about the investigation?

Information is shared with a limited circle of people who need it: the parties, witnesses to the extent necessary, Advisors, the Investigator and decision maker, and University administrators who assist with assessment, supportive measures, resolution, and any resulting discipline. Records are maintained securely.

How long will this take?

The University makes every effort to complete an investigation within 100 working days of the Notice of Investigation. Matters with many witnesses, academic breaks, scheduling limits, or a parallel criminal case can take longer. If an extension is needed, both parties are notified in writing of the extension and the reason.

Still have questions? Call (909) 537-5669, email OCR@csusb.edu, or visit us at Sierra Hall 103 or SMSU South 103, Monday through Friday, 8:00 a.m. to 5:00 p.m. Additional answers are posted at csusb.edu/office-civil-rights-title-ix.