

# California State University, Monterey Bay



2022

## Annual Security Report

Jeanne Clery Disclosure of Campus Security Policies & Campus Crime  
Statistics Act (20 U.S.C. § 1092(f))

Clery Crime Statistics 2019-2021

**Seaside Campus**

**Salinas Campus**

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# California State University, Monterey Bay

## Annual Security Report

### Message from the President



As an important part of our responsibility to keep the campus community informed and safe, each year Cal State Monterey Bay publishes the Annual Security Report.

I encourage you to read this year's report. It includes statistics regarding crimes committed on and around our campus, as well as important information about crime reporting, crime prevention, victims' rights, and information campaigns. We are focused on raising awareness of how we can create and maintain a supportive campus community.

Our campus administrators – including the University Police Department, Student Housing and Residential Life, the offices overseeing Clery Act compliance and Title IX enforcement and others – work hard to maintain open lines of communication with students, faculty, and staff.

We all share in the task of maintaining a safe campus. Each of us needs to look out for one another, to be alert for potentially unsafe situations, to help prevent crimes before they happen.

I encourage all of you to familiarize yourselves with the resources that are outlined in this report. Working together, we can help keep Cal State Monterey Bay a great place for us all to live, work and learn.

### Preparing the Annual Security Report

The Cal State Monterey Bay (CSUMB) Clery Compliance Office compiles this institutional report to comply with the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* (the Clery Act), and is a disclosure for the three most recent calendar years concerning the number of specific crimes that occurred on or within the institution's Clery geography. This report is a collaborative and comprehensive effort that includes the cooperation of departments from all divisions within the institution, individuals designated as "Campus Security Authorities" (CSA) under the Clery Act, and local law enforcement agencies with concurrent jurisdiction over the University's Clery geography. Each entity is asked to provide crime statistics and/or information on their educational efforts and programs to comply with the Act.

CSAs must promptly report allegations of Clery crimes that occur within CSUMB's Clery Geography that are reported to them. A report may be a written or verbal disclosure made by any person to the CSA, including information shared with the CSA by witnesses or other third parties. CSA reports must include the following, if known: the crime that was reported and the information provided; the exact location where the reported crime occurred; the date and time the reported crime occurred; any witness and perpetrator information; victim information, unless the victim requests confidentiality (employees may be required to share this information with other offices if they have responsibilities under other laws and policies including, but not limited to, Mandatory Reporting of Child Abuse and Neglect, and the CSU Interim Systemwide Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking Policy. In the event

the victim does request confidentiality, enough information must be obtained and provided by the CSA about the criminal incident to prevent over-reporting or "double-counting" of the incident.

It's important for readers to know that the Salinas campus, better known as CSUMB at North Salinas, operates under the same institutional policies as the Seaside campus, better known as CSUMB. However, Salinas Police Department is the primary jurisdiction for CSUMB at North Salinas. Preparing this report included identifying any operational distinctions between the campuses.

The policies and procedures within this report are current as of the publication, as the University recognizes this document is an immediate reference to possible current inquiries; however, the statistical data, as previously mentioned, is for the three previous calendar years.

All students and employees receive annual notice by University-wide email that informs them of the Annual Security Report (ASR), a brief description of its contents, information regarding the availability of the report on the campus website, the electronic address to access the report, and a statement on how to obtain a paper copy, if desired. Additionally, similar notices are provided to prospective students and employees on the Admissions and University Personnel<sup>1</sup> web pages, respectively.

## Compiling Crime Statistics

Under the Clery Act, counting and disclosing criminal offenses (including sex offenses), hate crimes, and arrest and disciplinary referral statistics are based on definitions<sup>2</sup> provided by the Federal Bureau of Investigation's (FBI) Uniform Crime Reporting (UCR) Program; and the following categories are counted and disclosed based on the definitions provided by the *Violence Against Women Act of 1994* (VAWA) and repeated in the Department of Education's Clery Act implementing regulations at 34 C.F.R. § 668.46: Dating Violence, Domestic Violence, and Stalking.<sup>3</sup>

The statistics provide an overall picture of crime at CSUMB and CSUMB at North Salinas from January 1 to December 31 for 2019, 2020, and 2021.

Crime statistics are collected annually from law enforcement agencies with concurrent law enforcement jurisdiction(s) surrounding CSUMB and CSUMB at North Salinas, and off-site properties or facilities owned or controlled by either campus.<sup>4</sup> These law enforcement agencies provide crime statistics they have collected for crimes occurring on on-campus properties or public property immediately adjacent to CSUMB or CSUMB at North Salinas's properties or facilities. The University does not have any off-campus properties owned by student organizations.<sup>5</sup>

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<sup>1</sup> University Personnel, formerly known as Human Resources at Cal State Monterey Bay, and refers to the department when capitalized. Prospective employees for University Corporation at Monterey Bay may also apply through the University Personnel webpage.

<sup>2</sup> For a full list of definitions, visit [csumb.edu/clery](http://csumb.edu/clery).

<sup>3</sup> The name VAWA is delegated per federal law (Title IV, sec. 40001-40703 of the *Violent Crime Control and Law Enforcement Act*, H.R. 3355); however, reports of this nature are taken regardless of the victim's gender or identity.

<sup>4</sup> Including but not limited to Marina Police Department, Seaside Police Department, Presidio of Monterey Police Department, Monterey County Sheriff's Office, California Highway Patrol, and Salinas Police Department.

<sup>5</sup> Non-campus locations are defined as (1) any building or property owned or controlled by a student organization that is officially recognized by CSUMB or CSUMB at North Salinas; or (2) any building or property owned or controlled by CSUMB or CSUMB at North Salinas that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the campus. Although no University recognized student organization owns any

Statistics regarding specific violations of law resulting in student disciplinary actions are collected from but not limited to the offices of Title IX/Discrimination, Harassment & Retaliation Administration (Title IX/DHR), Student Housing and Residential Life (SHRL), and Student Conduct. Clery Act statistics are also collected from individuals with significant responsibility for students and/or their campus activities.

Crime statistics are separated by the following geographical areas (also known as Clery Geography):

- On-campus;
- On-campus student housing facilities;<sup>6</sup> (CSUMB at North Salinas does not have student housing)
- On public property (within and immediately adjacent to CSUMB or CSUMB at North Salinas); and
- In or on noncampus property (either owned or controlled by CSUMB or CSUMB at North Salinas in direct support of or in relation to its educational purposes; or a building or property owned or controlled by an officially recognized student organization not reasonably contiguous to the core campus)

The following information is important when reviewing CSUMB and CSUMB at North Salinas' crime data.

## Counting Hierarchy

When counting multiple offenses in a single incident, Cal State Monterey Bay used the FBI's UCR Hierarchy Rule. Under this rule, when more than one Criminal Offense was committed during a single incident, Cal State Monterey Bay only counted the most serious offense. A single incident means that the offenses were committed at the same time and place. That is, the time interval between the offenses and the distance between the locations where they occurred were insignificant.

Beginning with the most serious offense, the following list shows the hierarchy for Clery Act reporting:

- Murder and Non-negligent Manslaughter
- Negligent Manslaughter
- Sexual Assault
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft

There are exceptions to using the Hierarchy Rule when counting offenses. They apply to Arson, Sexual Assaults, Hate Crimes and VAWA Offenses. When applying these exceptions, Cal State Monterey Bay must:

- Always count Arson regardless of the nature of any other offenses that were committed during the same incident. When multiple offenses are committed during the same distinct operation as the Arson offense, report the most serious offense along with the Arson.

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off-campus properties, student organizations can control properties. For more information, see the section titled "Criminal Activity at Non-campus Locations of Student Organizations."

<sup>6</sup> CSUMB has a residential community that operates three apartment communities: Frederick Park I, Frederick Park II and Schoonover Park. Frederick Parks I and II are advertised and operated for student housing, whereas Schoonover Park typically houses Cal State Monterey Bay faculty and staff and educational partners. Although these are considered 'East Campus' by students, faculty and staff; for statistical purposes, each community is considered on-campus since they are operated by the University and are within the same reasonably contiguous geographic area as the Seaside campus. Frederick Parks I and II have always been included in the Residential Facilities category. However, Schoonover may or may not be included in the student housing disclosure for any given year. As such, if a student lived in Schoonover Park during a calendar year, Clery-reportable crimes that occurred in any building structure that housed a student, whether or not it involved a student, have been included. Any crimes that occurred in Schoonover Park that did not occur in a building structure that housed a Cal State Monterey Bay student was only included in the on-campus geographical category.



- Include incidents in which persons are killed as a direct result of Arson as Murder and Non-negligent Manslaughter and Arson or Negligent Manslaughter and Arson.
- Include a Sexual Assault as Fondling only if it is the only Sexual Assault.
- Count both the Sexual Assault and the Murder if Rape, Fondling, Incest or Statutory Rape occurs in the same incident as Murder.

The Hierarchy Rule does not apply to Hate Crimes. Cal State Monterey Bay must count all of the offenses committed in a multiple offense incident that are bias-motivated, and include only the crimes that are bias-motivated as Hate Crimes in a multiple-offense incident. For any Criminal Offense that is also a Hate Crime, statistics will indicate the offense and also the offense with the category of bias. For example, if an Aggravated Assault is a Hate Crime, Cal State Monterey Bay will include one Aggravated Assault in the statistics in the Criminal Offenses category and one Aggravated Assault motivated by (category of bias) in the Hate Crime category. The exception is when the Aggravated Assault is not included in the Criminal Offenses category because of the Hierarchy Rule. For example, for a single incident involving both a Rape and an Aggravated Assault that were both Hate Crimes, Cal State Monterey Bay's statistics would include only the Rape in the Criminal Offenses category and both the Rape and the Aggravated Assault in the Hate Crimes category.

The Hierarchy Rule does not apply to VAWA Offenses. For any Criminal Offense, Hate Crime, or arrest for Weapons, Drug or Liquor Law Violations that is also a VAWA Offense, statistics reflect the original offense and the VAWA Offense.

## Unfounded Crimes

In accordance with 34 C.F.R. § 668.46, Cal State Monterey Bay may only exclude a reported crime from an upcoming ASR, or remove a reported crime from its previously reported statistics, after a full investigation by sworn or commissioned law enforcement personnel have made a formal determination that the report was false or baseless and the crime report was therefore "unfounded." This does not include a District Attorney who is sworn or commissioned. A Campus Security Authority (CSA) who is not a sworn or commissioned law enforcement authority cannot "unfound" a crime report either. The recovery of stolen property, the low value of stolen property, the refusal of the victim to cooperate with law enforcement or the prosecution, or the failure to make an arrest does not "unfound" a crime. The findings of a coroner, court, jury (either grand or petit), or prosecutor do not "unfound" crime reports of offenses or attempts. Crime reports can be properly determined to be false only if the evidence from full investigation establishes the crime reported was not, in fact, completed or attempted in any manner. Crime reports can only be determined to be baseless if the allegations reported did not meet the elements of the offense or were improperly classified as crimes in the first place. A case cannot be designated "unfounded" if no investigation was conducted by sworn law enforcement personnel or the investigation was not completed, nor can it be designated "unfounded" merely because the investigation failed to prove the crime occurred; this would be an inconclusive or unsubstantiated investigation.

If a crime is "unfounded", it will not be included in the Clery Act statistics for the associated crime category, and is removed from any previously reported statistics for that crime category. The "unfounded" crime is included in the total count of "unfounded" crimes for the year in which the crime was originally reported.

Crime statistics concerning this campus and others can also be found on the U.S. Department of Education website.<sup>7</sup>

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<sup>7</sup> <https://ope.ed.gov/campussafety/#/>

## Clery Crime Statistics 2019 to 2021

Campus Residential crime statistics are an inclusive subset of On-Campus crime statistics. Therefore, the numbers reported in the Campus Residential column must be equal to or lesser than the numbers reported in the On-Campus column and are not added together to reach a total. Statistics were requested from law enforcement as appropriate. Only the data available in a usable format for Clery reporting was included.

### Seaside Campus

#### Murder/Nonnegligent Manslaughter

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	0	0	0	0
2020	0	0	0	0
2021	0	0	0	0

#### Negligent Manslaughter

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	0	0	0	0
2020	0	0	0	0
2021	0	0	0	0

#### Rape

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	13	13	2	0
2020	5	5	0	1
2021	1	1	0	0

#### Fondling

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	3	2	0	0
2020	0	0	2	0
2021	3	1	0	0

#### Incest

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	0	0	0	0
2020	0	0	0	0
2021	0	0	0	0

### Statutory Rape

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	0	0	0	0
2020	3	0	0	0
2021	2	0	0	0

### Robbery

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	1	0	0	0
2020	0	0	0	0
2021	1	1	0	0

### Aggravated Assault

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	10	6	1	0
2020	4	1	2	3
2021	7	2	1	0

### Burglary

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	10	6	2	0
2020	15	7	1	0
2021	5	3	1	0

### Motor Vehicle Theft

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	1	0	1	0
2020	2	0	0	0
2021	1	0	1	0

### Arson

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	0	0	0	0
2020	0	0	1	0
2021	1	0	0	0

### Domestic Violence

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	44	40	0	0
2020	11	6	0	1
2021	18	5	0	0

### Dating Violence

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	0	0	0	0
2020	0	0	0	0
2021	0	0	0	0

### Stalking

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	21	13	0	0
2020	7	3	0	0
2021	8	2	0	0

### Arrests for Weapons Law Violations

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	7	1	2	0
2020	9	0	1	1
2021	5	2	0	0

### Arrests for Drug Law Violations

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	17	1	14	1
2020	23	4	4	1
2021	16	0	2	0

### Arrests for Alcohol Law Violations

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	1	0	0	0
2020	2	0	0	0
2021	0	0	0	0

### Referrals to Disciplinary Action for Weapons Law Violations

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	2	2	0	0
2020	0	0	0	0
2021	0	0	0	0

### Referrals to Disciplinary Action for Drug Law Violations

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	22	18	0	0
2020	3	1	0	0
2021	3	2	0	0

## Referrals to Disciplinary Action for Liquor Law Violations

Year	Campus Total	Campus Residential	Noncampus	Public Property
2019	39	39	0	0
2020	9	5	0	0
2021	5	5	0	0

## Unfounded Crimes

Year	Total
2019	3
2020	4
2021	5

## Hate Crimes

2019 – One on-campus/on-campus student residential Simple Assault incident characterized by religious bias.

2020 – There were no reported hate crimes.

2021 – One on-campus Intimidation incident characterized by racial bias.

A hate crime is a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator’s bias against the victim. Hate crimes includes any offense in the following group: murder and non-negligent manslaughter; sexual assault including rape, fondling, incest and statutory rape; robbery; aggravated assault; burglary; motor vehicle theft; arson; larceny-theft; simple assault; intimidation; and destruction/damage/vandalism of property.

Bias is a preformed negative opinion or attitude toward a group of persons based on their race, gender, gender identity, religion, disability, sexual orientation, ethnicity, or national origin.

Hate crime reporting is considered for all Clery geography including on-campus, residential facilities, noncampus buildings or property, and public property.

## Salinas Campus

### Murder/Nonnegligent Manslaughter

Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Negligent Manslaughter

Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Rape

Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Fondling

Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Incest

Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Statutory Rape

Year	Campus Total	Noncampus	Public Property
2019	0	0	0

Year	Campus Total	Noncampus	Public Property
2020	0	0	0
2021	0	0	0

### Robbery

Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Aggravated Assault

Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Burglary

Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Motor Vehicle Theft

Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Arson

Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Domestic Violence

Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Dating Violence

Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Stalking

Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Arrests for Weapons Law Violations

Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Arrests for Drug Law Violations

Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Arrests for Liquor Law Violations

Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Referrals to Disciplinary Action for Weapons Law Violations



Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Referrals to Disciplinary Action for Drug Law Violations

Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Referrals to Disciplinary Action for Liquor Law Violations

Year	Campus Total	Noncampus	Public Property
2019	0	0	0
2020	0	0	0
2021	0	0	0

### Unfounded Crimes

Year	Total
2019	0
2020	0
2021	0

### Hate Crimes

2019 and 2021 – There were no reported hate crimes.

A hate crime is a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator’s bias against the victim. Hate crimes includes any offense in the following group: murder and non-negligent manslaughter; sexual assault including rape, fondling, incest and statutory rape; robbery; aggravated assault; burglary; motor vehicle theft; arson; larceny-theft; simple assault; intimidation; and destruction/damage/vandalism of property.

Bias is a preformed negative opinion or attitude toward a group of persons based on their race, gender, gender identity, religion, disability, sexual orientation, ethnicity, or national origin.

Hate crime reporting is considered for all Clery geography including on-campus, residential facilities, noncampus buildings or property, and public property.

# Procedures for Students and Others to Report Criminal Actions or Other Emergencies on Campus

Each member of the University community has the obligation to report threats or acts of violence to the appropriate University authority. Cal State Monterey Bay strives to prevent threats and acts of violence through coordinated services for students, faculty, and staff. The University will work to prevent violence from occurring through training, education, awareness, and reporting. When violence or threats of violence have occurred, the University will act promptly to protect victims, potential victims, and witnesses from further threats or acts of violence. The University will work closely with reporters of alleged threats or acts of violence to address concerns of retaliation. Individuals should report acts of violence, threats of violence, or any other behavior which by intent, act, or outcome harms another person by calling 911 in an emergency situation.

When appropriate, criminal investigations will be referred to the Office of the Monterey County District Attorney for prosecution. Criminal matters and other forms of misconduct involving Cal State Monterey Bay students, employees, and residents may also be referred to the appropriate University administrator for administrative review/conduct process. The University encourages the complete, accurate, and prompt reporting of all crimes to UPD or the appropriate law enforcement agency when a victim elects to, or is unable to, because such a report is essential for successful investigation and prosecution. Prompt action can prevent the perpetrator from committing additional crimes.

## To Law Enforcement

### CSUMB (Seaside Campus)

The UPD, similar to other police agencies, provides 24-hour law enforcement service, throughout the entire calendar year, including all holidays. In-progress suspicious or criminal acts and all police, fire,<sup>8</sup> or medical emergencies should be reported directly to UPD or local law enforcement, as appropriate, by dialing 9-1-1. UPD may also be contacted by pushing the button on a “blue light” campus emergency phone. There are over forty blue-light emergency phones<sup>9</sup> in operation at any given time except when impacted by construction or maintenance that are located throughout the Seaside campus. Classroom and office phones may be used to dial 9-1-1 in the event of an emergency. When calling in emergencies, be prepared to provide the police dispatcher with your name, telephone number, the nature of the emergency, and location, as well as any pertinent information regarding the emergency (such as suspect and vehicle description, direction of travel, nature of the medical emergency needing assistance, etc.). Always stay on the line until the dispatcher ends the call. For all non-emergencies and regular business, call Police Dispatch at 831-655-0268. Students residing in on-campus housing may also report non-emergency crimes to the on-duty Resident Advisor (RA) or Residential Life Coordinator (RLC). Students may also contact the Office of the Vice President for Student Affairs.

The following are University off-site properties. In the event you need to report a non-emergency, please call the number listed. It will direct you to the police agency with primary jurisdiction.

Soledad Street Community Learning Center, Salinas PD	831-758-7321
CSUMB at Salinas City Center, Salinas PD	831-758-7321

<sup>8</sup> For more information on how to report on-campus fires and fire safety, please see the [Fire Safety Report](#).

<sup>9</sup> Blue-light phones and emergency call boxes are tested monthly, and if one is not working, it is immediately repaired or replaced. The number of blue-light emergency phones decreased with the erection of the Otter Student Union. The report was updated 11/9/2021 to reflect the new number.

Criminal complaints and other investigations made directly to UPD will be handled by UPD personnel, and if appropriate and applicable, may include assistance from an outside agency upon request from UPD.

### **CSUMB at North Salinas (Salinas Campus)**

If no immediate threat exists and a Cal State Monterey Bay student or employee is located at CSUMB at North Salinas at the time of the report, individuals should contact the Salinas Police Department. Salinas PD will serve as initial responders to all calls for service to CSUMB at North Salinas. Salinas PD provides 24-hour law enforcement service, throughout the entire calendar year, including all holidays. For all non-emergencies and regular business, dial 831-758-7321 or 831-775-4222 to leave non-emergency crime tips on a voicemail recording. All emergencies should be reported by dialing 9-1-1. When calling in emergencies, be prepared to provide the police dispatcher with your name, telephone number, the nature of the emergency, and location, as well as any pertinent information regarding the emergency (such as suspect and vehicle description, direction of travel, nature of the medical emergency needing assistance, etc.). Always stay on the line until the dispatcher ends the call.

### **To a CSA**

The University encourages all members of the campus community to contact UPD when they have been the victim of or have witnessed criminal actions.<sup>10</sup> Still, members of the campus community may notify one of the other CSAs about a crime. The Clery Act requires certain individuals that are designated as CSAs to promptly report allegations of Clery Act reportable crimes that occur within a campus' Clery Geography reported to them for inclusion in the ASR and to help inform whether a timely warning or emergency notification to the campus community is warranted.

A CSA is defined as "An official of an institution who has significant responsibility for student and campus activities, including but not limited to, student housing, student discipline, and campus judicial procedures." Individuals may be designated as CSAs if their official job responsibilities involve significant interaction with students or campus activities, serve as formal or unofficial mentors to students, serve as a member in an office or of a committee to whom students are instructed or informed to report or discuss crimes, allegations, or crimes and other troubling situations; or have oversight for disciplinary procedures.

At CSUMB, in addition to UPD officers, CSAs include, but are not limited to, the Director of Student Housing and Residential Life, RLCs, RAs, Athletic directors and coaches, faculty advisors to student organizations, the Associate Vice President for Student Affairs and Dean of Students, and the Title IX Coordinator/DHR Administrator. At CSUMB at North Salinas, CSAs include the Director for Events & Contracted Services with University Corporation and the Master of Science Physician Assistant Professor Program Director. For a full listing of CSA-qualified positions, see [csumb.edu/csa](https://csumb.edu/csa). For contact information regarding personnel in these various positions, visit the University's Directory at [csumb.edu/directory](https://csumb.edu/directory).

University reporting offices, mandated and confidential alike, share resources to encourage victims of crime to report to the structure they feel is best for them. Confidential resources also encourage reporting parties to report crimes to UPD.

## **Voluntary Confidential Reporting**

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<sup>10</sup> CSU Executive Order 1107: <https://calstate.policystat.com/policy/9938606/latest/>

Cal State Monterey Bay provides voluntary confidential reporting options through the University Police Department (UPD) for inclusion in the ASR for its Seaside and Salinas campuses. Should you want to make a report confidentially through UPD, you can make a request. However, any request for confidentiality is honored to the extent permitted by law. It is the University's responsibility to weigh any request for confidentiality against its duty to provide a safe and nondiscriminatory environment for all members of the campus community.

All confidential sources (pastoral and professional counselors and the Campus Advocate) are encouraged to inform individuals they are counseling of all options (including anonymous reporting) and support resources for reporting crimes on campus for administrative or criminal investigation and action. Pastoral and professional counselors are exempt from reporting but may, if they choose, report an incident confidentially by calling UPD Criminal Investigations at 831-582-4705.

Note: all publicly available record keeping will be maintained without the inclusion of personally identifiable information about the victim.

## Anonymous Reporting

### **CSUMB (Seaside Campus)**

You may also consider making an anonymous report directly with the UPD. Victims or witnesses who wish to inform UPD of crimes on a voluntary, anonymous basis for inclusion in the annual disclosure of crime statistics may do so by calling the Tip Line at 831-582-4747, by calling UPD Criminal Investigations at 831-582-4705, or by filling out an anonymous tip online at [csumb.edu/police](http://csumb.edu/police). The purpose of an anonymous report is to comply with your wish of not having personally identifiable information included while taking steps to ensure your future safety and the safety of others. With such information, CSUMB can keep an accurate record of the number of incidents involving students, employees, and visitors, determine whether there is a pattern of crime with regard to a particular location, methods, or assailant, and alert the campus community to potential dangers. Complaints filed in this manner may be counted and disclosed in the ASR.

### **CSUMB at North Salinas (Salinas Campus)**

If you are at the Salinas campus at the time of an incident, you may consider making an anonymous report directly to Salinas Police Department by calling their anonymous tip line at (831) 775-4222.

You may also consider making an anonymous report directly with UPD. Victims or witnesses who wish to inform UPD of crimes on a voluntary, anonymous basis for inclusion in the annual disclosure of crime statistics may do so by calling the Tip Line at 831-582-4747, by calling UPD Criminal Investigations at 831-582-4705, or by filling out an anonymous tip online at [csumb.edu/police](http://csumb.edu/police). The purpose of an anonymous report is to comply with your wish of not having personally identifiable information included while taking steps to ensure your future safety and the safety of others. With such information, CSUMB can keep an accurate record of the number of incidents involving students, employees, and visitors, determine whether there is a pattern of crime with regard to a particular location, methods, or assailant, and alert the campus community to potential dangers. Complaints filed in this manner may be counted and disclosed in the ASR.

## Crime of Violence Disclosures

The institution will, upon written request, disclose to the alleged victim of a crime of violence or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by the institution against a student who is the alleged perpetrator of such a crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such a victim shall be treated as the alleged victim.

## California Education Code Section 67380(a)(6)(A)

Pursuant to California Education Code section 67380(a)(6)(A), CSAs who receive reports from employees or students of a Part I violent crime, sexual assault or hate crime that occurred in an on or noncampus location as defined by the Clery Act, may not disclose to UPD or local law enforcement agencies the names of the victims or the alleged assailant, unless the victim consents to disclosing their name after being informed of their right to have their personally identifying information withheld. The name of the alleged assailant may be disclosed, however, if all of the following conditions are met:

- The alleged assailant represents a serious or ongoing threat to the safety of students, employees, or the institution; and
- The immediate assistance of the local law enforcement agency is necessary to contact or detain the alleged assailant.

## Timely Warning Policy

This policy describes the procedures that will be used to provide members of the community with information to aid in preventing them from becoming victims of crimes posing a serious or ongoing threat to the CSUMB community. It is intended to provide faculty, staff, and students with timely information about Clery reportable crimes occurring within the defined Clery Geography of the campus, and to comply with the Timely Warning requirements of the Clery Act.

As required by the Clery Act, CSUMB will keep its community informed by providing a timely warning when appropriate.

- Upon receipt of a CSA report of a Clery crime on Clery Geography, a Timely Warning analysis shall be completed and documented by the Clery Director. The Clery Director shall have authority to delegate this responsibility as appropriate. It is not necessary to complete and document a Timely Warning analysis for referrals to disciplinary action.
- If it is determined that the report includes a Clery crime on Clery Geography, the Clery Director and Chief of Police (or management designee) will confer to analyze the known pertinent facts to determine whether they constitute a serious or ongoing threat to the campus community. The unavailability of the Clery Director shall not unduly delay the issuance of a Timely Warning.
- If a CSA report includes 1) a Clery crime 2) on Clery Geography and 3) a discernible serious or ongoing threat, a timely warning as described below shall be issued expeditiously.
- In the absence of any of these three elements, no timely warning will be issued.
- The Chief of Police (or the management designee) shall have ultimate authority and responsibility for determining whether to issue a Timely Warning.

Each reported incident must be analyzed on a case-by-case basis. All known factors shall be considered in the case-by-case analysis to determine whether a timely warning should be issued. No single factor should govern the decision regarding the issuance of a timely warning. CSUMB is prohibited from circumventing a case-by-case analysis by issuing a blanket rule that timely warnings will be issued for all reports of any given Clery reportable crime. Requests from an outside law enforcement agency to refrain from issuing a timely warning is insufficient grounds on its own for not issuing or delaying the issuing of a timely warning, unless the Chief of Police concurs that by issuing a timely warning, an identified risk can be articulated that would compromise the law enforcement efforts of the outside agency investigating the crime to gather evidence and/or apprehend suspect(s).

The case-by-case analysis will involve reviewing relevant factors including, but not limited to, the following, if known:

- The timing of the report: shortly after the occurrence of the crime vs. days or weeks after the occurrence of the crime, i.e., a "cold report"
- Physical injury to the victim
- Use of weapons
- Forced entry used and/or tools used in commission of the crime

- A suspect arrested or incapacitated by injury
- A suspect that is identified or otherwise can be located by law enforcement
- A suspect that is out of the area
- A victim who fears for their safety from the suspect
- A clear modus operandi and/or pre-planning indicated
- Multiple suspect(s) involved
- A pattern of similar crimes established
- The possible risk of compromising law enforcement efforts, such as to gather evidence and/or apprehend suspect(s), if a warning was issued

## Additional Considerations

The Clery Director (or management designee) shall notify the campus president, as soon as practicable, that a timely warning will be or has been issued.

The Chief of Police (or management designee) is responsible for collaborating with surrounding law enforcement agencies to encourage them to share information with UPD about crimes reported to local law enforcement that occur in Clery Geography.

Nothing in this policy precludes Campuses from maintaining a Campus policy about informing, re-publicizing and/or sharing with the Campus community crimes or other informational notices, (e.g., traffic advisories, events, prevention information) the Campus deems may be of interest to the Campus community. Such a policy is separate and distinct from the Timely Warning Policy. Such notices must differ in appearance or be distributed in a manner that assures that members of the community understand such notices are different from a timely warning notification required by the Clery Act; members of the Campus community should not be misled to believe such notices are timely warnings.

## Contents of a Timely Warning

When a timely warning is issued it shall be entitled "Timely Warning Crime Bulletin" and contain the following:

- A statement that reads, "This Timely Warning Bulletin is being issued in compliance with the Jeanne Clery Act and the purpose is to provide preventative information to the Campus community to aid members from becoming the victim of a similar crime."
- Identify the Clery reportable crime that occurred (i.e., rape, burglary, motor vehicle theft, arson, etc.)
- The date, time, and location the crime occurred
- The date the Timely Warning Bulletin is issued
- Description of the suspect when deemed appropriate, and if there is sufficient detail. Only include a description of the suspect when the descriptors provided by the reporting party could reasonably lead to conclusive identification of the perpetrator(s)
- At least three preventative tips or points of information specifically related to the circumstances of the crime which occurred that could help others from becoming the victim of a similar crime
- The phone number of UPD and a statement encouraging community members to report all information about crimes to UPD
- If appropriate, the phone number of support services

The Timely Warning shall not include, under any circumstances, the name of the victim, or information so specific (i.e., specific address or dorm room number or floor) that would or likely could identify the victim of the crimes of Sexual

Violence, Rape, Dating Violence, Domestic Violence, or Stalking. Timely Warning Bulletins should use gender-inclusive and culturally appropriate language and avoid victim blaming and bias language.

## Methods of Distribution

Timely warnings will be distributed as quickly as possible in a manner that will likely reach the entire campus community.

Distribution methods vary, but are not limited to, any of the following:

- All employee and student email distribution
- University website
- Public area video display monitors
- Hard copies posted on Campus building entrance doors
- Press Release

This list is not intended to be exhaustive or intended to prioritize the method of distribution. The Chief of Police will confer with the Clery Director (or management designee), if available, to determine the most appropriate method(s) to distribute a Timely Warning. In the absence of the Clery Director (or management designee), the Chief of Police will determine the appropriate method of distribution. CSUMB is required to maintain a list of the methods of distribution for timely warnings and include said list in its ASR.

## Emergency Notification Policy

This policy describes the procedures that will be used to immediately notify the CSUMB community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students and/or employees occurring on the campus, as required by the Clery Act.

Any member of the campus community with information believed to constitute a significant emergency or dangerous situation that poses an imminent or immediate threat shall report the information to UPD and/or by calling "911." Examples include, but are not limited to, the following types of incidents:

- Severe weather warning (e.g., flash flooding, tsunami, hurricane, etc.).
- Environmental emergency within an on-campus facility (e.g., hazardous chemical spill, fire, earthquake, building collapse).
- Criminal activity with an imminent threat to campus community (e.g., active shooter, murder, fleeing suspect with a weapon).
- Public Health Emergency (e.g., measles outbreak, swine flu outbreak, etc.).

Once UPD has received the report, the Chief of Police (or management designee) will, without delay and taking into account the safety of the community, confer with the appropriate public official (e.g., fire chief, health department) and any campus officials responsible for managing the on-campus emergency, if available, to confirm **both**: 1) a legitimate emergency or dangerous situation exists impacting on-campus geography; **and** 2) the emergency or dangerous situation poses an immediate or imminent threat to members of the on-campus community. This confirmation process may include, but is not limited to, visual observation, officer investigation, the assistance of key campus administrators, local or campus first responders, and/or official government reporting through agencies such as the National Weather Service.

If both of the above factors are not met, no emergency notification is required. If it is determined that both of the above factors are met, then an emergency notification as described below shall be issued. The Chief of Police (or management designee) will confer with the Clery Director, if available, to prepare the content of the notification and determine which members of the campus community are threatened and need to be notified. The content of the message will be

developed based on a careful but swift analysis of the most critical facts using pre-approved standardized templates as its basis. These templates are developed collaboratively between the Chief of Police, or management designee in the absence of the Chief, and Emergency Manager that are reviewed during meetings, tests, or upon the development of an AAR. Template content may be changed or adapted as deemed necessary by the Chief of Police, or management designee in the absence of the Chief, based upon the given situation. Templates are pre-written for a variety of emergencies (e.g., general emergency, act of violence, severe weather, hazardous material release, and earthquake).

Once the notification is prepared, the Chief of Police and/or the Clery Director (or their management designees) will, without delay and taking into account the safety of the community, transmit the emergency notification unless doing so would delay the ability to mitigate and/or contain the emergency, including the ability to provide immediate, life saving measures. If an emergency notification is issued, a timely warning shall not be issued for the same incident.

## Contents of the Emergency Notification

The emergency notification shall contain the following information:

- A statement as to what the emergency or dangerous situation is, in specific terms (e.g., chemical spill, active shooter, building fire)
- A statement providing direction as to what actions the receiver of the message should do to take precautions for their own safety
- A statement as to where or when additional information may be obtained

The Clery Director (or management designee) will provide updates to the emergency notification with pertinent updates or direction to persons for their safety when new information becomes available. Updates will be provided in regular intervals until the emergency has been mitigated or no longer poses an imminent threat, e.g., fire is out and building has re-opened.

## Methods of Distribution

Emergency Notifications will be distributed as quickly as possible in a manner that will likely reach the segment(s) of the on-campus community threatened by the emergency. Segmentation will be considered by the Chief of Police (or management designee) by evaluating which persons are likely to be at risk, and notifying those persons. Segmentation should not be considered if making this determination would delay issuing the emergency notification. The Chief will determine if notification to the larger community is appropriate. Distribution methods, including distribution to the larger community, vary from campus to campus and depending on the nature of the emergency, may include:

- A campus mass notification system, including but not limited to phone, campus email, or text messaging. Systems should provide currently enrolled students, faculty and staff the ability to adjust their subscription preferences to select multiple contact methods from text messages, emails and phone calls, or if desired, to 'opt out' of the service and not receive any notifications
- Audio/visual message boards
- Audible alarms/sirens
- Campus public address systems
- In person or door-to-door notifications in a building or residence halls
- Local media
- Social media
- Other means appropriate under the circumstances

The larger community has the ability to enroll in OtterALERT by registering at [csumb.edu/otteralerts](https://csumb.edu/otteralerts). Emergency notifications for the larger community that choose not to enroll shall receive information through the Cal State Monterey Bay homepage. Emergency Notifications using OtterALERT have additional options for dissemination including Cal State



Monterey Bay's Facebook and Twitter accounts. These social media platforms, as a secondary source of distribution, provide the larger community with quick-publishing access and will include directions to visit [csumb.edu/emergency](https://csumb.edu/emergency) for additional information and updates. Communications will extend to other government entities and the media as appropriate based on the direction of the Chief of Police (or management designee in the absence of the Chief), according to the assessed threat.

## Testing and Evacuation Procedures

Testing of the Emergency Notification System and evacuation will be done at least once annually. The tests may be announced or unannounced. Tests must be scheduled, contain drills, exercises and appropriate follow-through activities, and be designed for assessment and evaluations of emergency plans and capabilities. However, at least one test will be publicized in conjunction with the campus' emergency response and evacuation procedures. Each test will be documented to include a description of the exercise, the date of the test, the start and end times of the test, and whether the test was announced or unannounced. The California State University Emergency Management Policy describes these tests and defines responsibility for their completion. A copy of the documentation will be provided to the Clery Director.

Where unannounced drills are planned, every effort will be made to coordinate the drill around the scheduling of sensitive academic activities (i.e., exams, guest lectures, etc.) and critical operations. The Emergency Manager, Emergency Coordinator, EOC Directors, and other Essential Personnel that would be required to respond to an on-campus Emergency would be expected to participate in the annual Test's Exercise (e.g. tabletop, functional, or full-scale). The University shall also invite local first responders to participate. Students, faculty and staff occupying an on-campus residential facility during the time of an Evacuation Drill or Emergency are subject to abide by SHRL Evacuation procedures as outlined in the *Emergency Housing Plan* pursuant to Section 66210 of the California Education Code.

Student and employees who need information on how to add contact information to be included for emergency notification or to remove information and "opt out" of notifications for OtterALERT should visit [csumb.edu/otteralerts](https://csumb.edu/otteralerts) or call the on-campus Emergency Manager office with UPD at 831-582-3589 for assistance.

## Security of and Access to Campus Facilities, and Security Considerations for the Maintenance of Campus Facilities – CSUMB (Seaside Campus)

Normal business hours are Monday - Friday, 8:00 am until 5:00 pm but are incumbent upon the offices, departments and services within. **Campus buildings with public access are open to the public during posted operating hours. Buildings with restricted access or public building access during non-operating hours is determined by the department manager or building administrator.**

The exterior doors on most campus buildings are locked/unlocked electronically with the use of an employee identification card (OtterID). An electronic log (date/time) of anyone who gained access using an OtterID is kept in a database that is kept by IT and Facilities Lock Shop. UPD provides special access to facilities to authorized persons with proper identification. Authorized persons having difficulty gaining access to an area or needing assistance securing a building or room should contact UPD at 831-655-0268. Keys and keyless access via electronic access cards are administered by Facilities Services and Operations at 831-582-3700. Persons in unauthorized possession of CSUMB keys or electronic access cards are in violation of the California Penal Code § 469.

Campus facilities may be used by university groups and community groups in accordance with time, place,<sup>11</sup> and manner,<sup>12</sup> policies determined by the University (including COVID-19 public health guidance) and all activities shall be conducted in a lawful manner. Reasonable time, place, and manner restrictions on the use of university grounds and facilities are permissible, provided they (1) are viewpoint-neutral and not prohibitive of particular forms of expression; and (2) leave open ample alternative channels for communication of the information. They must be clear and specific enough to place the public on notice as to exactly what is authorized and what is not permitted. Use of CSUMB facilities or properties requires prior approval (contact University Affairs, Ceremonies, and Events at 831-582-4001), except the Otter Student Union. For the Otter Student Union, contact 831-582-3329.

For the University's Interim Time, Place, and Manner Policy, visit: <https://csumb.edu/policy/time-place-and-manner-policy-interim/>

For the University's booking instructions and COVID-19 protocols in event spaces, visit: <https://csumb.edu/affairs/events/>

Employees who are teleworking due to the COVID-19 pandemic and plan to return to work on-campus should first complete the return to campus process. The community can visit the [University Bookstore](#) and [Dining Services](#) webpages for information about hours of operation.

UPD continues to patrol campus grounds and buildings to monitor security conditions and respond to emergencies. However, many parts of the campus will be sparsely populated and students should exercise extra safety precautions while on campus, including requesting escorts from Night Walk Services by calling 831-655-0268. When necessary, UPD makes recommendations concerning the maintenance of campus buildings as they relate to security issues. The recommendations could include, but are not limited to:

- Trimming ground cover, bushes, and trees to provide a greater visibility.
- Repairing and replacing inoperative or vandalized lighting fixtures, windows, doors locks and security hardware.

The campus community and public can make reports of safety concerns by visiting <https://csumb.edu/risk/>. These concerns include: health and safety risks, such as trip and fall hazards or unsafe conduct by employees or students; unsafe driving practices, such as golf carts or maintenance vehicles driving on walkways or pathways too fast; fire safety issues, such as faulty wiring or equipment or tampering with fire safety and equipment; security issues, such as lighting, propped doors; environmental concerns, such as a spill, pests; indoor air quality concerns, such as unusual odors; and COVID-19 non-compliance, such as people without face-coverings, lack of social distancing.

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<sup>11</sup> Freedom of expression activities may take place on campus with the following exceptions: inside parking lots and University buildings and within 20 feet of any location in which instructional, educational and/or official business activities are being conducted.

<sup>12</sup> Freedom of expression must be conducted in a manner that (1) shall not interfere with or obstruct the free flow of pedestrian or vehicular traffic; (2) shall not interfere with or disrupt the conduct of University business; (3) shall be carried out without creating excessive noise by use of an amplification device; (4) shall not unreasonably interfere with classes in session or other scheduled academic, educational, cultural/arts programs; (5) shall not promote an unlawful end, such as promoting actual violence or bodily or property harms, terrorist threats, defamation, obscenity, and false advertising; and (6) shall not violate any federal, state or local safety code, such as regulations set by the State Fire Marshal. Persons using areas generally available to students and the community are allowed to distribute petitions, circulars, leaflets, newspapers, and other printed matter. Individuals or groups distributing materials in these areas, other than material discarded or dropped in or around appropriate receptacles, shall retrieve and remove such materials, prior to their departure from the areas that day. Enforcement will follow existing state and federal laws.

Of note, there are over 500 security cameras currently deployed throughout the CSUMB campus, including inside campus facilities.

## Student Housing

Housing staff, sworn UPD officers, and CSOs patrol student housing facilities as part of their regular duty functions, noting deficiencies, reporting concerns, and responding to incidents.

Resident Advisors and professional staff are on duty at all times. Residential Life live-in professional staff continue to be available for assistance and support of students.

Students living on Main Campus are granted access to their residence hall using their Otter ID card. The card is not universal and does not permit entry into all residence halls on campus. Each student room is hard keyed, and the student is assigned a key that matches their room door's lock. In the event a student lives in a suite, they are given a second key. The first key will access the suite's lock. The second accesses their individual room, which is locked differently than the suite entrance. The front door key to the residence hall room, suite, or apartment also serves as a student's mailbox key.

Students residing in suite and apartment style spaces on Main Campus have hard-keyed front doors and bedroom doors. North Quad suites on the second, third, and fourth floors have exterior and interior hallways leading to front doors, while access to first floor rooms is only accessible via an interior hallway. All apartment front doors are only accessible via an interior hallway. The front door key is separate from the bedroom key and each only open the entry point for which it is designated.

Students living in East Campus (Frederick Parks I and II) apartments have hard-keyed front doors, each with its own entryway. Each student receives four keys, one for the front entrance, one for their individual room and additional keys to the roll-up garage door and mailbox. The bedroom is keyed differently from the front/back doors of the apartment.

Providing access to buildings, or rooms within buildings, to those other than residents, staff, or invited guests by any means including, but not limited to: failing to lock or secure doors; propping entrance doors open; lending of room key; or allowing a person entrance into a building and leaving them unattended is not permitted. Students whose licenses have been revoked are not allowed access to any residential facility.

Unauthorized use, possession, provision, or duplication of access key/cards is prohibited, including having duplicate keys made for individuals who are not listed on the License Agreement. East Campus residents are required to notify SHRL on the Main Campus and the Greystar Property Management Company for East Campus, within 24-hours of a lost or missing key. In either situation, the student is responsible for any fees that accompany a re-key of the room/apartment, and/or replacement of the temporary ID card.

All RAs have keycard access to all residential facilities to assist and support safety and security measures as needed.

To review the SHRL Community Standards in full, visit <https://csumb.edu/housing/student-housing-residential-life-community-standards>.

## **Security of and Access to Campus Facilities, and Security Considerations for the Maintenance of Campus Facilities – CSUMB at North Salinas (Salinas Campus)**

CSUMB's North Salinas campus is located at 1450 North Main Street, Salinas, CA 93906. CSUMB at North Salinas has an onsite building maintenance manager who oversees the exterior campus and performs regular building maintenance checks including but not limited to lighting, clearing debris and checking for vandalism.

The building's main entrance is key-card access only for faculty, staff, and students with designated access unless impaired by construction or maintenance. However, student access is limited to Monday – Friday, 8:30 am – 5:00 pm. The public may access the building if granted permission by request, which they may request by using the main entrance intercom. Only faculty and staff may enter the secondary, downstairs entrance by card or key.<sup>13</sup>

Contracted security personnel may be hired by Cal State Monterey Bay to perform supplemental support services at CSUMB at North Salinas in the evening when courses are in session and during other instructional or as needed activities. Their service is limited to foot patrol rounds and entrance security. If a routine situation arises, security will notify the Director for Events & Contracted Services with University Corporation and the Senior Director of Extended Education Programs. If there is a serious issue or concern, security will notify Salinas Police Department and UPD. All situations are documented on the security log. The CSUMB at North Salinas security log is a separate and distinct log from the CSUMB daily crime log. The security log documents all activity and security-related events during security shifts at CSUMB at North Salinas and is not publicly accessible. The current contracted services at CSUMB at North Salinas do not constitute a security department for Clery Act purposes. Therefore, the Salinas campus is not required to maintain a daily crime log, which is a requirement for all Cal State Monterey Bay campuses that maintain a security department.

## **Systemwide Law Enforcement Policy, Law Enforcement Authority – CSUMB (Seaside Campus)**

Persons employed and compensated as members of a California State University police department, when so appointed and duly sworn, are peace officers. However, such peace officers shall not exercise their powers or authority<sup>14</sup> except (a) at the headquarters or upon any campus of the California State University and in an area within one mile of the exterior boundaries of each campus or the headquarters, and in or about other grounds or properties owned, operated, controlled, or administered by the California State University, and (b) as provided in Section 830.2 of the Penal Code.

The arrest authority outside the jurisdiction of the CSU Police Department includes (Penal Code § 830.2(c); Penal Code § 836):

- a. When the officer has probable cause to believe the person committed a felony.
- b. When the officer has probable cause to believe the person has committed a misdemeanor in the presence of the officer and the officer reasonably believes there is immediate danger to person or property or of escape.
- c. When the officer has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized even if not committed in the presence of the officer such as certain domestic violence offenses and there is immediate danger to person or property or of escape or the arrest is mandated by statute.

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<sup>13</sup> Access to CSUMB at North Salinas changed after the initial publication of the 2021 report. The description was changed to reflect current access controls on 11/9/2021.

<sup>14</sup> Including the authority to make arrests

- d. When authorized by a cross jurisdictional agreement with the jurisdiction in which the arrest is made.
- e. In compliance with an arrest warrant.

On duty arrests will not generally be made outside the jurisdiction of this department except in cases of hot or fresh pursuit, while following up on crimes committed within the state, or while assisting another agency.

On duty officers who discover criminal activity outside the jurisdiction of the state should when circumstances permit, consider contacting the agency having primary jurisdiction before attempting an arrest.

California State University encourages all members of the CSUMB community to promptly contact the UPD and/or other appropriate police agencies when they have been the victim of, or have witnessed criminal actions, including when the victim of crime elects to or is unable to make such a report.

UPD maintains operational agreement/memoranda of understanding (MOU) with the Monterey County Sheriff's Office that comply with California's *Kristin Smart campus Safety Act and Higher Education Opportunity Act* in regard to sharing information and the investigation of Part I crimes. The intent of these agreements is to clarify and affix responsibility for providing police service for the campus, as defined by Cal. Education Code section 67381. UPD will be responsible for reporting and investigating all crime on campus, including Part I crimes. The Monterey County Sheriff's Office may be the primary investigating law enforcement agency for all homicides occurring on campus. This does not preclude UPD from requesting assistance on any investigation, as appropriate. Both agencies will continue to provide mutual aid assistance as appropriate, when requested. Further, each agency assumes responsibility for preparing the appropriate reports for the FBI UCR.

UPD also adheres to the Monterey County Chief Law Enforcement Officers' Association protocols that encourage prompt law enforcement response and collaboration in incidents requiring inter-agency law enforcement collaboration. These agreements include the Implementation and Deployment of a Regional Police Special Response Unit (SRU) Consisting of Special Weapons & Tactics, Tactical Medicine and Crisis Negotiation Team Components among the cities of Seaside, Marina, Monterey, Pacific Grove, Sand City, Del Rey Oaks, Carmel and Cal State Monterey Bay, and the Peninsula Regional Violence Narcotics Team MOU. For the latter, those same agencies, in addition to the California Highway Patrol and County of Monterey Office of the District Attorney, entered into the MOU as a participating agency that has made a commitment of resources and personnel as they relate to the Peninsula Regional Violence and Narcotics Team ("Task Force").

The UPD headquarters is located at 100 Campus Center, Valley Hall, Suite E.

## **Law Enforcement Authority – CSUMB at North Salinas (Salinas Campus)**

Salinas Police Department has primary jurisdiction for the enforcement of criminal offenses at CSUMB at North Salinas. The Department is located at 312 E. Alisal St. Salinas, CA 93901, and seeks to provide ongoing training. Salinas Police Department encourages all personnel to participate in advanced training and formal education on a continual basis. Training is provided within the confines of funding, requirements of a given assignment, staffing levels, and legal mandates. Whenever possible, the department will use courses certified by the California Commission on Peace Officer Standards and Training (POST).

Salinas Police Department's mission is to work in partnership with the people of Salinas to enhance the quality of life through the delivery of professional, superior and compassionate police services to the community. Sworn members of the department are authorized to exercise peace officer powers pursuant to applicable law (Penal Code §830.1 et seq.), and the arrest authority within the jurisdiction of the Salinas Police Department includes Penal Code §830.1 and Penal Code §836.

Sworn members of the department who enter the state of Oregon in order to provide or attempt to provide law enforcement assistance have Oregon peace officer authority within 50 miles from the California-Oregon border (ORS 133.405). Such authority shall only apply when officers are acting: (a) In response to a request for law enforcement assistance initiated by an Oregon sheriff, constable, marshal, municipal police officer or member of the Oregon State Police. (b) In response to a reasonable belief that emergency law enforcement assistance is necessary to preserve life, and circumstances make it impractical for Oregon law enforcement officials to formally request assistance. (c) For the purpose of assisting Oregon law enforcement officials with emergency assistance in response to criminal activity, traffic accidents, emergency incidents or other similar public safety situations, regardless of whether an Oregon law enforcement official is present at the scene of the incident. Salinas Police Department officers have no authority to enforce Oregon traffic or motor vehicle laws. Peace officer powers may be extended to other states: (a) As applicable under interstate compacts, memoranda of understanding or mutual aid agreements in compliance with the laws of each state; and (b) When an officer enters an adjoining state in close or fresh pursuit of a person believed to have committed a felony (ARS § 13-3832; NRS 171.158; ORS 133.430).

There are no memoranda of understanding or other written agreements between Cal State Monterey Bay and any local law enforcement agency regarding the investigation of criminal offenses for CSUMB at North Salinas.

## Security Awareness Programs

The following programs are designed to inform students and employees about campus security procedures and practices, and encourage students and employees to be responsible for their own security and the security of others. They are available to both the Seaside and Salinas campuses (unless otherwise indicated).

### Active Shooter Presentations

UPD aims to enhance preparedness through a community approach by providing training on issues such as active shooter awareness. Active shooter situations are very unpredictable in nature, so in an effort to better prepare community members to respond, active shooter presentations are facilitated upon request. Learning objectives include:

- Strategies to prevent and prepare
- Options to enhance survival
- Describe actions needed to safely interact with responding officers

This training is done upon request, and is available virtually. If your department is interested in receiving a UPD Active Shooter training presentation, contact UPD by emailing [upd@csumb.edu](mailto:upd@csumb.edu).

UPD has also developed a community video to provide more information about their options and police response to Active Shooter Incidents. For viewing, please visit: <https://csumb.edu/police/active-shooter-preparedness>.

### New Student and Employee Presentations

Various departments are involved in the orientation of new students and their parents, the training of student leaders, and the welcoming of new employees. Orientation includes discussions about safety and security measures, general crime prevention strategies, crime and incident reporting structures, Cal State Monterey Bay policy regarding the prohibition of sexual violence, discrimination and harassment, and alcohol abuse education. Orientations can occur at any point during the year for new employees or students. However, traditional orientation for all new students occurs in June each year. Guest presenters for department or college specific orientations are conducted at the request of the hosting department.

### Disaster Service Worker (DSW) Virtual Academy

The DSW Academy provides resources, information, and training to better prepare all public employees (i.e., Cal State Monterey Bay and outside agencies) when disaster strikes, including securing your family and pets if you are required to evacuate to an emergency shelter. Pursuant to California Government Code § 3101, all public employees in the State of California are disaster service workers. This means that all Cal State Monterey Bay University employees have disaster worker status. The oath or affirmation per California Government Code § 3102 is signed by all Cal State Monterey Bay employees as part of the hiring paperwork when first hired.

New Cal State Monterey Bay employees are encouraged during their orientation to take the training. The **online training modules** can be taken at any time. For the training, visit: <https://csumb.edu/police/emergency-management/training-and-education/disaster-service-worker-dsw-virtual-academy/>.

### Security Surveys

UPD will evaluate the concerns (e.g., lighting, and furniture placement and exit obstruction) and make recommendations for buildings and areas upon request.

### Building Emergency Coordinator (BEC) Program

The BEC program is established pursuant to Title 3, Division 8, Part 55, Article I beginning with Section 89000 of the California Education Code, facilitates enhanced emergency preparedness, and coordinated initial emergency procedures in every regularly occupied Seaside campus building outlined in a BEC Plan.

The BEC Plan establishes the concurrent responsibilities of staff and faculty assigned as a BEC, and procedural guidelines to assist them in the performance of those duties prior to and during an emergency event to help facilitate establishment of effective initial strategic response priorities; allocation of available resources; and accurate, timely event-related communications to the campus and external communities.

Training is offered twice an academic year. If you would like to become a BEC, please contact the Emergency Manager by dialing 831-582-3589 or emailing [safety@csumb.edu](mailto:safety@csumb.edu).

### Home Security and Neighborhood Watch

CSUMB has a large residential population with students residing in residential halls, suites, and apartments on main campus and East Campus, especially Frederick Park. Additionally, there are faculty, staff, and educational partners residing in the East Campus, specifically Schoonover Park, housing areas. The Home Security and Neighborhood Watch program is only available at the Seaside campus. Information about residential hall safety and the East Campus Neighborhood Watch program is available on the UPD web page at [csumb.edu/police/personal-safety/](https://csumb.edu/police/personal-safety/).

### Online Training

Faculty, staff, and students are assigned various online training through the Cal State Monterey Bay web-based e-learning portal at the time of hire or new assignment and enrollment, respectively. Topics include injury and illness prevention, data security and privacy, and Family Education Rights Privacy Act (FERPA) protection.

## **Crime Prevention Programs**

UPD personnel present programs on a variety of topics to students, employees and residents as requested (unless otherwise noted) designed to inform students and employees about the prevention of crimes. UPD personnel are also available to develop programs and presentations to address specific needs upon request and also perform a variety of

services designed to inform students and employees about the prevention of crimes. Programs and services available to both the Seaside and Salinas campuses (unless otherwise indicated) include, but are not limited to the following:

#### Bicycle Registration

Registering a bicycle increases the chances of it being returned to the registered owner if ever lost or stolen. Students and employees who register their bikes are also provided with information on theft prevention, theft techniques and how to avoid them, and where bikes can be stored safely at the Seaside campus. Free bicycle registration is available to students, faculty and staff at [csumb.edu/bikereg](http://csumb.edu/bikereg). This service is only provided to the Seaside campus.

#### Night Walk Safety Escorts

University Police will provide escorts between Main Campus and Promontory locations to anyone regardless of their affiliation with the University Monday through Friday from 5:00 pm to midnight during the fall and spring semesters. For Night Walk service, call 831-655-0268. Night Walk safety escorts are only available at the Seaside campus.

#### Crime Prevention through Environmental Design (CPTED)

According to the International CPTED Association, "CPTED is defined as a multi-disciplinary approach to deterring criminal behavior through environmental design. CPTED strategies rely upon the ability to influence offender decisions that precede criminal acts by affecting the built, social, and administrative environment."<sup>15</sup>

Some sworn personnel have received specialized training to evaluate campus infrastructure and make safety recommendations, including landscape, lighting, and general safety improvements. Evaluations are conducted during major campus Planning and Development projects or when a safety concern is reported to UPD. A CPTED evaluation conducted by UPD is only available at the Seaside campus.

#### Violence in the Workplace

UPD offers virtual workplace violence prevention training sessions to campus departments upon request.

#### Safety and Security Camera Systems

UPD, Campus Design and Construction, Information Technology, University Corporation, and the Office of the President have worked to install security cameras at key locations throughout the campus. The hundreds of security cameras record events on campus and the recording can be reviewed by police officers in the event of a crime, disturbance, or suspicious event on campus.

There are also interior and exterior security cameras at CSUMB at North Salinas.

#### Online Training

All new students and employees are assigned online training for education and awareness related to sexual misconduct and harassment concerns. The course includes information on what volatile behaviors are, prevention tips, and reporting information. This is a required training, with tracking and enforcement mechanisms in place through the Title IX/DHR office. After taking an initial training on Sexual Misconduct and Harassment, every campus affiliate (all students and employees) is assigned a refresher-training course in the fall of the academic year. This is a required training, with tracking and enforcement mechanisms in place through the Title IX/DHR office.

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<sup>15</sup> International CPTED Association. (n.d.). Retrieved from <http://www.cpted.net/>



## Monitoring and Recording Crime Activity at Noncampus Locations of Student Organizations

Although no University recognized student organization owns any off-campus properties, student organizations can control properties on either a frequent or a repeated use.

When a Cal State Monterey Bay student is involved in an off-campus offense, UPD officers may assist with the investigation in cooperation with local, State, or federal law enforcement. Many students live in the neighborhoods of Monterey County. While local police have primary jurisdiction in all areas off-campus, UPD officers can and do respond to student-related incidents that occur in close proximity to campus. Any student who has been arrested for, or found guilty of, committing a crime off-campus may be subject to the campus disciplinary process for violation of Title V of the California Code of Regulations.

Should a crime or incident occur at an off-campus location used by students in support of education that is reported by a CSA or local law enforcement, this too may be subject to the student disciplinary process. However, there are no agreements in place with local law enforcement in relation to monitoring and recording incidents involving noncampus locations of student organizations.

Annually, UPD will correspond with the appropriate law enforcement agencies to update the status of any noncampus building or property. Additionally, in a reasonably good-faith effort,<sup>16</sup> the Clery Compliance Office or University Police will request the record of any criminal activity that may have occurred at those locations.

For a complete copy of the University's student conduct procedures and codes, see CSU Executive Order 1098<sup>17</sup> and the Cal State Monterey Student Conduct web page,<sup>18</sup> respectively.

## Possession, Use, Sale, and Enforcement of Federal and State Alcohol and Drug Laws

Cal State Monterey Bay complies with the Drug Free Workplace Act of 1990 and the Higher Education Act, Section 120(a) and is committed to creating a safe and healthy learning/working/living environment for all members of the campus community. Alcohol and other drugs cannot be allowed to interfere with the mission of Cal State Monterey Bay.

In the state of California, individuals 21 years of age or older may legally purchase, possess and consume alcoholic beverages. All state laws are applicable to Cal State Monterey Bay, and to all individuals on the properties of the University. The use, possession, manufacture, or distribution of alcoholic beverages (except as expressly permitted by law and University regulations), or public intoxication while on campus or at a University related activity is a violation of Cal State Monterey Bay's Standards for Student Conduct.

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<sup>16</sup> For the purposes of this ASR, reasonably good-faith effort is defined as thoroughly and as far in advance as practically possible to ensure accurate inclusion.

<sup>17</sup> <https://www2.calstate.edu/policies>

<sup>18</sup> <https://csumb.edu/studentconduct>

The Business and Professions Code<sup>19</sup> and related statutes control the sale, consumption, and possession of alcoholic beverages. The California Alcoholic Beverage Control (ABC) Board is responsible for the interpretation and enforcement of the laws regarding the consumption, sale, or possession of alcoholic beverages.

Except as indicated by campus policy or California state law, it is prohibited for any person to sell, offer for sale, give away, or furnish another person in any manner, or consume any alcoholic beverage on the CSUMB or CSUMB at North Salinas campus. California state law imposes criminal penalties for the possession or use of alcoholic beverages by persons less than 21 years of age and for persons who furnish, give, sell, or cause to be sold, furnished or given away, any alcoholic beverage to a person under the age of 21.<sup>20</sup>

The unlawful manufacture, distribution (by either sale or gift), dispensing, possession or use of illicit drugs is prohibited on any buildings, grounds, or property that is owned, operated, or leased by CSU Monterey Bay, the University Corporation at Monterey Bay, or the Foundation of CSU Monterey Bay.

The University Police Department is responsible for enforcing the laws relating to alcoholic beverages and for enforcing federal and state laws related to illicit drugs on the Seaside Campus. Salinas Police Department will enforce the laws relating to alcoholic beverages and federal and state laws related to illicit drugs for CSUMB at North Salinas. A list of applicable legal sanctions under federal, state or local laws for the unlawful use, sale, possession, or distribution of illicit drugs and alcohol include referrals to administrative sanctions, diversion programs, fines, probation, and/or incarceration.

The excessive use and abuse of alcohol poses numerous risks to the health and well-being of individuals and the campus community. Examples of these risks include: Excessive consumption of alcohol is associated with diminished academic performance. On average, the more often a student drinks excessively, the lower their grades. Alcohol abuse may result in a variety of health and psychological problems for individuals who drink. In the short term, it contributes to inappropriate risk-taking, which can result in violence, accidental injuries, deaths, unintended pregnancies, and sexually transmitted infections. In the long term, it may result in addiction, social and family losses, and physical deterioration. Alcohol abuse has a direct effect on others. It is associated with violent and disruptive behavior that threatens others' safety, comfort, emotional well-being, and ability to function. The University also recognizes that alcohol use is prevalent in reports of crime experienced on campus, particularly sexual violence.

Employees shall be given the opportunity to review the Alcohol Policy, and as a condition of employment will be expected to fully abide by its provisions. Any faculty, staff, administrator or other employee who violates the Alcohol Policy shall be subject to corrective or disciplinary action up to and including the possibility of dismissal, in accordance with appropriate collective bargaining agreements, CSU, and University and/or Corporation policies, and state and federal law.

Students (or student groups) acting in violation of the Alcohol Policy will be referred to the Office of the Dean of Students, the Office of Student Engagement and Leadership Development, and/or the Office of Student Conduct for disciplinary action. All discipline involving students will be handled in accordance with the CSU Executive Order 1098 or Executive Order 1068, Student Conduct Procedures for the California State University. Sanctions that may be imposed for violation of the Student Conduct Code range from restitution up to and including expulsion.

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<sup>19</sup> See Division 9 Alcoholic Beverages of the Business and Professions Code for more detail.

<sup>20</sup> California Alcoholic Beverage Control Act, Business and Professions Code sections 25658 – 25665

Students found to be in violation of CSU Drug Policy and the Standards for Student Conduct may be expelled, suspended, placed on probation or given a lesser sanction for violating Cal State Monterey Bay policies and campus regulations, consistent with procedures set forth in EO 1098, and pursuant to Section 41304 of Title 5 of the California Code of Regulations. Employees found to be in violation of Cal State Monterey Bay policy and federal or state law may be subject to corrective or disciplinary action, up to and including termination of employment and referral for prosecution.

The CSU Standards for Student Conduct may be found on the Cal State Monterey Bay Student Conduct website at <https://csumb.edu/studentconduct>.

All incoming first-year and transfer students are required to complete alcohol awareness training online. The training is designed for students entering college. This interactive online program uses evidence-based prevention methods to create an engaging user experience, inspiring students to make healthier decisions related to alcohol and other drugs.

Substance abuse dependence may result in a wide spectrum of extremely serious health and behavioral problems. Substance abuse results in both short-term and long-term effects upon the body and mind. Acute health problems may include heart attack, stroke, and sudden death -- which, in the case of some drugs such as cocaine, can occur after first-time use. Long-lasting health effects of drugs use may include disruption of normal heart rhythm, high blood pressure, leaks of blood vessels in the brain, bleeding and destruction of brain cells and permanent memory loss, infertility, impotency, immune system impairment, kidney failure, cirrhosis of the liver and pulmonary damage. Drug use during pregnancy may result in fetal damage and birth defects causing hyperactivity, neurological abnormalities, and developmental difficulties. In addition to the problem of toxicity, contaminant poisoning often occurs with illegal drug use. HIV infection associated with intravenous drug use is a prevalent hazard. Information and literature about the health risks associated with substance abuse are available from University Personnel, the Personal Growth and Counseling Center, and the Campus Health Center.

Substance abuse prevention and assistance programs are available for employees and students. Health Promotion and Education provides a range of educational programs for students, including classroom, residence hall, and student club/organization presentations. Additionally, all incoming first year and transfer students are required to complete a two-part online educational workshop designed to provide the facts about alcohol use on college campuses and dispel myths that contribute to high-risk drinking. Information about alcohol and other drug education programming can be obtained by contacting the Health Promotion and Prevention Manager at 831-582-4437.

The Personal Growth and Counseling Center (PGCC) provides a range of programs and services for students including professional individual and group counseling. Weekly open meetings of both Alcoholics Anonymous and Al-Anon are held near campus and online. Information about these meetings as well as local treatment and recovery centers is also available through the PGCC. Students can contact the PGCC reception desk 831-582-3969 or at [csumb.edu/pgcc](https://csumb.edu/pgcc) for appointments and information about specific programs.

University Personnel coordinates assistance for University employees with Empathia Pacific Inc., which serves as the Employee Assistance Program (EAP) provider for the University and offers alcohol and drug abuse counseling for Cal State Monterey Bay employees. Interested employees should contact Empathia Pacific Inc. directly at 800-367-7474 or [www.mylifematters.com](http://www.mylifematters.com). Employees may also contact University Personnel for more information at 831-582-3389.

University Corporation provides its employees covered under The Hartford's Disability insurance, Critical Illness insurance, or Leave Management Services with substance abuse counseling through Ability Assist®. Interested employees should contact Ability Assist® by calling toll-free 1-800-96-HELPS (1-800-964-3577) or visiting [www.guidanceresources.com](http://www.guidanceresources.com).

If students and employees violate alcohol and illicit drug laws or campus policy, they may receive any of a number of disciplinary and legal sanctions, including an official warning, conduct probation, suspension, expulsion, and referral for prosecution. Depending upon the circumstances, participation in an educational program and/or a treatment program may also be required.

## California State Laws Concerning Alcohol

The following are legal sanctions for alcohol violations commonly reported.

### Minors in Possession of Alcohol:

Under California Business and Professions Code section 25662, any person under 21 years of age who possesses any alcoholic beverage on any street or highway or in any public place or in any place open to the public is guilty of a misdemeanor and shall be punished by a fine of two hundred fifty dollars (\$250) or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed or is not attending school. A second or subsequent violation shall be punishable as a misdemeanor and the person shall be fined not more than five hundred dollars (\$500), or required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service as the court deems just.

### Furnishing Alcoholic Beverages to a Minor:

Under California Business and Professions Code section 25662, every person who sells, furnishes, gives, or causes to be sold, furnished, or given away any alcoholic beverage to any person under 21 years of age is guilty of a misdemeanor; any person under 21 years of age who purchases any alcoholic beverage, or any person under 21 years of age who consumes any alcoholic beverage in any on-sale premises, is guilty of a misdemeanor; and shall be punished by a fine of two hundred fifty dollars (\$250), no part of which shall be suspended, or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. A second or subsequent violation shall be punished by a fine of not more than five hundred dollars (\$500), or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court.

### Underage Driving Under the Influence (DUI):

Under California Vehicle Code sections 23140, 13352.6, 42001.25 , and 23502, it is unlawful for a person under the age of 21 years who has 0.05% or more, by weight, of alcohol in his or her blood to drive a vehicle. Depending on the circumstances surrounding the offense, the offense is punishable by immediate suspension of the driving privilege, successful completion of a driving-under-the-influence program; and a fine not exceeding one hundred dollars (\$100) for a first conviction.

### Driving Under the Influence (DUI):

Under California Vehicle Code section 23152(a) and 23152(b), it is unlawful for a person to drive under the influence of alcohol and unlawful to drive with a blood alcohol content (BAC) of .08% or greater.

<i>Type of California DUI</i>	<i>Penalties</i>
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1st offense misdemeanor DUI	Up to 6 months in county jail; \$390-1000 in fines; driver's license suspension for 4 to 10 months (but the defendant may be able to drive immediately if he/she gets an IID for 6 months); 3 or 9 months of DUI school
2nd offense misdemeanor DUI	96 hours to 1 year in county jail; \$390-1000 in fines; driver's license suspension for 2 years (or instead the defendant can drive with an IID for 1 year); 18 or 30 months of DUI school
3rd offense misdemeanor DUI	120 days to 1 year in county jail; \$390-1000 in fines; driver's license suspension for 3 years (or instead the defendant can drive with an IID for 2 years); 30 months of DUI school
DUI with injury (misdemeanor)	5 days to 1 year in county jail; \$390-5000 in fines plus restitution to injured parties; driver's license suspension for 1 to 3 years (or instead the defendant can drive with an IID for 6 months); 3, 18 or 30 months of DUI school
1st offense DUI with injury (felony)	16 months to 16 years in state prison; \$1015-5000 in fines plus restitution to injured parties; driver's license suspension for 1 year (or instead the defendant can drive with an IID for 1 year); 18 or 30 months of DUI school
Felony DUI	16 months, 2 years or 3 years in state prison; \$390-1000 in fines; driver's license suspension for up to 5 years; 18 or 30 months of DUI school

#### Open Alcohol Container in a Vehicle

Under California Vehicle Code sections 23222(a) and 23224, a person shall not have in their possession on their person, while driving a motor vehicle upon a highway or on lands, a bottle, can, or other receptacle, containing an alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed; and no person under 21 years of age shall knowingly drive any motor vehicle carrying any alcoholic beverage, unless the person is accompanied by a parent, responsible adult relative, any other adult designated by the parent, or legal guardian for the purpose of transportation of an alcoholic beverage, or is employed by a licensee under the Alcoholic Beverage Control Act, and is driving the motor vehicle during regular hours and in the course of the person's employment. Any person convicted for a violation is guilty of a misdemeanor and shall be punished upon conviction by a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the county jail for not more than six months, or by both that fine and imprisonment; and the vehicle may be impounded at the owner's expense for not less than one day nor more than 30 days for each violation.

## Local Ordinances Concerning Alcohol

### **City of Marina**

#### 9.12.010 Drinking alcoholic beverages prohibited in designated public places.

No person shall drink any beer, wine or other alcoholic or intoxicating beverage on any public street, highway, alley, sidewalk or parking lot within the city. This section is not intended to make punishable any act or acts which are prohibited by any law of the state of California. (Ord. 80-5 § 1, 1980)

#### 9.12.020 Penalty of violation.

Any person who violates the provisions of this chapter shall be guilty of an infraction. (Ord. 80-5 § 1, 1980)

## City of Seaside

### 9.04.010 Prohibited in open spaces used by the public.

It is unlawful for any person to drink or consume any beer, wine, or other alcoholic beverage, as defined in Section [23004](#) of the California Business and Professions Code, or have in their possession any open container of any alcoholic beverages, in or upon any public street, sidewalk, alley, highway, playground, private or public parking lot, or any other open space used by the public, whether such person is or is not in or upon any automobile or other vehicle or conveyance. (Ord. [771](#) § 1, 1990; Ord. [695](#) § 2, 1986; Ord. [534](#) § 1, 1979; Ord. 48, 1955; prior code § 7-407)

### 9.04.020 Prohibited in unlicensed restaurants or places of public amusement.

A. It is unlawful for any person to drink or consume any beer, wine, or other alcoholic beverages, as defined in Section [23004](#) of the California Business and Professions Code, in any restaurant, public eating place, places of public amusement or any other establishment when open to the public, which are not licensed for the sale of alcoholic beverages.

B. It is unlawful for the proprietors, owners or persons in charge of the establishments to permit or allow the drinking or consuming of alcoholic beverages if the establishments are open to the public. (Ord. [534](#) § 2, 1979; Ord. [239](#), 1962; prior code § 7-427)

### 9.04.030 Violation – Penalty.

Violations of this chapter shall be punishable as provided in Chapter [1.16](#) SMC. (Ord. [771](#) § 2, 1990):

- 1.16.010 Violation – Infraction or misdemeanor.
  - The violation of any provision or section of this code, or any code adopted herein by reference, or the failing to comply with any mandatory requirement of an ordinance of the city, shall be an infraction or misdemeanor. (Ord. [722](#) § 1, 1987; Ord. [623](#) § 1, 1982)
- 1.16.020 Violation – Continuing offense.
  - Any person violating any provision or section of this code, or any code adopted herein by reference, or an ordinance of the city shall be charged with a separate offense for each and every day during any portion of which any violation of any provision or section of this code, or any code adopted herein by reference, or an ordinance of the city is committed, continued or permitted by such person, and shall be punishable accordingly. (Ord. [722](#) § 1, 1987; Ord. [623](#) § 1, 1982)
- 1.16.030 Punishment – Penalties.
  - A. Any person convicted of a misdemeanor for violation of this code, or any code adopted herein by reference, or an ordinance of the city shall be punishable by a fine of not more than one thousand dollars or by imprisonment not to exceed six months, or by both such fine or imprisonment.
  - B. Any person convicted of an infraction for violation of this code, or any code adopted herein by reference, or an ordinance of the city shall be punishable by:
    - 1. A fine not exceeding one hundred dollars for the first violation;
    - 2. A fine not exceeding two hundred dollars for the second violation of the same provision or section within one year;
    - 3. A fine not exceeding five hundred dollars for each additional violation of the same provision or section within one year; provided, however, that this section shall not deprive the municipal court of jurisdiction to impose a term of imprisonment not to exceed three months when imposed by the court as a suspended sentence as a term of probation following a conviction of any provision or section of this code or ordinance of the city. (Ord. [722](#) § 1, 1987; Ord. [623](#) § 1, 1982)

## City of Salinas

### Sec. 21-1. - Alcoholic beverages—Possession by minors prohibited.

- a) Public Places. It shall be unlawful for any person under the age of twenty-one years to have in his possession at any time any distilled malt, spirituous, vinous, fermented or alcoholic liquor, containing more than one-half of one percent by volume of alcohol, upon any public street, sidewalk, alley, or in or about any public place, in the city.
- b) Place Not Open to the Public. No person under the age of twenty-one years shall have in his or her possession or consume any alcoholic beverage at any place not open to the public.
- c) Any person violating this section is guilty of a misdemeanor.

(Ord. No. 652 (NCS), § 1.)

(Ord. No. 2513 (NCS), § 2, 2-1-2011)

Sec. 21-2. - Same—Drinking on public streets, sidewalks, etc.

Except as may specifically be authorized by a sidewalk cafe encroachment permit issued pursuant to Article V of [Chapter 30](#) of this Code, no person shall drink any beer, wine or other intoxicating beverage on any public street, sidewalk, alley, highway, plaza parkway, parking lot, airport terminal, or bus or train depot in the city. This section is not intended to make punishable any acts which are prohibited by any law of the state.

(Ord. No. (NCS), § 1; Ord. No. 1341 (NCS), § 1; Ord. No. 2475 (NCS), § 3.)

Sec. 21-2.1. - Alcoholic beverages prohibited in city parks.

It shall be unlawful for any person over the age of twenty-one years to have in his/her possession at any time any distilled malt, spirituous, vinous, fermented or alcoholic liquor containing more than one-half of one percent by volume of alcohol, in any city park or city recreational facility, except for the following:

- a) Salinas Rodeo Grounds, Salinas Municipal Stadium, Sherwood Hall and Sherwood Park, upon approval of the library and community services director.
- b) A city recreational building or facility if allowed by the operating permit or policies for the use of the building or facility.

(Ord. No. 2168 (NCS), § 1.)

(Ord. No. 2529 (NCS), § 18, 7-10-2012)

## Federal Laws Concerning Illicit Drugs

### Summary of Drug Schedules

Controlled substances are classified into one of five numerical designation schedules in accordance with standards and procedures<sup>21</sup> under the federal Controlled Substances Act. The following provides a brief overview of the schedules<sup>22</sup> of controlled substances.

#### Schedule I

- The drug or other substance has a high potential for abuse.
- The drug or other substance has no currently accepted medical use in treatment in the United States.
- There is a lack of accepted safety for use of the drug or other substance under medical supervision.

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<sup>21</sup> [21 U.S.C. 811](#)

<sup>22</sup> [21 U.S.C. 812](#)

## Schedule II

- The drug or other substance has a high potential for abuse.
- The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.
- Abuse of the drug or other substance may lead to severe psychological or physical dependence.

## Schedule III

- The drug or other substance has less potential for abuse than the drugs or other substances in Schedules I and II.
- The drug or other substance has a currently accepted medical use in treatment in the United States.
- Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

## Schedule IV

- The drug or other substance has a low potential for abuse relative to the drugs or other substances in Schedule III.
- The drug or other substance has a currently accepted medical use in treatment in the United States.
- Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III.

## Schedule V

- The drug or other substance has a low potential for abuse relative to the drugs or other substances in Schedule IV.
- The drug or other substance has a currently accepted medical use in treatment in the United States.
- Abuse of the drug or other substances may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule IV.

## Federal Penalties

The following tables are not representative of all possible penalties in all circumstances. Tables of federal trafficking penalties are derived from the 2020 Edition of the Drug Enforcement Administration Drugs of Abuse Resource Guide.<sup>23</sup>

### Federal Penalties for Possession and Other Controlled Substance Related Violations

Offense	Penalties (Fine / Imprisonment)
Simple Possession <sup>24</sup>	First Offense: At least \$1000 / 1 year maximum Second Offense: At least \$2500 / Between 15 days and 2 years Third Offense: At least \$5000 / Between 90 days and 3 years
Use of Controlled Substance to Commit Crime of Violence <sup>25</sup>	\$250,000 / 20 years maximum
Endangering Human Life While Illegally Manufacturing a Controlled Substance <sup>26</sup>	\$250,000 / 10 years maximum
Attempt and Conspiracy <sup>27</sup>	Same as penalties prescribed for the underlying offense

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<sup>23</sup> See p.36-37 of the [2020 Edition of the Drug Enforcement Administration Drugs of Abuse Resource Guide](#)

<sup>24</sup> [21 U.S.C. 844](#)

<sup>25</sup> Crime of Violence as defined by [18 U.S.C 16](#)

<sup>26</sup> [21 U.S.C. 858](#)

<sup>27</sup> [21 U.S.C. 846](#) and [21 U.S.C. 963](#)



Robberies and Burglaries Involving Controlled Substances <sup>28</sup>	Robberies Involving Controlled Substances: Up to \$250,000 / Up to any number of years or life
	Burglaries Involving Controlled Substances: Up to \$250,000 / Up to any number of years or life
	Conspiracy to Commit Robbery or Burglary Involving Controlled Substances: Up to \$250,000 / Up to 10 years

Federal Trafficking Penalties - Other Drugs

Substance / Quantity	Schedule	Penalty
<b>Cocaine</b> / 500 - 4999 grams mixture	II	<b>First Offense:</b> Not less than 5 yrs, and not more than 40 yrs. If death or serious bodily injury, not less than 20 yrs or more than life. Fine of not more than \$5 million if an individual, \$25 million if not an individual. <b>Second Offense:</b> Not less than 10 yrs and not more than life. If death or serious bodily injury, life imprisonment. Fine of not more than \$8 million if an individual, \$50 million if not an individual.
<b>Cocaine Base</b> / 28 - 279 grams mixture	II	
<b>Fentanyl</b> / 40 - 399 grams mixture	II	
<b>Fentanyl Analogue</b> / 10 - 99 grams mixture	I	
<b>Heroin</b> / 100 - 999 grams mixture	I	
<b>LSD</b> / 1 - 9 grams mixture	I	
<b>Methamphetamine</b> / 5 - 49 grams pure or 50 - 499 grams mixture	II	
<b>PCP</b> / 10 - 99 grams pure or 100 - 999 grams mixture	II	

Substance / Quantity	Schedule	Penalty
<b>Cocaine</b> / 5 kilograms or more mixture	II	<b>First Offense:</b> Not less than 10 yrs and not more than life. If death or serious bodily injury, not less than 20 yrs or more than life. Fine of not more than \$10 million if an individual, \$50 million if not an individual. <b>Second Offense:</b> Not less than 20 yrs, and not more than life. If death or serious injury, life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual. <b>2 or More Prior Offenses:</b> Life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual.
<b>Cocaine Base</b> / 280 grams or more mixture	II	
<b>Fentanyl</b> / 400 grams or more mixture	II	
<b>Fentanyl Analogue</b> / 100 grams or more mixture	I	
<b>Heroin</b> / 1 kilogram or more mixture	I	
<b>LSD</b> / 10 grams or more mixture	I	
<b>Methamphetamine</b> / 50 grams or more pure <u>or</u> 500 grams or more mixture	II	
<b>PCP</b> / 100 grams or more pure <u>or</u> 1 kilogram or more mixture	II	

Substance / Quantity	Penalty
<b>Other Schedule I &amp; II Drugs</b> / Any Amount	<b>First Offense:</b> Not more than 20 yrs. If death or serious injury,

<sup>28</sup> [18 U.S.C. 2118](#)

Any Drug Product Containing Gamma Hydroxybutyric Acid / Any Amount	not less than 20 yrs, or more than life. Fine \$1 million if an individual, \$5 million if not an individual. <b>Second Offense:</b> Not more than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if not an individual.
Flunitrazepam (Schedule IV) / 1 gram	
Other Schedule III Drugs / Any Amount	<b>First Offense:</b> Not more than 10 years. If death or serious injury, not more than 15 yrs. Fine not more than \$500,000 if an individual, \$2.5 million if not an individual. <b>Second Offense:</b> Not more than 20 yrs. If death or serious injury, not more than 30 yrs. Fine not more than \$1 million if an individual, \$5 million if not an individual.
All Other Schedule IV Drugs / Any Amount	<b>First Offense:</b> Not more than 5 yrs. Fine not more than \$250,000 if an individual, \$1 million if not an individual. <b>Second Offense:</b> Not more than 10 yrs. Fine not more than \$500,000 if an individual, \$2 million if other than an individual.
Flunitrazepam (Schedule IV) / Other than 1 gram or more	
All Schedule V Drugs / Any Amount	<b>First Offense:</b> Not more than 1 yr. Fine not more than \$100,000 if an individual, \$250,000 if not an individual. <b>Second Offense:</b> Not more than 4 yrs. Fine not more than \$200,000 if an individual, \$500,000 if not an individual.

Federal Trafficking Penalties – Marijuana

Substance	Schedule	Quantity	First Offense Penalty	Second Offense Penalty <sup>29</sup>
Marijuana	I	1,000 kg or more marijuana mixture; or 1,000 or more marijuana plants	Not less than 10 yrs. or more than life. If death or serious bodily injury, not less than 20 yrs., or more than life. Fine not more than life. Fine not more than \$10 million if an individual, \$50 million if other than an individual.	Not less than 20 yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$20 million if an individual, \$75 million if other than an individual.
Marijuana	I	100 kg to 999 kg marijuana mixture; or 100 to 999 marijuana plants	Not less than 5 yrs. or more than 40 yrs. If death or serious bodily injury, not less than 20 yrs., or more than life. Fine not more than life. Fine not more than \$5 million if an individual, \$25 million if other than an individual.	Not less than 10 yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$20 million if an individual, \$75 million if other than an individual.

<sup>29</sup> The minimum sentence for a violation after two or more prior convictions for a felony drug offense have become final is a mandatory term of life imprisonment without release and a fine up to \$20 million if an individual and \$75 million if other than an individual.

Marijuana	I	More than 10 kg hashish; 50 to 99 kg marijuana mixture  More than 1 kg of hashish oil; 50 to 99 marijuana plants	Not less than 20 yrs. If death or serious bodily injury, not less than 20 yrs., or more than life. Fine \$1 million if an individual, \$5 million if other than an individual.	Not less than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if other than an individual.
Marijuana	I	Less than 50 kilograms marijuana (but does not include 50 or more marijuana plants regardless of weight) marijuana plants;  1 to 49 marijuana plants;	Not less than 5 yrs. Fine not more than \$250,000, \$1 million if other than an individual.	Not less than 10 yrs. Fine \$500,000 if an individual, \$2 million if other than individual
Hashish	I	10 kg or less		
Hashish Oil	I	1 kg or less		

## State of California Laws Concerning Illicit Drugs

The following are legal sanctions for illicit drug violations commonly reported.

### Possession of Marijuana

Under California Health and Safety Code section 11357, except as authorized by law, it is unlawful for adults age 21 and over to possession over 28.5 grams of dried marijuana or 8 grams of concentrated cannabis. Defendants under the age of 18 who possess more than 28.5 grams of marijuana, or more than 8 grams of concentrated cannabis, will be charged with a California infraction and may be required to attend drug counseling and/or perform community service. It is also illegal under 11357 HS for people under the age 21 to possess any amount of marijuana or concentrated cannabis other than in accordance with California's medical marijuana laws. Under Proposition 64, the penalties for people under 21 who possess marijuana or hashish are a fine of up to one hundred dollars (\$100), for people 18 and over; four (4) hours of drug education or counseling and up to ten (10) hours of community service for first offenders who are under 18; and six (6) hours of drug education or counseling and up to twenty (20) hours of community service for offenders who are under 18 with a prior conviction.

It is illegal for any person to smoke marijuana in a public place and/or smoke marijuana in a location where smoking tobacco is prohibited (campus). A violation of this law can result in the following penalties:

- A fine up to \$250; and/or
- 4 hours of drug education/counseling; and/or
- Up to 20 hours of community service

It is illegal for any person to possess an open container/package of marijuana or marijuana products while driving, operating, or riding in the passenger seat/passenger compartment of a motor vehicle other vehicle used for transportation. A violation of this law can result in the following penalties:

- A fine up to \$250; and/or

- 4 hours of drug education/counseling; and/or
- Up to 20 hours of community service

Possession of Other Narcotics/Drugs (Methamphetamine, Psilocybin Mushrooms, Cocaine, Heroin, Ecstasy, GHB, Etc.)

It is illegal for any person to possess controlled substances for personal use. A violation of this law can result in the following penalties:

- Up to 1 year in County Jail; and/or
- A fine of up to \$1,000; and/or
- 3 years of probation

## Local Ordinances Concerning Illicit Drugs

### City of Marina

12.25.060 Skate park facility rules.

It is unlawful for any person within the skate park facility to be in violation of the following rules of conduct and such persons shall be subject to administrative citation and administrative fine or criminal prosecution of the responsible party, as an infraction or as a misdemeanor at the city attorney’s discretion, pursuant to the Marina Municipal Code or the California Penal Code, including expulsion from the skate park facility:

14. Use, consumption, or being under the influence of any drug or possession of any drug paraphernalia is prohibited in the skate park facility.

### City of Seaside

9.26.010 Acts prohibited.

It is unlawful for any person to loiter in, on or near any thoroughfare or place open to the public or near any public or private place in a manner and under circumstances manifesting the purpose of engaging in drug-related activity defined as offenses in Chapter 6 and 6.5 of Division 10 of the California Health and Safety Code. Any person who violates the provisions of this chapter is guilty of an infraction or a misdemeanor, and upon conviction shall be punished as proscribed in Chapter 1.16 SMC or applicable state law. (Ord. 838 § 1, 1994)

9.26.020 Circumstances.

Among circumstances that may be considered in determining whether such purpose is manifested are that the person:

- A. Is a known unlawful drug user, possessor or seller. For purpose of this chapter, a “known unlawful drug user, possessor or seller” is a person who has, within the knowledge of the arresting officer, been arrested for or convicted in any court within this state of any violation involving the use, possession or sale of any of the substances referred to in Chapters 6 and 6.5 of Division 10 of the California Health and Safety Code, or such person has been convicted of any violation of any of the provisions of said sections or substantially similar laws of any political subdivision of this state or of any other state; or a person who displays physical characteristics of drug intoxication or usage, such as “needle tracks”; or a person who possesses drug paraphernalia pursuant to Chapters 6 and 6.5 of Division 10 of the California Health and Safety Code;
- B. Is currently subject to an order prohibiting his or her presence in a particular area and/or in a high drug activity geographic area;
- C. Behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is then engaged in an unlawful drug-related activity, including, by way of example only, acting as a “lookout”;
- D. Is physically identified by the officer as a member of a “gang,” or association which has as its purpose illegal drug activity;

- E. Transfers small objects or packages for currency in a furtive fashion;
- F. Takes flight upon the appearance of a police officer;
- G. Tries to conceal himself or herself or any object which reasonably could be involved in an unlawful drug-related activity;
- H. Is in an area that is known for unlawful drug use and/or trafficking;
- I. Is on or in premises that have been reported to law enforcement as a place suspected of unlawful drug activity;
- J. Is in or within six feet of any vehicle registered to a known unlawful drug user, possessor or seller, or person for whom there is an outstanding warrant for a crime involving drug-related activity. (Ord. [838](#) § 1, 1994)

**City of Salinas**

Sec. 21-60. - Sale and display of narcotic and other paraphernalia—Separate room or enclosure required.

A person shall not maintain in any place of business to which the public is invited, the display for sale or the offer for sale of devices, contrivances, instruments or paraphernalia for smoking or injecting marijuana, hashish, PCP, or any controlled substance, as defined in the Health and Safety Code of the state, including roach clips and other paraphernalia designed and used for smoking the foregoing, other than prescription drugs and devices to ingest or inject prescription drugs, unless displayed or offered within a separate room or enclosure to which minors not accompanied by a parent or legal guardian are excluded. The contents located within such a room or enclosure shall not be visible to any member of the public unless such person is located within such a room or enclosure. Each entrance to such a room or enclosure shall be signposted in reasonably visible and legible words to the effect that narcotic paraphernalia are being offered for sale in such a room and that minors, unless accompanied by a parent or legal guardian, are excluded.

(Ord. No. 1819 (NCS), § 1.)

For a complete copy of Cal State Monterey Bay’s policy on alcohol, visit <https://csumb.edu/policy/campus-alcohol-policy>.

For a complete copy of Cal State Monterey Bay’s in-process alcohol policy renewal, visit <https://csumb.edu/clery/clery-related-policies/>.

For a complete copy of Cal State Monterey Bay’s Illicit Drug Use on Campus policy, visit <https://csumb.edu/policy/policy-illicit-drug-use-campus>.

## **Sexual Violence Prevention**

### **Primary Prevention Programs**

The goal of the Cal State Monterey Bay Campus Sexual Assault Prevention and Training Plan, in addition to ensuring full compliance with federal and state law and CSU policy, is to create an atmosphere in which all students have the right to participate fully in CSU programs and activities free from discrimination, harassment, and retaliation. These programs are mandated or offered to the CSUMB and CSUMB at North Salinas campuses for new employees and new students, and include the following strategies:

#### **Bystander Intervention**

Bystander Intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of Dating Violence, Domestic Violence, Sexual Assault, or Stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking

action to intervene.<sup>30</sup> Based on a social science model that predicts that most people are unlikely to help others in certain situations, a bystander is anyone who observes an emergency or a situation where it appears someone could use help. The bystander must then decide if they are comfortable stepping in and helping. Research has found that people tend to struggle with whether helping out is their responsibility and one of the major obstacles to intervention is something called diffusion of responsibility; which means if several people are present, an individual is much less likely to stop and help out because he/she believes someone else will. Cal State Monterey Bay wants to promote a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. A bystander may not always know what to do even if they want to help. Below is a list of some ways to be an active bystander. If you or someone else is in immediate danger, dial 9-1-1. This could be when a person is yelling at or being physically abusive towards another and it is not safe to interrupt.

- Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are OK.
- Confront people who seclude, hit on, and try to make out with, or have sex with people who are incapacitated.
- Speak up when someone discusses plans to take sexual advantage of another person.
- Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
- Refer people to on- or off-campus resources for support in health, counseling, or with legal assistance.

Cal State Monterey Bay offers virtual bystander intervention training inspired by The Green Dot Strategy.<sup>31</sup> This training presents information, examples, and instruction on how to safely be an active bystander including the “3 D’s of Bystander Intervention.” Participants receive information on how to recognize potentially harmful situations or interactions. The training offers suggestions for ways bystanders may respond to positively influence the outcome without causing further harm. Various role-playing and/or video scenarios present strategies for diffusing heated, dangerous or threatening situations. This training is presented as a component of new and transfer student orientation and in the annual online refresher course required for all students.

Bystander Intervention training is also conducted annually for student members of Greek organizations, student athletes and coaches, and bi-annually for RAs and student assistants with SHRL. In addition, the Title IX/DHR Office presents the training to groups, departments or classes upon request.

## **Risk Reduction**

Risk reduction means options designed to decrease perpetration and bystander inaction and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence<sup>32</sup>. With no intention to victim-blame and with recognition that only those who commit Sexual Misconduct are responsible for those actions, these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act:

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor “NO” clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.

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<sup>30</sup> The preceding definition is provided by 34 C.F.R. § 668.48.

<sup>31</sup> <https://cultureofrespect.org/program/green-dot-etc/>

<sup>32</sup> The preceding definition is provided by 34 C.F.R. § 668.48.

- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.
- ***In an emergency, call 9-1-1.***

Cal State Monterey Bay offers virtual risk reduction training to students, student leaders, and members of student organizations through safety awareness instruction and educational materials. The training identifies situations, behaviors, and locations that may lead to dangerous circumstances putting students' safety in jeopardy and how to avoid them. Role-playing and/or video scenarios may be employed to practice appropriate defensive measures if a student feels threatened or unsafe. The instruction avoids victim-blaming while emphasizing methods for self-help and personal responsibility. This training is presented as a component of new and transfer student orientation and in the online annual refresher course required for all students.

Risk Reduction training is also conducted annually for student members of Greek organizations, student athletes and coaches, and bi-annually for RAs and student assistants with SHRL. In addition, the Title IX/DHR Office presents the training to groups, departments or classes upon request.

## Campus Awareness and On-going Information Campaigns

Cal State Monterey Bay's ongoing prevention and awareness campaigns include programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the institution and including information shared in primary prevention programs. These programs are offered to the CSUMB and CSUMB at North Salinas campuses.

### Title IX/DHR General Sessions

This program makes the Director of the Title IX/DHR Department available to all campus organizations, divisions, departments, etc. to conduct live sessions to address dating violence, domestic violence, sexual assault, and stalking prevention. The sessions are upon request, and focus on providing information about risk factors for sexual violence, and then time for robust question and answer periods to ensure campus affiliates are able to inquire in a safe space to understand risk and prevention aspects. These sessions were determined to be necessary in-person to ensure concepts like "victim blaming" or a perceived lack of neutrality for discussing avoiding violating affirmative consent standards are not occurring or can be addressed in real-time.

### Title IX/DHR Ambassador Program

This program is offered every fall semester and requires all Cal State Monterey Bay students to attend an intensive four-part certification program to learn about the function and services of the Title IX/DHR office, as well as the essential functioning of trauma-informed approaches utilized by the office. These students then coordinate with the office after certification to attend campus and student functions throughout the academic year in a representative capacity to answer questions and provide information about scope and services available.

### Health Promotion and Education

- POWER (Promoting Otter Wellness through Education and Resources) Peer Educators

- As a component of the Health Promotion and Education Program, the POWER Peer Education program trains students to provide primary prevention education and health promotion to fellow students. The program provides an array of outreach activities and events, in collaboration with other departments and student groups, and includes a component on sexual health and resources to prevent and respond to sexual assault.
- Mental Health Screenings
  - Provides confidential mental health screenings to students and promotes awareness of mental health resources. Licensed professionals from the Personal Growth and Counseling Center (PGCC) provide screenings for depression, generalized anxiety disorder, PTSD, bipolar disorder, substance use disorder, and eating disorders, as well as recommendations for accessing mental health resources as indicated by screening results. Screenings are held year-round and available through the PGCC website.
- Suicide Prevention and Awareness Week
  - Suicide Prevention and Awareness Week is an annual event, held with the goal of providing information and resources to help the campus community identify mental health crises and increase knowledge of available mental health resources in the campus and community. Suicide Prevention and Awareness week generally takes place during the second week of September.
- Mental Health Awareness Week
  - Mental Health Awareness Week is an annual event held to promote mental health awareness, reduce stigma associated with accessing mental health services, and provide information on campus and community mental health resources. Events also include opportunities for students to build stress management skills and engage in conversations about mental health. Mental Health Awareness Week takes place in early October.
- Sexual Assault Awareness Month
  - Sexual Assault Awareness Month encompasses a series of events held yearly with the goal of increasing awareness of sexual violence and prevention strategies, as well as increasing knowledge of resources available on campus and in the community. Sexual Assault Awareness Month is observed in April.
- National Collegiate Alcohol Awareness Week (NCAAW)
  - NCAAW is an annual event held with the goal of assisting students in making decisions regarding alcohol use in a manner that promotes their health and safety. NCAAW generally takes place during the third week of October.

A variety of programs are conducted throughout the month of April to educate the Cal State Monterey Bay community on sexual violence and the campus's many resources, and to provide those who have been affected by sexual violence a chance to express themselves in a variety of ways. Programs may include, but are not limited to:

- Every 98 Seconds (formerly Flag Day)
  - A commemorative day for the members of the LGBTQ+ community.
- Denim Day
  - A campaign in honor of Sexual Assault Awareness Month where supporters wear jeans to protest against the misconceptions about sexual assault.
- SlutWalk
  - SlutWalk is a rally and march protesting outdated ideas of victim blaming (e.g., assigning responsibility of an assault to the survivor because of a person's past sexual history/experiences or what they were wearing at the time of the assault) where participants are invited to reclaim the word "slut."
- Take Back the Night
  - A public protest purposed to unite women to voice their desire to end the fear and perceived responsibility women experience regarding sexual violence.



- Documentary Screening
  - Students are invited to a virtual Netflix Party to discuss the topic of "rape culture," and its devastating effects on society. Individuals can discuss the film, as well as receive information about support services and resources that are available on campus.
- 30 Facts for 30 Days of SAAM
  - A public awareness campaign where sexual violence statistics and facts are posted through various platforms of social media to bring activism, awareness, and prevention to the topic of sexual violence.
- Make Art Not Violence
  - A public art campaign where students, faculty, and staff come together to make art and bring awareness about sexual violence. Campus resources are provided to students.
- Domestic Violence Awareness Month
  - Embodies a series of events held every October to increase awareness around intimate partner violence, prevention work primarily focusing on healthy relationships, as well as increasing knowledge of resources available on campus and in the community.
- Public Awareness Video-Media Campaign
  - Made by the On-Campus Advocate and CSUMB students to promote sexual assault awareness, discuss intimate partner violence and sexual assault statistics, and provide campus resources.

### **Otter Cross Cultural Center (OC3)**

In collaboration with numerous University departments and campus organizations, the following programs are typically available throughout the year.

- Safe Zone Training – Virtual
  - Faculty and staff - Offered during the Fall, this 6-hour training is available to up to 50 people and highlights contemporary topics related to LGBTQ+ communities: language and vocabulary, pronouns, activism, and advocacy. The facilitator team consists of various campus departments and is co-sponsored by the Office of Inclusive Excellence and Sustainability. The purpose of the training is to increase campus inclusion as well as provide support and resources for faculty and staff to support LGBTQ+ identifying students and campus community members.
  - Students - Offered during the Fall semester for all students who are interested, this is a four-week program that dives deep into various LGBTQ+ topics such as racism, activism, history, vocabulary, and advocacy. The student coordinator who oversees educational training is the main facilitator for this program. The purpose of the training is to increase campus inclusion as well as provide support and resources for students to support fellow LGBTQ+ identifying students and campus community members.
- International Womxn’s Day Celebration
  - The Otter Cross Cultural Center hosts an event that recognizes and celebrates womxn who have made significant contributions towards gender equity, feminist practices and intersectional approaches to their work and activism. The International Womxn’s Day Celebrations hosts a keynote speaker every year. The topics are aimed at current social and cultural relevance. Past topics have included reproductive justice, racism, and intersectionality. A standard element of the program is to enable participants to discuss the event, related topics, and to learn from the keynote address. This event usually takes place during the first week of March.

## **Preservation of Evidence in Cases of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking**

It is important that you take steps to preserve and collect evidence; doing so preserves the full range of options available to you, be it through the University's administrative complaint procedures or criminal prosecution. To preserve evidence: (1) do not wash your face or hands; (2) do not shower or bathe; (3) do not brush your teeth; (4) do not change clothes or straighten up the area where the assault took place; (5) do not dispose of clothes or other items that were present during the assault, or use the restroom; and, (6) seek a medical exam immediately. If you already cleaned up from the assault, you can still report the crime, as well as seek medical or counseling treatment. You should preserve text messages, social media postings, or notes that demonstrate the course of conduct. Contemporaneous photos of bruises or other injuries are helpful. You may consult with the campus Title IX Coordinator or Sexual Assault Victim's Advocate for assistance as well.

## Reporting Options

The University's primary concern is your safety and the safety of the campus community. The use of alcohol or drugs never makes the victim at fault for sexual misconduct/sexual assault. If you have experienced sexual misconduct/sexual assault, sexual exploitation, dating or domestic violence, or stalking you should not be deterred from reporting the incident out of a concern that you might be disciplined for related violations of drug, alcohol, or other University policies. A person who participates in investigations or proceedings involving sexual misconduct/sexual assault will not be subject to discipline for related violations of the Student Conduct Code or other University policies at or near the time of the incident unless the University determines the conduct places the health and safety of another person at risk or is otherwise egregious. You have several reporting options, and you may pursue one or more of these options at any time. It is your right to have a friend, family member, Sexual Assault Victim's Advocate, or other representative present with you while reporting the incident. You also have the right to have a sexual assault counselor, Sexual Assault Victim's Advocate and/or support person of your choice present with you during a rape examination. You are strongly encouraged to report any incidents to the police and/or campus Title IX Coordinator so that steps may be taken to protect you and the rest of the campus community. However, non-reporting is also an option.

Reporting to university police and/or local police is an option at any time. If you choose not to report to the police immediately following an incident, you can still make the report at a later time. However, with the passage of time, the ability to gather evidence to assist with criminal prosecution may be limited. Depending on the circumstances, the police may be able to obtain a criminal restraining order on your behalf. The campus Title IX Coordinator or Sexual Assault Victim's Advocate can assist you in notifying the police if you choose.

The campus is required by the federal Clery Act to report certain types of crimes (including certain sex offenses) in statistical reports. However, while the University will report the type of incident in the annual crime statistics report known as the Annual Security Report, your name/identity will not be included.

## Protective Orders

You may also choose to obtain a protective or restraining order (such as a domestic violence restraining order or a civil harassment restraining order). Restraining orders must be obtained from a court in the jurisdiction where the incident occurred. Restraining orders can protect victims who have experienced or are reasonably in fear of physical violence, sexual misconduct/sexual assault, sexual exploitation, dating or domestic violence, or stalking. University police and your campus Title IX Coordinator can offer assistance with obtaining a protective or restraining order.

Cal State Monterey Bay does not issue orders of protection, however, there are different kinds of restraining orders available through the court system. Each has different eligibility requirements, and some are limited in the relief that they can provide. Some examples of restraining orders are listed below. For details on their eligibility requirements in Monterey County, go to <https://www.monterey.courts.ca.gov/covid-faq/restrainingorders>.

- Domestic Violence Restraining Order
- Elder or Dependent Adult Restraining Order
- Civil Harassment Restraining Order
- Workplace Violence Restraining Order

It's important to note that the process for filing a restraining order differs in each County.

The [California Courts website](#) lists five steps to requesting, serving, and completing the process for restraining orders. In summary, there are:

- STEP 1. Fill Out Your Court Forms and Prepare to File
- STEP 2. File Your Court Forms with the Court
- STEP 3. "Serve" Your Papers on the Restrained Person
- STEP 4. Get Ready and Go to Your Court Hearing
- STEP 5. After the Court Hearing

For assistance on obtaining a restraining order, the Superior Court of California, Monterey County requests that you email your name and telephone number to [selfhelpcenter@monterey.courts.ca.gov](mailto:selfhelpcenter@monterey.courts.ca.gov), or call (831) 647-5800 x3005. For full details on obtaining a restraining order through the County's paper option, go to <https://www.monterey.courts.ca.gov/covid-faq/restrainingorders>.

**If, for whatever reason, you want assistance in navigating your order of protection options, the University encourages employees and students to contact the CSUMB On-Campus Advocate.**

## Supportive Measures

Supportive Measures are individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent regardless of whether a Formal Complaint is filed. Supportive Measures are designed to restore or preserve equal access to CSU education programs or activities, or the workplace without unreasonably burdening the other Party, including to protect the safety of all Parties or the educational or work environment. Supportive Measures may include counseling, extensions of deadlines or other course or work-related adjustments, modifications of work or class schedules, campus escorts, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The Title IX Coordinator/DHR Coordinator is responsible for coordinating the effective implementation of Supportive Measures. Supportive Measures will remain confidential except when it is not possible to maintain confidentiality in order to provide the Supportive Measures.

## Written Notification

Along with the information provided in the outreach communication, the Title IX Coordinator will provide Complainants alleging Sexual Misconduct, Sexual Exploitation Dating Violence, Domestic Violence or Stalking, with the information in Attachment D to the CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation - Rights and Options for Victims of Sexual Misconduct/Sexual Assault, Sexual Exploitation, Dating And Domestic Violence, And Stalking.

This written notifications states that the Campus and Title IX Coordinator will provide supportive measures, if they are reasonably available, regardless of whether [the victim] chooses to report sexual misconduct/sexual assault, sexual exploitation, dating or domestic violence, or stalking to Campus or local police; and also that they will:

- Assist [the victim] in accessing other available victim advocacy, academic support, counseling, disability, medical/health or mental health services, and legal assistance both on and off campus;
- Make connections to individuals on campus who can provide support and solutions with respect to a variety of logistics, including transportation assistance, visa/immigration assistance, and financial aid assistance;
- Provide other security and support, which could include issuing a mutual no-contact order, helping arrange a change of campus-based living or working arrangements or course schedules 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 make such a report.

You should contact the CSUMB Title IX Coordinator/DHR Administrator by emailing [wensmith@csumb.edu](mailto:wensmith@csumb.edu) if you need an accommodation.

Attachment D also informs victims that disciplinary procedures for sexual misconduct/sexual assault, sexual exploitation, dating and domestic violence, and stalking will:

- Provide a prompt, fair, and impartial process and resolution;
- Be conducted by officials who receive annual training on sexual misconduct/sexual assault, sexual exploitation, dating and domestic violence, and stalking, including how to conduct a process that protects the safety of members of the campus community and promotes accountability;
- Provide the Complainant and the Respondent the same opportunity to be accompanied to any related meeting or proceeding by an Advisor of their choice;
- Simultaneously inform the Complainant and the Respondent in writing of:
  - The disciplinary outcome;
  - The procedures available to appeal the results of the disciplinary outcome;
  - Any change to the disciplinary results that occurs prior to the time such results become final; and
  - When disciplinary results become final.

## Disciplinary Procedures

The following statements are excerpts from the [Interim CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation \(“the Policy”\)](#). As required by law, the excerpts in this Annual Security Report capture the steps, decisionmakers, and anticipated timelines for both formal and informal resolution processes, as applicable. For details beyond the steps, decisionmakers, and anticipated timelines, please see the policy.

The campus Title IX Coordinator is the designated administrator to receive reports of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and associated Retaliation.

### Contact information:

Wendy Smith, CSUMB Title IX Coordinator/DHR Administrator

Students and employees should go to the Title IX/DHR page and select its “Report Discrimination” button to file a disciplinary complaint. You may also use this URL: <https://cm.maxient.com/reportingform.php?CSUMontereyBay>

Complaints against a Chancellor's Office employee, or a campus Title IX Coordinator/ Discrimination, Harassment, and Retaliation Administrator ("DHR Administrator") will be made to the Chancellor's Office at [eo-wbappeals@calstate.edu](mailto:eo-wbappeals@calstate.edu).<sup>33</sup>

The campus will respond in a timely and appropriate manner to all Complaints and will take appropriate action to prevent continuation of and correct Policy violations.

After receiving a report, the Title IX Coordinator will assess the report and provide outreach to the possible Complainant named in the report. This outreach will include information regarding potential Supportive Measures, where applicable. The Title IX Coordinator will describe and offer Supportive Measures to Complainants during the initial assessment (even if the Complaint is ultimately not investigated). Supportive Measures may include counseling, extensions of deadlines or other course or work-related adjustments, modifications of work or class schedules, campus escorts, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

The Title IX Coordinator will make reasonable efforts to ensure that anyone involved in conducting investigations, finding facts, and making disciplinary decisions in a matter will be impartial, neutral, and free from actual Conflicts of Interest.

All persons involved in implementing these procedures (e.g., the campus Title IX Coordinator and any Deputy Title IX Coordinator(s), Investigators, Human Resource Directors and Hearing Officers presiding over hearings) shall have relevant annual training on issues related to Sex Discrimination, Sexual Harassment, Sexual Misconduct, Sexual Exploitation, Dating and Domestic Violence, and Stalking. Such annual training shall include the CSU complaint processes, as well as the handling, investigation, and analysis of complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Sexual Exploitation, Dating and Domestic Violence, and Stalking. The annual training shall also address applicable confidentiality issues, especially with respect to the Title IX Coordinator's duty to weigh any victim's request for confidentiality against the duty to provide a safe and nondiscriminatory environment for all members of the campus community. For matters involving Sexual Misconduct, Sexual Exploitation, Dating and Domestic Violence, and Stalking, the training shall also include how to conduct an investigation and hearing process that protects the safety of the person(s) involved and promotes accountability.

The Complainant and Respondent may choose to be accompanied by an Advisor of their choice during meetings or any stage of the Complaint process. The Parties also have the right to consult with an attorney, at their own expense, or a union representative at any stage of the process if they wish to do so. An attorney or union representative may serve as a Party's chosen Advisor. The unavailability of a specific Advisor will not unduly interfere with prompt scheduling.

### **Applicable Procedures**

The campus will investigate or otherwise respond to reports of alleged misconduct committed by a student in accordance with the Interim Procedures for Complaints of Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation Made Against a Student ("Student Respondent Procedures") if the alleged misconduct violates the Policy and:

- occurred on campus; or

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<sup>33</sup> Complaints against a President should be made to the Chancellor's Office, but only if it is alleged that the president directly engaged in conduct that violates the Policy. Any other Complaints against a president (for example, that the president had no substantial involvement other than to rely on or approve a recommendation made by another administrator) will be made to and addressed by the campus.

- involved or impacted a campus program or activity (including campus employment); or
- affected a student's or Employee's ability to participate in a program, activity, or employment; AND
- The alleged misconduct was committed by a person who at the time of the alleged misconduct was a student.

The campus will investigate or otherwise respond to reports of alleged misconduct committed by an Employee or Third-Party in accordance with the Interim Procedures for Complaints of Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation Made Against an Employee or Third-Party ("Employee or Third-Party Respondent Procedures") if the alleged misconduct violates the Policy and:

- occurred on campus; or
- involved or impacted a campus program or activity (including campus employment); or
- affected a student's or Employee's ability to participate in a program, activity, or employment; AND
- The alleged misconduct was committed against a person who at the time of the alleged misconduct was a student, or the alleged misconduct was committed by or against an Employee.

Depending on the circumstances, the campus response may or may not include a formal investigation. When a Complainant requests that no investigation occur, the Title IX Coordinator will balance the request against the campus' duty to provide a safe and nondiscriminatory environment for all members of the campus community.

### **The Track System**

There are three possible sets of procedures ("tracks") for formal resolution of Complaints against a Student<sup>34</sup>(Track 1, Track 2, Track 3) as required by federal and state law. There are two sets of procedures ("Tracks") for formal resolution of Complaints against an Employee or a Third-Party (Track 1 or Track 3) as required by federal and state law. The remaining track, track 2: State Mandated Hearing Process, is not applicable to Complaints against Employees or Third-Parties, as it applies only to certain Complaints against Students. Which procedure applies to any given Complaint will depend on a variety of factors described below. Questions about which procedures apply to any specific case should be directed to the campus Title IX Coordinator and/or the Discrimination, Harassment, and Retaliation Administrator ("DHR Administrator").

Prior to a Notice of Investigation being sent to the Complainant and the Respondent, the Title IX Coordinator/DHR Administrator will determine which Track applies.

- Track 1 applies when the alleged conduct:
  - Meets the definition of Sexual Harassment as defined in Article VII.C of the Policy; and
  - Occurred in the United States; and
  - Occurred in an education program or activity at the university, as defined in Track 1
- Track 2 applies when:
  - The Complaint is against a student; and
  - The Complaint is one of Sexual Misconduct, Dating Violence, or Domestic Violence; and

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<sup>34</sup> A Complaint against a Student-Employee where the alleged conduct arose out of the Respondent's status as an Employee and not their status as a student, should be made using the Procedures for Complaints of Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation Made Against an Employee or Third-Party.

- The credibility of one (or both) of the Complainant and the Respondent ("the Parties"), or any witness is central to the determination as to whether the student violated the policy; and
- The student is facing a severe disciplinary sanction (expulsion or suspension) if found to be in violation of university Policy.
- Track 3 applies to all other Complaints under these procedures that allege a Policy violation.

Under Track 1 or 2, the campus will conduct an investigation, and the Complaint will proceed to a hearing unless otherwise resolved. An Investigator will first interview the Complainant, the Respondent, and any witnesses, and gather any documentary evidence. The hearing will occur once an investigation has finished. During the hearing, a hearing officer listens to the witnesses, including the Complainant and the Respondent, and analyzes the evidence, before deciding whether or not the Respondent violated the Policy.

Under Track 3, an Investigator interviews the Complainant, the Respondent, and any witnesses, gathers any documentary evidence, analyzes the evidence, and decides whether or not the Respondent violated the Policy. There is no hearing in Track 3 cases.

### **Standard of Evidence**

The Preponderance of the Evidence based on the facts available at the time of the decision is the standard for demonstrating facts and reaching conclusions in an investigation and hearing that uses the Procedures. Preponderance of the Evidence means the greater weight of the evidence; i.e., that the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side.

### **Dismissal/Referral**

When the Title IX Coordinator receives a Formal Complaint under Track 1, or where new information or events arise under this Track, the Title IX Coordinator will assess whether the Formal Complaint meets the requirements of the Federal Regulations to move forward under the process under Track 1. A determination that allegations in a Formal Complaint do not meet the requirements of the Federal Regulations will result in a mandatory dismissal of the allegations in the Formal Complaint that do not meet the requirements and, in some cases, a referral of the allegations to another process as the campus may have an obligation to address the matter under other laws and policies. The Title IX Coordinator will determine whether allegations in a Formal Complaint must be dismissed for purposes of the Federal Regulations. If a Formal Complaint is dismissed it may still be referred, if appropriate, to be addressed under the processes in Track 2 or Track 3, CSU Executive Order 1098, or other applicable policies.

At any time after a Complaint has been accepted for investigation, it is within the discretion of the Title IX Coordinator/DHR Administrator to dismiss a Complaint, or any part of a Complaint, if the Complainant notifies the Title IX Coordinator/DHR Administrator in writing that they would like to withdraw the Complaint or any part of it, or if the specific circumstances prevent the campus from gathering evidence necessary to reach a determination as to the Complaint or part of the Complaint.<sup>35</sup>

Written notice of dismissal (mandatory or discretionary) and reason(s) for the dismissal will be sent simultaneously to the Parties when a Title IX Coordinator dismisses any Complaint. The notice will inform the Parties of their right to appeal the dismissal, whether the matter will be referred to another process, and the process for submitting an appeal.

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<sup>35</sup> Formal complaints under track 1 may be discretionarily dismissed for the additional reason that the Respondent is no longer a student or Employee

Either Party may appeal from a dismissal of a Complaint or any part of the Complaint. The appeal must be filed within 10 Working Days from the date of the notice of dismissal.

Appeals against a dismissal under Track 1 will be filed with the Chancellor's Office (CO) and will be addressed to:

Systemwide Title IX Unit  
Systemwide Human Resources  
Office of the Chancellor  
[TIX-Dismissal-Appeals@calstate.edu](mailto:TIX-Dismissal-Appeals@calstate.edu)

Appeals against a dismissal under Track 2 or Track 3 will be submitted to the Chancellor's Office and will be addressed to:

Equal Opportunity and Whistleblower Compliance Unit  
Systemwide Human Resources  
Office of the Chancellor  
401 Golden Shore  
Long Beach, California 90802  
[eo-wbappeals@calstate.edu](mailto:eo-wbappeals@calstate.edu)

If a Party is unable to file an appeal or a response to an appeal electronically, they should contact the campus Title IX Office for assistance. When an appeal is submitted, the other Party as well as the campus Title IX Coordinator will be notified in writing. In response to the appeal, the other Party will be given 5 Working Days from their receipt of notice of the appeal to submit a written statement in support of or challenging the dismissal. Within 10 Working Days of the CO's receipt of the appeal, the Parties will simultaneously receive (via email) a written decision with explanation.

### **Informal resolution**

The CSU recognizes some Parties may desire resolution of their matter through an Informal Resolution process ("Informal Resolution"), instead of through the formal resolution process (described below). Accordingly, Parties may mutually agree, with the agreement of the Title IX Coordinator, to resolve a Complaint through an Informal Resolution process, instead of undergoing the formal resolution process<sup>36</sup>. The Informal Resolution process is entirely voluntary and will not occur unless both Parties agree in writing to participate in an Informal Resolution process.

The Title IX Coordinator/DHR Administrator will oversee the Informal Resolution process, conduct an initial and on-going assessment as to whether the Informal Resolution process should continue, and make the final determination on all Informal Resolutions facilitated by the Title IX Coordinator or designee regarding whether the terms agreed to by the Parties are appropriate in light of all of the circumstances of the Complaint. In some circumstances, depending on the nature and/or severity of the allegations, an Informal Resolution may not be appropriate, and the Title IX Coordinator/DHR Administrator will not approve an Informal Resolution. Prior to approving an Informal Resolution, the Title IX Coordinator/DHR Administrator will consult with the appropriate administrator in human resources or faculty affairs.

Prior to engaging in an informal resolution process, the campus will obtain the Parties' voluntary, written consent. Parties who choose to participate in the voluntary Informal Resolution process will be sent a notice of agreement to engage in Informal Resolution.

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<sup>36</sup> Track 1, a Formal Complaint must be filed before the informal resolution process may take place and that under Track 1, informal resolution cannot be used to resolve allegations that an employee sexually harassed a student



The Informal Resolution process may take place at any time before a determination of responsibility is made, but no later than 60 Working Days after both Parties provide voluntary, written consent to participate in the Informal Resolution process

Any agreed-upon Remedies and disciplinary sanctions agreed to in an Informal Resolution have the same effect as Remedies given and sanctions imposed following an investigation (and/or hearing), consistent with an applicable collective bargaining agreements.

The terms of any Informal Resolution must be put in writing and signed by the Parties, and the Title IX Coordinator. The resolution will be final and not appealable by either Party.

### **Investigation and Hearing for Track 1**

#### *Supportive measures*

After receiving a report of Sexual Harassment, the Title IX Coordinator will contact the Complainant promptly to discuss the availability of Supportive Measures. The Title IX Coordinator will conduct an intake meeting with any Complainant who responds to outreach communication, or otherwise makes a report of a potential Policy violation to discuss the Complainant's options, explain the process, and provide information about Supportive Measures. During the discussion, the Title IX Coordinator will consider the Complainant's wishes with respect to Supportive Measures, inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint<sup>37</sup>, and explain the process for filing a Formal Complaint.

#### *Notice of allegations*

When the Title IX Coordinator receives a Formal Complaint, the Title IX Coordinator will Simultaneously provide both Parties a written notice of allegations. If new allegations are raised during the investigation that were not included in the notice of allegations, a revised notice of allegations will be issued Simultaneously to the Parties. If the notice of allegations also serves as notice of a Respondent's expected attendance at an interview, it will include details of the date, time, location, participants, and purpose of that interview. The notice of allegations must be provided to a Respondent at least 5 Working Days prior to the interview. If a Respondent requests to meet sooner than 5 Working Days after receipt of the notice of allegations, they should verbally confirm at the start of the meeting that they are aware that they were provided notice of at least 5 Working Days and this confirmation should be documented by the Title IX Coordinator or Investigator.

#### *Investigation of a formal complaint*

The Title IX Coordinator will either promptly investigate the Formal 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 Track 1.

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.

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<sup>37</sup> Formal Complaint means a document or electronic submission filed by a Complainant that contains the Complainant's physical or digital signature<sup>15</sup> or a document signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting an investigation of the allegation of Sexual Harassment. At the time that the Formal Complaint is filed, a Complainant must be participating in or attempting to participate in an Education Program or Activity of the CSU.

The Complainant and the Respondent may each elect to be accompanied by an Advisor to any meeting, interview, or proceeding regarding the allegations that are the subject of a Formal Complaint. The advisor may be anyone, including a union representative from the Complainant's or Respondent's collective bargaining unit, an attorney, or, in the case of the Complainant, a Sexual Assault Victim's Advocate.

Parties will be provided written notice of the date, time, location, names of participants, and purpose of all meetings and investigative interviews at which their participation is expected. This written notice should be provided with at least 3 Working Days for the Party to prepare to participate in the meeting or interview. This requirement will not apply where a Party themselves requests to meet with the Title IX Coordinator or Investigator or as addressed in Article VI of Track 1.

If a Party requests to meet with the Title IX Coordinator sooner than 3 Working Days after receipt of written notice of an investigative interview or meeting, they should verbally confirm at the start of the interview or meeting that they are aware that they were provided notice of at least 3 Working Days and this confirmation should be documented by the Title IX Coordinator or Investigator.

### *Review of evidence*

Before issuing a final investigation report, the investigator will send to the Complainant and Respondent, and their respective advisors, if any, all evidence (including evidence upon which the campus does not intend to rely) obtained as part of the investigation that is Directly Related to the allegations raised in the Formal Complaint (preliminary investigation report).

Each Party will be given a minimum of 10 Working Days for the initial review of evidence to respond to the list of disputed facts and evidence and submit additional questions for the other Party and witnesses. This timeframe may be extended at the discretion of the Title IX Coordinator (either on their own or in response to a Party's request). The extension must be made available to both Parties, who must be notified as such. During the review of evidence, each Party may:

- Meet again with the investigator to further discuss the allegations.
- Identify additional disputed facts.
- Respond to the evidence in writing.
- Request that the investigator ask additional specific questions to the other Party and other witnesses.
- Identify additional relevant witnesses.
- 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 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 submit additional questions to the other Party and other witnesses about the new evidence only. The investigator determines when it is appropriate to conclude the review of evidence.

### *Final investigation report*

After the review of evidence phase is concluded, the Parties will receive a final investigation report that will summarize all Relevant evidence (inculpatory and exculpatory), including 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. The final investigation report shall be sent to the Parties and their respective advisors, if any, in electronic format (which may include use of a file sharing platform that restricts the Parties and any Advisors from downloading or copying the evidence) or hard copy. The Parties

and their advisors will be provided 10 Working Days to review and provide a written response to the final investigation report.

### *Timeframe*

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. Extensions may be granted for good cause as determined by the Title IX Coordinator. The Parties will receive written notice from the Title IX Coordinator or designee if an extension is necessary and why. The notice will indicate if the extension alters the timeframes for the major stages of the Formal Complaint process.

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 below. The Parties will be required to provide the name and contact information for their hearing advisor within 5 Working Days after notice of the hearing timeline.

### *Track 1 hearing*

The Parties will be given written notice of the date, time, location, participants, and purpose of the hearing, as well as the identity of the hearing officer. Notification of the hearing will be sent to the designated CSU campus email address, unless the recipient has specifically requested in writing to the hearing coordinator that notice be given to a different email address. Communications from the hearing coordinator will be deemed received on the date sent. The hearing will not be set sooner than 20 Working Days after the date of notice of hearing. Any objections to an appointed hearing officer must be made in writing to the hearing Coordinator within 5 Working Days after notice of the identity of the hearing officer has been communicated to the Parties.

No later than 15 Working Days before the hearing, each Party may 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. The hearing officer may also identify witnesses from the final investigation report.

No later than 10 Working Days before the hearing, the hearing coordinator will share a final witness list with the Parties, and notify each witness of the date, time, and location of the hearing. Witnesses will be directed 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 may submit a list of proposed questions to the hearing coordinator. The questions will be provided to the hearing officer. Parties are strongly encouraged to provide questions in advance of the hearing in order to streamline the hearing process and provide the hearing officer an opportunity to resolve relevancy concerns prior to the hearing. The proposed questions will not be shared with the other Party.

The hearing will begin 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. Each Party will be given an opportunity to make an opening statement that may not last longer than 10 minutes. Only the Parties themselves will be permitted to make opening statements. The hearing advisor and any advisor are not permitted to make the opening statement. The advisor may not speak during the hearing. Closing arguments will not be made.

Generally, the hearing officer will start the questioning of witnesses and Parties. The Investigator or the Title IX Coordinator (if not the Investigator) will be the first witness and will describe the Formal Complaint, investigation process, and summarize the evidence. Hearing advisors will be permitted to ask Relevant questions once the hearing officer has concluded their questioning of the other Party and each witness. The hearing officer may ask questions of any Party or witness who participates in the hearing.

### *Determination regarding responsibility under track 1*

After the hearing, the hearing officer will make written findings of fact and conclusions about whether the Respondent violated the Policy with respect to the definition of Sexual Harassment<sup>38</sup>. The hearing coordinator will Simultaneously send the hearing officer's report promptly to the Parties, the Title IX Coordinator, and the appropriate campus administrator, usually within 15 Working Days of the close of the hearing.

If no violation of the Policy is found, the president (or designee) will be notified along with the Parties. The notification will include the outcome of the hearing, a copy of the hearing officer's report (redacted as appropriate or as otherwise required by law) and notice of the Complainant's and Respondent's right to appeal to the Chancellor's Office.

If a violation of the Policy 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 appropriate campus administrator responsible for discipline and Title IX Coordinator may also submit a written statement regarding aggravating and mitigating factors that provides a recommendation regarding the disciplinary outcome, including information regarding prior disciplinary outcomes for similar conduct and whether the Respondent was previously found to have violated university policy.

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). The hearing officer's report will be amended to include a statement of, and rationale for, any recommended disciplinary sanctions to be imposed on the Respondent ("final hearing officer's report"). The final hearing officer's report will attach the final investigation report.

In cases where the hearing officer has found a violation of the Policy, the president (or designee) will review the final investigation report and the final hearing officer's report and issue a decision ("decision letter") concerning the appropriate sanction or discipline within 10 Working Days of receipt of the final hearing officer's report.

The president (or designee) will simultaneously send the decision letter electronically to the Respondent and Complainant at the campus-assigned or other primary email address linked to their campus accounts.<sup>39</sup> The decision letter will include:

- The outcome of the hearing, including any sanction imposed, and the name of the Respondent(s).
- Information regarding the procedures and permissible bases for the Complainant and Respondent to appeal to the Chancellor's Office.

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<sup>38</sup> See definition of Sexual Harassment in the [Interim CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation](#)

<sup>39</sup> Communication with Parties who are neither Students nor Employees will be sent to an email address that they designate.

- If a finding of responsibility is made against the Respondent, a statement as to whether Remedies will be provided to the Complainant that are designed to restore or preserve equal access to the campus's education program or activity. The specifics of any such Remedies may be discussed separately between the Complainant and the Title IX Coordinator and need not be included in the decision letter.
- A copy of the final hearing officer's report will be attached to the decision letter, redacted as appropriate or as otherwise required by law.

### **Investigation and Hearing (if applicable) for Tracks 2 and 3**

At the onset of the investigation, the Title IX Coordinator/DHR Administrator will simultaneously provide both Parties a notice of investigation.

In the notice of investigation, the Title IX Coordinator/DHR Administrator will schedule an initial meeting with the Respondent. At this meeting, the Title IX Coordinator/DHR Administrator will explain the allegations against the Respondent, as well as the investigation process, and the Respondent's rights during the process. The Title IX Coordinator/DHR Administrator will also explain that during the investigation, the Respondent and the Complainant will have the opportunity to present evidence, identify witnesses, and review evidence.

During the investigation, 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. Before finalizing the investigation, the Investigator will share with the Complainant and Respondent a preliminary investigation report, along with all relevant evidence gathered. Each Party will be given a reasonable opportunity to respond to the preliminary investigation report and any attached evidence and ask questions.

In matters where a hearing is not required (Track 3 cases)<sup>40</sup>, a final investigation report will be provided to the Parties along with a notice of investigation outcome. The final investigation report will include a summary of the allegations, the investigation process, the Preponderance of the Evidence standard, a detailed description of the evidence considered, analysis of the evidence including relevant credibility evaluations, and appropriate findings. Relevant exhibits and documents will be attached to the written report. The final investigation report will be attached to a notice of investigation outcome. The notice may be delivered to the Parties electronically. If the notice includes a determination that the Policy was violated, the Title IX Coordinator/DHR Administrator will notify the campus student conduct administrator (where the Respondent is a student)/appropriate campus administrator (where the Respondent is an employee) of the investigation outcome and provide a copy of the final investigation report.

The Title IX Coordinator/DHR Administrator or designee will send the Final Investigation Report to the Parties within 100 Working Days from the date that the Notice of Investigation is provided to the Parties. Extensions may be granted for good cause as determined by the Title IX Coordinator/DHR Administrator. The Parties will receive written notice from the Title IX Coordinator/DHR Administrator or designee if an extension is necessary and why. The notice will indicate if the extension alters the timeframes for the major stages of the Complaint process.

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<sup>40</sup> Under Track 2, the process will proceed to a hearing, as outlined below, and 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 evidence provided by the Parties or witnesses, or otherwise gathered by the Investigator, will be attached to the final investigation report, or made available for review by the Parties. Evidence offered by the Parties or any other witnesses that the Investigator concluded is not relevant will be noted but not included in the final investigation report and should be available at the time of the hearing such that it can be provided to the hearing officer if requested.

Any communications relating to the outcome of an investigation or hearing, including any changes to the outcome or when the outcome becomes final, will be provided in writing simultaneously to the Complainant and the Respondent.

*Track 2 hearing process:*

As stated above in the explanation of Track 2, a hearing will be required (unless the case is resolved by way of Informal Resolution). Below are the steps, decision-makers, and anticipated timelines for a Track 2 hearing process that commences after the issuance of the final Investigative report.

*Prior to a hearing:*

Parties will be given written notice of the date, time, location, and purpose of the hearing as well as the identity of the hearing officer. The Parties will be sent a notice of the hearing at least 20 Working Days before the hearing. Objections to an appointed hearing officer will be made in writing to the hearing coordinator no later than 5 Working Days after notice of hearing has been sent to the Parties.

No later than 15 Working Days before the hearing, each Party will 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' testimony. The hearing officer may also identify witnesses from the Final Investigation Report.

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 Title IX Coordinator, may initiate the consolidation (subject to FERPA and other applicable privacy laws). Request for consolidation will be made no later than 15 Working Days before the hearing. The hearing officer makes consolidation decisions.

Parties must provide the name of, and contact information for, the Party's Advisor and Support Person (if any) to the hearing coordinator 15 Working Days before the hearing.

No later than 10 Working Days before the hearing, the hearing coordinator will share a final witness list with the Parties, and 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 before the hearing, the Parties will submit to the hearing coordinator any objections to, or questions about, the witness list.

*At the hearing:*

Each Party will be given an opportunity to make an opening statement that will last no longer than 10 minutes. The Parties will not make closing statements. An opening statement is intended to give the Parties the opportunity to share their perspective regarding the facts and discuss the core disputes in the investigation. It should focus on the facts of the matter and not be argumentative.

Parties will have the opportunity to submit written questions to the hearing officer in advance of the hearing. The Parties may also submit written follow-up questions to the hearing officer during the hearing, at appropriate times designated by the hearing officer. The hearing officer will ask the questions proposed by the Parties except for questions that:

1. 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).
2. 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.
3. Seek information that is unreasonably duplicative of evidence in the hearing officer's possession.
4. The hearing officer determines are not relevant to material disputed issues, are argumentative or harassing or unduly intrude on a witness' privacy.

At the hearing, each Party will have an opportunity to ask questions, submit concerns, or note an objection to questions posed. All such questions, concerns, or objections will be submitted in writing to the hearing officer. The hearing officer is not required to respond to an objection, other than to include it in the record.

The hearing officer has the authority and duty to decline or rephrase any question that the hearing officer deems to be repetitive, irrelevant, or harassing. Formal rules of evidence applied in courtroom proceedings (e.g., California Evidence Code) do not apply in the hearing. However, the hearing officer may take guidance from the formal rules of evidence.

*After the hearing:*

After the hearing, the hearing officer will make written findings of facts and conclusions about whether the Respondent violated the Policy. The Title IX Coordinator will review the hearing officer's report to ensure compliance with the Policy. The hearing coordinator will forward the hearing officer's report promptly to the Parties, the Title IX Coordinator, and the student conduct administrator, usually within 15 Working Days of the close of the hearing.

If no violation is found, the hearing coordinator will notify the Parties of their appeal rights. The campus president (or designee) will also be notified.

If a violation is found, the Parties may submit to the hearing coordinator an impact statement or other statement regarding discipline. The statement may not be more than 2000 words in length and will be submitted no later than 5 Working Days after the hearing officer's report is sent to the Parties. The statement 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 the Title IX Coordinator may also submit a written statement regarding aggravating and mitigating factors no later than 5 Working Days after the hearing officer's report is sent to the Parties.

Within 5 Working Days after receiving and considering the statements described above, the hearing officer will submit the hearing officer's report to the president (or designee), including recommended sanctions (as defined in Executive Order 1098 Student Conduct Procedures<sup>41</sup>) if a Respondent has been determined to have violated university Policy.

Within 10 Working Days of receipt of the hearing officer's report, the president (or designee) will review the Investigation Report and the hearing officer's report and issue a decision concerning the appropriate sanction. 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. The president will simultaneously send the decision letter electronically to the Respondent and Complainant. The

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<sup>41</sup> See Sanctions, below

decision will also be sent to the student conduct administrator and the hearing officer. Unless the campus and Parties are notified that an appeal has been filed, the president's (or designee's) sanction decision becomes final 11 Working Days after the date of the decision letter.

## Sanctions

Discipline for Employees includes, but is not limited to, suspension, demotion, and termination of employment.

Employees disciplined by the university may be entitled to additional processes as required by law and/or collective bargaining agreements, including in some cases the right to a hearing before an independent arbitrator or a state agency where the employee may contest the discipline.

The following sanctions may be imposed for violation of the Student Conduct Code:<sup>42</sup>

- **Restitution.** Compensation for loss, damages or injury. This may include appropriate service and/or monetary material replacement.
- **Loss of Financial Aid.** Scholarships, loans, grants, fellowships and any other types of state financial aid given or guaranteed for the purposes of academic assistance can be conditioned, limited, canceled or denied.<sup>8</sup>
- **Educational and Remedial Sanctions.** Assignments, such as work, research, essays, service to the University or the community, training, counseling, removal from participation in recognized student clubs and organizations (e.g., fraternities and sororities), and/or University events, or other remedies intended to discourage similar misconduct or as deemed appropriate based upon the nature of the violation.
- **Denial of Access to Campus or Persons.** A designated period of time during which the Student is not permitted: (i) on University Property or specified areas of Campus,<sup>9</sup> or (ii) to have contact (physical or otherwise) with the Complainant, witnesses or other specified persons.
- **Disciplinary Probation.** A designated period of time during which privileges of continuing in Student status are conditioned upon future behavior. Conditions may include the potential loss of specified privileges to which a current Student would otherwise be entitled, or the probability of more severe disciplinary sanctions if the student is found to violate the Student Conduct Code or any University policy during the probationary period.
- **Suspension.** Temporary separation of the student from active Student status or Student status.
  - A Student who is suspended for less than one academic year shall be placed on inactive Student (or equivalent) status (subject to individual Campus policies) and remains eligible to re-enroll at the University (subject to individual Campus enrollment policies) once the suspension has been served. Conditions for re-enrollment may be specified.
  - A Student who is suspended for one academic year or more shall be separated from Student status but remains eligible to reapply to the University (subject to individual Campus application policies) once the suspension has been served. Conditions for readmission may be specified.
  - Suspension of one academic year or more, withdrawals in lieu of suspension, and withdrawals with pending misconduct investigations or disciplinary proceedings shall be entered on the student's transcript permanently without exception; this requirement shall not be waived in connection with a resolution agreement.
- **Expulsion.** Permanent separation of the Student from Student status from the California State University system. Expulsion, withdrawal in lieu of expulsion, and withdrawal with pending misconduct investigation or disciplinary

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<sup>42</sup> Found in Article V, Executive Order 1098 Student Conduct Procedures



proceeding shall be entered on the student's transcript permanently, without exception; this requirement shall not be waived in connection with a resolution agreement.

## **Appeals**

A written appeal may be submitted to the Chancellor's Office no later than 10 Working Days after the date of the decision letter (Track 2) or notice of investigation outcome (Track 3). All arguments and/or evidence supporting the appeal must be submitted by the deadline to file the appeal. Evidence/arguments submitted after the appeal submission deadline will not be considered by the Chancellor's Office. A written appeal may not exceed 3,500 words, excluding exhibits. Appeals will be submitted to:

Equal Opportunity and Whistleblower Compliance Unit  
Systemwide Human Resources  
Office of the Chancellor  
401 Golden Shore  
Long Beach, California 90802  
[eo-wbappeals@calstate.edu](mailto:eo-wbappeals@calstate.edu)

The Chancellor's Office will provide prompt written acknowledgement of the receipt of the appeal to the appealing Party, and will provide written notification of the appeal, including a copy of the appeal, to the non-appealing Party and the campus Title IX Coordinator/DHR Administrator. 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. The appeal response will be limited to 3,500 words, excluding exhibits. Any response to the appeal received by the Chancellor's Office will be provided to the appealing Party for informational purposes only.

The Chancellor's Office will not conduct a new investigation; however, the Chancellor's Office may make reasonable inquiries to determine if the new evidence could have affected the investigation or hearing determination. On appeal, the Chancellor's Office does not reweigh the evidence, re-decide conflicts in the evidence, or revisit determinations made by the Investigator or hearing officer about the credibility or reliability of witnesses and the Parties. The Chancellor's Office appeal response will include a summary of the issues raised on appeal, a summary of the evidence considered, the Preponderance of the Evidence standard, and the determination(s) reached regarding the issue(s) identified within the written appeal. A copy of the final Chancellor's Office appeal response will be forwarded to the Complainant, the Respondent, and the Title IX Coordinator/DHR Administrator.

If the Chancellor's Office review determines that an issue raised on appeal would have affected the investigation outcome or hearing outcome, the investigation or hearing will be remanded back to the campus and the investigation or hearing reopened at the campus level. The Chancellor's Office will return the matter to the campus and will specify in writing the timeline by which a reopened investigation or hearing must be completed. The Chancellor's Office will notify the Parties of the reopening of the investigation or hearing and the timeline for completion of the reopened investigation or hearing. The campus will complete the reopened investigation or hearing and provide the Chancellor's Office with an amended final investigation report/final decision. The campus will also provide the Parties with amended notices of investigation outcome/final decision, and such notices will provide the non-prevailing Party the opportunity to appeal. Upon receipt of the amended final investigation report/final decision, if the outcome remains unchanged, the Chancellor's Office will contact the original appealing Party to determine whether that Party wishes to continue with the appeal. If the outcome is reversed by the campus, the non-prevailing Party will be given an opportunity to appeal.

If the Chancellor's Office determines that no reasonable fact finder (Investigator or hearing officer) could have made the findings as determined by the Investigator or hearing officer, the Chancellor's Office may vacate and reverse the investigation or hearing outcome, but only with respect to whether the Policy was violated (and not with respect to factual findings). If the Chancellor's Office vacates and reverses the investigation or hearing outcome, it will notify the Parties simultaneously in writing, as well as the Title IX Coordinator/DHR Administrator. Following a reversal of an investigation or hearing outcome by the Chancellor's Office, the Chancellor's Office decision is final and is not subject to further appeal. In the event that the final outcome has been reversed by the Chancellor's Office and a sanction will be imposed by the campus, both Parties have a right to appeal the sanction only. If a sanction is found to be objectively unreasonable, or arbitrary based on substantiated conduct, the matter will be sent back to the campus for reconsideration of the sanction.

The Chancellor's Office will respond to the appealing Party no later than 30 Working Days after receipt of the written appeal unless the timeline has been extended<sup>43</sup>

## Registered Sex Offenders

California's sex offender registration laws require convicted sex offenders to register their status with the University police department if they are enrolled, residing, attending, carrying on a vocation (i.e. contractor or vendor on campus for more than 30 days in the year), or working with or without compensation for the institution. All public information available in California about registered sex offenders, to include the ability to look-up offenders by name, residence address, and zip code, is on the California Department of Justice Megan's law web site at <http://www.meganslaw.ca.gov/>

## Missing Student Notification

Cal State Monterey Bay will provide every student living in campus housing the opportunity and means to identify an individual, who the institution shall notify within 24 hours of the determination that the student is missing, through the current housing management software (StarRez). This contact is confidential and strictly used for missing person purposes only, and is a separate contact from their emergency contact, but may be the same person. This information is directly entered into StarRez through MyHousing portal by each student and is accessible by SHRL staff on any web-enabled device. Every resident will be notified of the Missing Student Notification procedure, as it will be included in the SHRL Community Standards available online.

If a member of the Cal State Monterey Bay community has reason to believe a student who resides in on-campus housing is missing, he or she should report the missing student immediately to UPD by calling 831-655-0268. UPD will receive the report and give priority to its handling pursuant to California Penal Code section 14211(a). However, if a member of the University community is unable to report a suspected missing student to UPD, they may also make the report to SHRL professional staff, RLCs, RAs, student health staff, Athletics coaches, trainers and staff members, Office of Student Affairs staff, student organization advisors, the Dean of Students, or the Director of Student Engagement & Leadership Development. Non-UPD recipients of missing student reports should forward missing student information to UPD immediately. No waiting period exists before an officer or the specified individuals will take a missing person report. A

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<sup>43</sup> The Chancellor's Office has discretion to extend the timelines for the appeal process for good cause or for any reasons deemed to be legitimate by the Chancellor's Office. This includes the time for filing an appeal, the time for a reopened investigation or hearing to be completed, and the time for the Chancellor's Office to respond to the appeal. The Chancellor's Office will notify the Parties and the Title IX Coordinator of any extensions of time granted pertaining to any portion of the appeal process.

student is considered missing when his or her whereabouts are unknown and knowledgeable persons regard the disappearance as unusual or uncharacteristic. All reports of missing students should be made without delay.

UPD, in accordance with all applicable federal and state laws, shall investigate all reports of missing students in accordance with UPD Policy 314: Missing Person Reporting. If upon being reported to UPD, the student is not located during the initial investigation, or if extenuating circumstances exist (e.g. the student is missing for a full 24 hours), the Vice President for Student Affairs (VSPA) or designee will contact the student's designated missing person contact(s). If the student is under 18 years of age and not emancipated, the VSPA will notify the custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to any additional contact person designated by the student. In all missing student situations, local and other relevant law enforcement agencies, as determined by UPD, will be notified by UPD of its determination that the student is missing within 24 hours.

For a copy of the Cal State Monterey Bay Missing Residential Student Notification Policy, visit <https://csumb.edu/policy/missing-residential-student-notification-policy>.

## **Fire Safety Act**

The 2022 Fire Safety Report is available at the following link: <https://csumb.edu/firereport>.

## Appendix A: Jurisdictional Definitions

### Rape (Cal. Penal Code section 261)

(a) Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:

(1) Where a person is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(2) Where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.

(3) Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.

(4) Where a person is at the time unconscious of the nature of the act, and this is known to the accused. As used in this paragraph, "unconscious of the nature of the act" means incapable of resisting because the victim meets any one of the following conditions:

(A) Was unconscious or asleep.

(B) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(D) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(5) Where a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.

(6) Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(7) Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(b) As used in this section, “duress” means a direct or implied threat of force, violence, danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed, or acquiesce in an act to which one otherwise would not have submitted. The total circumstances, including the age of the victim, and his or her relationship to the defendant, are factors to consider in appraising the existence of duress.

(c) As used in this section, “menace” means any threat, declaration, or act which shows an intention to inflict an injury upon another.

### Sodomy (Cal. Penal Code section 286)

Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however slight, is sufficient to complete the crime of sodomy.

(b) (1) Except as provided in Section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

(2) Except as provided in Section 288, any person over 21 years of age who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony.

(c) (1) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) (A) Any person who commits an act of sodomy when the act is accomplished against the victim’s will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of sodomy with another person who is under 14 years of age when the act is accomplished against the victim’s will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for 9, 11, or 13 years.

(C) Any person who commits an act of sodomy with another person who is a minor 14 years of age or older when the act is accomplished against the victim’s will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for 7, 9, or 11 years.

(3) Any person who commits an act of sodomy where the act is accomplished against the victim’s will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) (1) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy when the act is accomplished against the victim’s will by means of force or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim’s will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for five, seven, or nine years.

(2) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy upon a victim who is under 14 years of age, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 10, 12, or 14 years.

(3) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy upon a victim who is a minor 14 years of age or older, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 7, 9, or 11 years.

(e) Any person who participates in an act of sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility, as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.

(f) Any person who commits an act of sodomy, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.

(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(g) Except as provided in subdivision (h), a person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of sodomy, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year. Notwithstanding the existence of a conservatorship pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting

attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(i) Any person who commits an act of sodomy, where the victim is prevented from resisting by an intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for three, six, or eight years.

(j) Any person who commits an act of sodomy, where the victim submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) Any person who commits an act of sodomy, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(l) As used in subdivisions (c) and (d), "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury, or death.

## Oral Copulation (Cal. Penal Code section 287)

(a) Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person.

(b) (1) Except as provided in Section 288, any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Except as provided in Section 288, any person over 21 years of age who participates in an act of oral copulation with another person who is under 16 years of age is guilty of a felony.

(c) (1) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(2) (A) Any person who commits an act of oral copulation when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of oral copulation upon a person who is under 14 years of age, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years.

(C) Any person who commits an act of oral copulation upon a minor who is 14 years of age or older, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of

immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 6, 8, or 10 years.

(3) Any person who commits an act of oral copulation where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(d) (1) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting that other person, commits an act of oral copulation (A) when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, or (B) where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, or (C) where the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for five, seven, or nine years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime described under paragraph (3), that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(2) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of oral copulation upon a victim who is under 14 years of age, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 10, 12, or 14 years.

(3) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of oral copulation upon a victim who is a minor 14 years of age or older, when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years.

(e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(f) Any person who commits an act of oral copulation, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for a period of three, six, or eight years. As used in this subdivision, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.

(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.



(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the oral copulation served a professional purpose when it served no professional purpose.

(g) Except as provided in subdivision (h), any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison, for three, six, or eight years. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent.

(h) Any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(i) Any person who commits an act of oral copulation, where the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(j) Any person who commits an act of oral copulation, where the victim submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(k) Any person who commits an act of oral copulation, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(l) As used in subdivisions (c) and (d), "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

## Bigamy, Incest, and the Crime against Nature (Cal. Penal Code section 289)

(a) (1) (A) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person shall be punished by imprisonment in the state prison for three, six, or eight years.

(B) Any person who commits an act of sexual penetration upon a child who is under 14 years of age, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 8, 10, or 12 years.

(C) Any person who commits an act of sexual penetration upon a minor who is 14 years of age or older, when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, shall be punished by imprisonment in the state prison for 6, 8, or 10 years.

(D) This paragraph does not preclude prosecution under Section 269, Section 288.7, or any other provision of law.

(2) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) Except as provided in subdivision (c), any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(c) Any person who commits an act of sexual penetration, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(d) Any person who commits an act of sexual penetration, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. As used in this subdivision, "unconscious of the nature of the act" means incapable of resisting because the victim meets one of the following conditions:

(1) Was unconscious or asleep.

(2) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(3) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(4) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(e) Any person who commits an act of sexual penetration when the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(f) Any person who commits an act of sexual penetration when the victim submits under the belief that the person committing the act or causing the act to be committed is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(g) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(h) Except as provided in Section 288, any person who participates in an act of sexual penetration with another person who is under 18 years of age shall be punished by imprisonment in the state prison or in a county jail for a period of not more than one year.

(i) Except as provided in Section 288, any person over 21 years of age who participates in an act of sexual penetration with another person who is under 16 years of age shall be guilty of a felony.

(j) Any person who participates in an act of sexual penetration with another person who is under 14 years of age and who is more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) As used in this section:

(1) "Sexual penetration" is the act of causing the penetration, however slight, of the genital or anal opening of any person or causing another person to so penetrate the defendant's or another person's genital or

anal opening for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object.

(2) "Foreign object, substance, instrument, or device" shall include any part of the body, except a sexual organ.

(3) "Unknown object" shall include any foreign object, substance, instrument, or device, or any part of the body, including a penis, when it is not known whether penetration was by a penis or by a foreign object, substance, instrument, or device, or by any other part of the body.

(l) As used in subdivision (a), "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury or death.

(m) As used in this section, "victim" includes any person who the defendant causes to penetrate the genital or anal opening of the defendant or another person or whose genital or anal opening is caused to be penetrated by the defendant or another person and who otherwise qualifies as a victim under the requirements of this section.

### Fondling (Cal. Penal Code section 243.4, Assault and Battery)

(a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).

(b) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).

(c) Any person who touches an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual abuse, and the victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year, and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).

(d) Any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of sexual battery. A violation of this subdivision is punishable by imprisonment in a county jail for not more than one year,

and by a fine not exceeding two thousand dollars (\$2,000); or by imprisonment in the state prison for two, three, or four years, and by a fine not exceeding ten thousand dollars (\$10,000).

(e)(1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. However, if the defendant was an employer and the victim was an employee of the defendant, the misdemeanor sexual battery shall be punishable by a fine not exceeding three thousand dollars (\$3,000), by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment.

Notwithstanding any other provision of law, any amount of a fine above two thousand dollars (\$2,000) which is collected from a defendant for a violation of this subdivision shall be transmitted to the State Treasury and, upon appropriation by the Legislature, distributed to the Department of Fair Employment and Housing for the purpose of enforcement of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), including, but not limited to, laws that proscribe sexual harassment in places of employment. However, in no event shall an amount over two thousand dollars (\$2,000) be transmitted to the State Treasury until all fines, including any restitution fines that may have been imposed upon the defendant, have been paid in full.

(2) As used in this subdivision, "touches" means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.

(f) As used in subdivisions (a), (b), (c), and (d), "touches" means physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense.

(g) As used in this section, the following terms have the following meanings:

(1) "Intimate part" means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.

(2) "Sexual battery" does not include the crimes defined in Section 261 or 289.

(3) "Seriously disabled" means a person with severe physical or sensory disabilities.

(4) "Medically incapacitated" means a person who is incapacitated as a result of prescribed sedatives, anesthesia, or other medication.

(5) "Institutionalized" means a person who is located voluntarily or involuntarily in a hospital, medical treatment facility, nursing home, acute care facility, or mental hospital.

(6) "Minor" means a person under 18 years of age.

(h) This section shall not be construed to limit or prevent prosecution under any other law which also proscribes a course of conduct that also is proscribed by this section.

(i) In the case of a felony conviction for a violation of this section, the fact that the defendant was an employer and the victim was an employee of the defendant shall be a factor in aggravation in sentencing.

(j) A person who commits a violation of subdivision (a), (b), (c), or (d) against a minor when the person has a prior felony conviction for a violation of this section shall be guilty of a felony, punishable by imprisonment in the state prison for two, three, or four years and a fine not exceeding ten thousand dollars (\$10,000).

## Statutory Rape (Cal. Penal Code section 261.5)

(a) Unlawful sexual intercourse is an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is a minor. For the purposes of this section, a “minor” is a person under the age of 18 years and an “adult” is a person who is at least 18 years of age.

(b) Any person who engages in an act of unlawful sexual intercourse with a minor who is not more than three years older or three years younger than the perpetrator, is guilty of a misdemeanor.

(c) Any person who engages in an act of unlawful sexual intercourse with a minor who is more than three years younger than the perpetrator is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(d) Any person 21 years of age or older who engages in an act of unlawful sexual intercourse with a minor who is under 16 years of age is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

## Incest (Cal. Penal Code section 285)

Persons being within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who being 14 years of age or older, commit fornication or adultery with each other, are punishable by imprisonment in the state prison.

## Abuse (Cal. Family Code sections 6203 and 6211)

(a) For purposes of this act, “abuse” means any of the following:

(1) To intentionally or recklessly cause or attempt to cause bodily injury.

(2) Sexual assault.

(3) To place a person in reasonable apprehension of imminent serious bodily injury to that person or to another.

(4) To engage in any behavior that has been or could be enjoined pursuant to Section 6320.

(b) Abuse is not limited to the actual infliction of physical injury or assault.

“Domestic violence” is abuse perpetrated against any of the following persons:

(a) A spouse or former spouse.

(b) A cohabitant or former cohabitant, as defined in Section 6209.

(c) A person with whom the respondent is having or has had a dating or engagement relationship.

(d) A person with whom the respondent has had a child, where the presumption applies that the male parent is the father of the child of the female parent under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12).

(e) A child of a party or a child who is the subject of an action under the Uniform Parentage Act, where the presumption applies that the male parent is the father of the child to be protected.

(f) Any other person related by consanguinity or affinity within the second degree.

## Domestic Violence/Dating Violence (Cal. Penal Code sections 243 and 273.5)

(a) Any person who willfully inflicts corporal injury resulting in a traumatic condition upon a victim described in subdivision (b) is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by a fine of up to six thousand dollars (\$6,000), or by both that fine and imprisonment.

(b) Subdivision (a) shall apply if the victim is or was one or more of the following:

(1) The offender's spouse or former spouse.

(2) The offender's cohabitant or former cohabitant.

(3) The offender's fiancé or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship.

(4) The mother or father of the offender's child.

## Domestic Violence/Dating Violence (Cal. Penal Code section 243(e))

(1) When a battery (willful and unlawful use of force or violence upon the person of another) is committed against a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant's child, former spouse, fiancé, or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship, the battery is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail for a period of not more than one year, or by both that fine and imprisonment.

## Stalking (Cal. Penal Code section 646.9)

Any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking, punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment, or by imprisonment in the state prison.

## Stalking (Cal. Penal Code section 653(m))

(a) Every person who, with intent to annoy, telephones or makes contact by means of an electronic communication device with another and addresses to or about the other person any obscene language or addresses to the other person any threat to inflict injury to the person or property of the person addressed or any member of his or her family, is guilty of a misdemeanor. Nothing in this subdivision shall apply to telephone calls or electronic contacts made in good faith.

(b) Every person who, with intent to annoy or harass, makes repeated telephone calls or makes repeated contact by means of an electronic communication device, or makes any combination of calls or contact, to another person is, whether or not conversation ensues from making the telephone call or contact by means of an electronic communication device, guilty of a misdemeanor. Nothing in this subdivision shall apply to

telephone calls or electronic contacts made in good faith or during the ordinary course and scope of business.

### Consent to Sexual Activity (Cal. Penal Code section 261.6)

In prosecutions under Cal. Penal Code sections 261, 262, 286, 287, or 289, or former section 288a, in which consent is at issue, “consent” shall be defined to mean positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved.

A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is at issue in a prosecution under Cal. Penal Code sections 261, 262, 286, 287, or 289, or former section 288a.