



# **California State University Monterey Bay Annual Security Report 2025**

JEANNE CLERY CAMPUS SAFETY ACT  
(20 U.S.C. § 1092(F))  
Clery Crime Statistics 2022-2024

# Contents

<b>California State University, Monterey Bay</b> .....	7
<b>Annual Security Report</b> .....	7
Message from the President or Designee .....	7
Preparing the Annual Security Report.....	7
Separate Campuses .....	9
Daily Crime Log.....	9
Clery Crime Statistics 2022 to 2024 .....	9
California State University, Monterey Bay - Main Campus.....	9
Clery Crime Statistics 2022 to 2024 .....	14
Salinas Campus .....	14
Unfounded Crimes.....	20
Hate Crimes .....	20
Procedures for Students and Others to Report Criminal Actions or Other Emergencies on Campus .....	20
<b>Response to a Report</b> .....	21
Voluntary and Confidential Reporting.....	25
Crime of Violence Disclosures .....	26
California Education Code section 67380(a)(6)(A).....	26
Timely Warning Policy.....	26
Emergency Notification Policy .....	31
<i>Contents of the Emergency Notification</i> .....	32
<i>Methods of Distribution</i> .....	32
<i>Testing and Evacuation System</i> .....	35
Evacuation Policy.....	35
<b>Building Management Coordination</b> .....	38
<b>Responsibilities</b> .....	38
<b>Evacuation Notification</b> .....	39
<b>Critical Operations</b> .....	40
<b>Training</b> .....	40
<b>Test Protocol</b> .....	40
<b>Auxiliary Location Evacuation Plans</b> .....	41
<b>Making Appropriate Plans Before an Emergency Occurs</b> .....	41

Security of and Access to Campus Facilities, and Security Considerations for the Maintenance of Campus Facilities.....	42
Systemwide Law Enforcement Policy, Law Enforcement Authority.....	44
Security Awareness and Crime Prevention Programs .....	46
Monitoring and Recording Crime Activity at Noncampus Locations of Student Organizations .....	49
Possession, Use, Sale and Enforcement of Federal and State Alcohol and Drug laws.....	50
Sexual Violence Prevention .....	58
Training for Employees .....	61
Prevention and Awareness Programming.....	62
Information About Campus Reporting, Adjudication, and Discipline Procedures.....	64
Risk Reduction .....	67
Bystander Intervention .....	71
Written Notification .....	72
Supportive Measures.....	73
Reporting Options.....	79
The importance of preserving evidence .....	79
Reporting to law enforcement and making a criminal report .....	81
Protective Orders.....	83
Civil reporting options & protective orders.....	83
Court-Ordered Restraining Orders.....	83
Emergency Protective Order (EPO).....	83
Temporary Domestic Violence Restraining Order (TRO) .....	83
Criminal Protective Order (CPO) .....	84
Civil Harassment Restraining Order .....	84
The CSU, Restraining Orders and Protective Orders .....	84
Disciplinary Procedures.....	84
Applicable Complaint Procedures.....	86
Simultaneous Written Notification .....	87
Outreach to Complainant .....	87
Initial Assessment & Intake Meeting .....	88
Confidentiality Requests and Requests Not to Investigate .....	89
Supportive Measures.....	91

Review of Supportive Measures (Applies only to Reports or Complaints of Sexual Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, or Stalking) .....	92
No-Contact Directives.....	93
Criminal Complaints and Concurrent Investigations .....	94
Complaints .....	94
Complaints Accepted for Investigation .....	95
Complaint Not Accepted for Investigation .....	95
Discretionary Dismissal.....	95
Consolidation.....	96
Student Grade Appeals .....	97
Alternative Resolution Process.....	97
Informal Resolution .....	97
Acceptance of Responsibility.....	100
Investigations-The Formal Complaint Resolution Process .....	101
Purpose of the Investigation and Resolution Process .....	101
Privacy .....	102
Standard and Burden of Proof.....	103
Role of the Title IX Coordinator / DHR Administrator in the Investigation Process .....	103
Neutrality of Process .....	103
Investigation Where a Respondent Does Not Participate .....	103
Timeframe, Extensions, and Status Updates .....	103
Reasonable Accommodations.....	106
Notices of Investigation.....	106
Respondent Initial Meeting.....	107
Gathering Evidence.....	107
Investigations Involving Allegations of Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, or Stalking.....	108
Final Investigation Report .....	110
Hearings .....	112
Privacy .....	112
Appeal Procedures.....	121
Filing an Appeal to the Chancellor's Office .....	121
Bases for Appeal .....	121

Issues and Evidence on Appeal.....	121
Acknowledgement of Appeal.....	122
Reasonable Accommodation.....	122
Scope of Review .....	122
Civil Rights Appeals Unit Response .....	122
Reopening a University Investigation or Hearing .....	123
Reversal by Civil Rights Appeals Unit.....	123
Timeline for Response to Appeal.....	123
Timelines and Extensions .....	123
Disciplinary Sanctions and Remedies.....	124
Registered Sex Offenders .....	124
Missing Student Notification Procedures, including for On-campus Student Housing Facilities...	125
CSU Hazing Policy.....	127
Fire Safety Report.....	136
Appendix A: Jurisdictional Definitions .....	137
Rape (CA Penal Code Chapter 1 Section 261) .....	137
Sodomy (CA Penal Code Chapter 1 Section 286).....	138
Oral Copulation (CA Penal Code Chapter 1 Section 287).....	141
Bigamy, Incest, and the Crime against Nature (CA Penal Code Chapter 1 Section 285 and Section 289) .....	144
Fondling (CA Penal Code Chapter 9. Section 243.4, Assault and Battery).....	147
Statutory Rape (CA Penal Code, Chapter 1, Section 261.5) .....	149
Incest (CA Penal Code, Chapter 1, Section 285).....	150
Abuse: (CA Family Code, 6203 (definitions) and 6211).....	150
Domestic Violence/Dating Violence (CA Penal Code, Chapter 2, Section 273.5 and Section 243) .....	151
CA Penal Code 273.5.....	151
CA Penal Code 243(e) .....	151
Stalking: CA Penal Code, Chapter 2, Section 646.9.....	152
Stalking: CA Penal Code, Chapter 2, Section 653m .....	152
Consent to Sexual Activity (CA Penal Code, Chapter 1, section 261.6 and section 261.7) .....	152
Appendix B: Clery Act Annual Security Report Definitions .....	153
Appendix C: Track 1: Federal Mandated Hearing Process.....	154

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# California State University, Monterey Bay Annual Security Report

## Message from the President or Designee

Dear campus community,

At Cal State Monterey Bay, we pride ourselves on providing a safe and welcoming environment for all students, faculty and staff. Ensuring that we have a safe and secure campus is important in providing a sense of belonging and community for all university stakeholders, and is a pillar of our strong Otter Raft. As part of that responsibility, we publish an Annual Security Report (ASR) and Fire Safety Report (FSR) to ensure you are informed of the proactive work we have done to provide training and infrastructure to ensure we have a secure campus, and to prevent fire incidents on campus while also having clear plans on to respond if a fire were to occur.

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

We all share in the task of maintaining a safe campus and we all do our part by being alert for potentially dangerous situations.

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

Vanya Quiñones  
President, CSUMB

## Preparing the Annual Security Report

CSUMB publishes an Annual Security Report each year, on or before October 1st, in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. The Annual Security Report (hereafter “ASR”) is prepared, published and

disseminated by CSUMB's Clery Compliance Committee<sup>1</sup>. The Clery Compliance Committee is comprised of:

Dr. Ben Corpus, VP for Enrolment Management and Student Affairs,  
Dr. Reuban Rodriguez, AVP for Student Affairs and Dean of Students  
Dr. Sarah Lasnik, Associate Director of Residential Life  
Yvonne Gordon, Interim Chief/AVP for Public Safety  
Raeshma Bedi, Title IX/DHR Case Specialist  
Nicholas Babaian, Director of Title IX/DHR  
Nicholas Kramer, Director of Student Conduct

The information in this ASR should be reviewed by all members of the CSUMB community to become familiar with available programs and services. It is only through our collective efforts that we can keep our students, employees and visitors informed and safe.

Campus Security Authority (CSA)<sup>2</sup> must promptly report allegations of Clery crimes that occur within a Campus' 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 CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation. 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. The campus is required by law to disclose reports of some crimes (including dating violence, domestic violence, sexual assault/sexual misconduct and stalking) including through the daily crime log, the Annual Security Report, and Timely Warning Notices as explained in greater detail below. However, while the University will include reportable incidents in these disclosures, the victim's name/identity will not be included in publicly-available records or reports.

A variety of CSUMB campus partners contribute information related to the policy disclosure statements and institutional policies contained in the Annual Security Report.

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<sup>1</sup> Dr. Mardi Walters served as the CSUMB Clery Director for the 2024 calendar year. Following Dr. Walter's departure from CSUMB in March 2025, the Clery Compliance Committee was formed.

<sup>2</sup> The Campus Security Authority (CSA) is an individual designated under the Clery Act to receive and report criminal incidents occurring within Clery geography at a college or university.

These campus partners include, but are not limited to, University Police, student conduct, student housing, student affairs, facilities, capital development, human resources and others. The policy disclosure statements and procedures contained within this report are current as of publication, as the university recognizes this document as an immediate reference to possible current inquiries.

The Annual Security Report 2025 was compiled by the CSUMB Clery Compliance Committee, and was reviewed by CSUMB administrators, and internal offices that provide information regarding policy disclosure statements. For questions concerning the Annual Security Report please email the Clery Compliance Committee at: [clerycompliance@csumb.edu](mailto:clerycompliance@csumb.edu).

The California State University system policy implementing the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act") can be viewed [here](#).

## Separate Campuses

All policy statements contained in this report apply to all campuses unless otherwise indicated.

## Daily Crime Log

UPD maintains a Daily Crime Log which is available to the public for review, at CSU Monterey Bay Police Department, 100 Campus Center, Bldg 82F, Seaside, CA 93955, from 8 a.m. – 5 p.m. Monday through Friday, excluding holidays. A version may of the Daily Crime Log is also available online at: [Daily Crime Log | California State University Monterey Bay](#)

## Clery Crime Statistics 2022 to 2024<sup>3</sup>

### California State University, Monterey Bay - Main Campus

#### *Murder/NonNegligent Manslaughter*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0

<sup>3</sup> To the extent that any of these statistics differ from statistics reported in prior years, these statistics reflect the most updated information available to the university.

Year	Campus Residential	Campus Total	Noncampus	Public Property
2024	0	0	0	0

*Manslaughter by Negligence*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Rape*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	4	6	0	0
2023	5	6	0	0
2024	5	5	0	0

*Fondling*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	4	5	0	0
2023	0	0	0	0
2024	7	8	0	0

*Incest*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0

Year	Campus Residential	Campus Total	Noncampus	Public Property
2024	0	0	0	0

*Statutory Rape*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	2	0	0
2023	0	0	0	0
2024	0	0	0	0

*Robbery*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Aggravated Assault*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	4	5	0	0
2023	3	4	0	0
2024	2	2	1	1

*Burglary*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	1	2	0	0
2023	0	1	0	0

Year	Campus Residential	Campus Total	Noncampus	Public Property
2024	1	2	1	0

*Motor Vehicle Theft*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	1	1	0	0
2023	0	1	0	1
2024	0	0	1	0

*Arson*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	2	0	0
2024	0	0	0	0

*Domestic Violence*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	13	16	0	0
2023	11	31	0	0
2024	14	19	0	0

*Dating Violence*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	1	1	0	0
2023	0	0	0	0

Year	Campus Residential	Campus Total	Noncampus	Public Property
2024	0	0	0	0

*Stalking*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	1	6	0	0
2023	8	12	9	0
2024	6	16	1	0

*Arrests for Weapons Law Violations*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	1	3	0	0
2023	0	0	0	0
2024	1	2	1	0

*Arrests for Drug Law Violations*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	8	0	0
2023	0	0	0	0
2024	0	0	2	3

*Arrests for Liquor Law Violations*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	6	0

Year	Campus Residential	Campus Total	Noncampus	Public Property
2024	1	1	0	0

*Referrals to Disciplinary Action for Weapons Law Violations*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	1	1	0	0
2024	0	0	0	0

*Referrals to Disciplinary Action for Drug Law Violations*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	5	9	0	0
2023	38	40	0	9
2024	13	15	0	0

*Referrals to Disciplinary Action for Liquor Law Violations*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	12	0	0
2023	5	8	0	0
2024	17	18	0	0

## Clery Crime Statistics 2022 to 2024

### Salinas Campus

*Murder/NonNegligent Manslaughter*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Manslaughter by Negligence*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Rape*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Fondling*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Incest*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Statutory Rape*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Robbery*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Aggravated Assault*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Burglary*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Motor Vehicle Theft*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	1	0	0
2024	0	0	0	0

*Arson*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Domestic Violence*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Dating Violence*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Stalking*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Arrests for Weapons Law Violations*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Arrests for Drug Law Violations*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Arrests for Liquor Law Violations*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Referrals to Disciplinary Action for Weapons Law Violations*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Referrals to Disciplinary Action for Drug Law Violations*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

*Referrals to Disciplinary Action for Liquor Law Violations*

Year	Campus Residential	Campus Total	Noncampus	Public Property
2022	0	0	0	0
2023	0	0	0	0
2024	0	0	0	0

## Unfounded Crimes<sup>4</sup>

2022 There were no unfounded crimes.  
2023 There were no unfounded crimes.  
2024 There were two (2) unfounded crimes.

Pursuant to 34 CFR 668.46(c)(2)(iii), a reported crime where sworn or commissioned law enforcement personnel have fully investigated the reported crime and, based on the results of this full investigation and evidence, have made a formal determination that the crime report is false or baseless and therefore “unfounded.” Only sworn or commissioned law enforcement personnel may “unfound” a crime report for purposes of reporting under this section. The recovery of stolen property, the low value of stolen property, the refusal of the victim to cooperate with the prosecution, and the failure to make an arrest do not “unfound” a crime report.

## Hate Crimes<sup>5</sup>

2022 There were no reported hate crimes.  
2023 There were no reported hate crimes.  
2024 There were two (2) reported hate crimes.

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

The California State University (CSU) system supports transparency, communication, and engagement of members of the campus community through the publication of policies that govern law enforcement activities on all 23 campuses. These policies are referred to as Standard Law Enforcement policies, which can be viewed [here](#).

### California State University Monterey Bay

Each member of the university community has the obligation to report threats or acts of violence to the appropriate university authority. CSUMB strives to prevent threats and acts of violence through coordinated services for students, faculty, and staff. The university works 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 support and protect victims, potential victims, and witnesses from further

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<sup>4</sup> These unfounded crimes statistics are for CSUMB Main Campus. There were no reported unfounded crimes for the CSUMB Salinas Location.

<sup>5</sup> These hate crime statistics are for CSUMB Main Campus. There were no reported unfounded crimes for the CSUMB Salinas Location.

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.

## **Response to a Report**

Monterey County Dispatchers answer calls for the Cal State Monterey Bay campus 24 hours a day, 7 days a week, 365 days a year. The UPD will be advised to respond appropriately to address the situation reported. Officers will make contact with appropriate parties as needed, complete required documentation, and conduct investigations as necessary or when deemed appropriate. Situations that may require a collaborative campus approach, involvement of other key stakeholders, or responsible administrators will be shared with the appropriate confidential partners for a comprehensive campus response to meet the culture of care standards maintained at Cal State Monterey Bay.

If additional resources are needed from surrounding Police Departments or the Fire Department, UPD maintains mutual aid agreements for shared services and the appropriate requests will be made by the on duty Watch Commander. If a sexual assault or rape should occur, staff on the scene, including UPD, will offer the victim a wide variety of services.

When appropriate, criminal investigations will be referred by the University Police Department (UPD) to the Office of the Monterey County District Attorney for both CSUMB's main campus and the Salinas campus for prosecution.

CSUMB students, employees, and residents who commit acts of violence, threats of violence, a crime, or any other behavior which by intent, act, or outcome harms another person may also be referred to the appropriate university administrator for administrative review and/or conduct process.

## **Reporting of Crimes and Emergencies to Law Enforcement**

The university encourages the complete, accurate, and prompt reporting of all crimes to the following entities:

- **CSUMB recommends individuals experiencing an emergency situation call 9-1-1 for assistance.**
- **University Police Department for the CSUMB main campus:**

If you are a victim of crime or a witness to a crime while on campus or near campus, report it to the CSUMB University Police Department in person or by calling 831-655-0268 as soon as possible.

**Call:** 831-582-3000 for emergencies

**Visit** CSUMB University Police Department at Valley Hall, 2081 InterGarrison Road, Seaside, CA 93955.

[Visit CSUMB Police Department online](#)

[To file a non-emergency report](#)

Emergency alerts are posted on this UPD webpage:

<https://csumb.edu/police/emergency/>

### **CSUMB University Police Department (UPD)**

The California State University system has established Law Enforcement Policies to be followed by each of its twenty-three campuses. The University Police Department (UPD) 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>6</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<sup>7</sup>” campus emergency phone. There are over sixty two blue-light emergency phones in operation at any given time except when impacted by construction or maintenance that are located throughout the Seaside campus. Blue light phones are available 24 hours a day and are easily recognizable by their blue color and the blue light at the top of the phone box.

Use blue light phones to report:

- Fire and medical emergencies
- Crimes in progress
- Accidents
- Suspicious behavior or activity

Classroom and office phones may be used to dial 9-1-1 in the event of an emergency. When calling in an emergency, 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 crime that occurred, suspect and vehicle description, direction of travel for suspect and vehicle, nature of the medical or other 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.

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<sup>6</sup> For more information on how to report on-campus fires and fire safety, please see the [Fire Safety Report](#).

<sup>7</sup> Blue-light phones and emergency call boxes are tested monthly, and if one is not working, it is immediately repaired or replaced.

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 is located at 2 Soledad Street, Salinas, CA 93901. To report a crime or emergency call Salinas Police Department at 831-758-7321.
- CSUMB at Salinas City Center is located at 1 Main Street, Salinas, California 93901. To report a crime or emergency call Salinas Police Department at 831-758-7321
- The University Corporation at Monterey Bay (the "Corporation") is located at 8 Upper Ragsdale Drive, Monterey, CA, 93940. To report a crime or emergency call Monterey Police Department at 831-646-3830

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

### **Salinas Police at CSUMB at North Salinas Campus**

If no immediate threat exists and a CSUMB student or employee is located at CSUMB at North Salinas at the time of the report, individuals should contact the Salinas Police Department. Salinas Police will serve as initial responders to all calls for service to CSUMB at North Salinas. Salinas Police provide 24-hour law enforcement service throughout the entire calendar year, including all holidays. Visit the Salinas Police Department in person: 312 E Alisal Street, Salinas CA 93901

- **For a crime in progress:** Call 911
- **Non-emergency dispatch:**

Call 831-758-7321. Press 1 for English or 2 for Spanish. If you are reporting a crime with no suspect info press 1. If you have suspect info or reporting a stolen vehicle, a missing person, need a welfare check or reporting a stolen firearm press 2.

- **Anonymous Tip on Voicemail Recording:**

Call 831-775-4222 to leave an anonymous tip on a voicemail recording.

- **Report an Abandoned Vehicle:**

via the SalinasCONNECT app or using our online reporting tool [here](#).

- **File an Online Police Report** [here](#)
- **Leave Voicemail at an Officer's Extension or Refer to Salinas Police Department Directory:** Call (831) 775-4201

[Visit the Salinas Police Department online](#)

### **Reporting to a Campus Security Authority (CSA)**

The university encourages all members of the campus community to contact University Police for the CSUMB main campus if they have been the victim of or have witnessed a crime. Members of the campus community may also notify a Campus Security Authority (CSA) of a crime, without notifying law enforcement, if they choose to do so. The Clery Act requires institutions to designate and train relevant employees as CSAs to promptly report allegations of Clery Act reportable crimes reported to them, immediately to the Clery Committee at [clerycompliance@csumb.edu](mailto:clerycompliance@csumb.edu) and by filing out the [Campus Security Authority Reporting Form](#).

## Reporting to Meet Disclosure Requirements

Members of the community are helpful when they immediately report crimes or emergencies to the CSUMB University Police Department for purposes of including them in the annual statistical disclosure and assessing them for issuing a Timely Warning Notices, when deemed necessary.

The reporting of Clery Act crime statistics in the Annual Security Report specifically includes crimes that occurred on four locations, which are referred to as Clery Geography, which has been defined in an early section of this report titled: *Preparation of the Annual Crime Statistical Disclosures*.

The Clery Act identifies four separate categories of institutional personnel that are designated and trained as a Campus Security Authority (CSA) as follows:

*Campus police or department of public safety;*

*Individuals who have responsibility for campus security but are not members of a campus police or department of public safety (e.g., residential security, event security, library monitors);*

*Individuals specified by an institution as their preferred receivers of reports;*

*Personnel who have significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings.*

Individuals may also 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.

For a full listing of CSA-qualified positions, see [csumb.edu/csa](http://csumb.edu/csa). For contact information regarding personnel in these various positions, visit the university's Directory at [csumb.edu/directory](http://csumb.edu/directory).

For more information on Campus Security Authorities visit <https://csumb.edu/csa/>.

The Clery Act crimes which should be reported to Campus Security Authorities are:

Murder and Non-Negligent Manslaughter	Negligent Manslaughter	Aggravated Assault	Arson
Burglary	Robbery	Motor Vehicle Theft	Rape
Fondling	Statutory Rape	Incest	Domestic Violence
Dating Violence	Stalking	Hate Crimes <sup>8</sup>	Hate Crime: Simple Assault
Hate Crime: intimidation	Hate Crime: Larceny Theft	Hate Crime: Destruction, damage, and/or vandalism of property	Hazing

To view the definitions of Clery Act crimes see Appendix B.

## Voluntary and Confidential Reporting

CSUMB 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 and confidential reporting options) 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.

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<sup>8</sup> Hate crimes involving any of the preceding Clery crimes listed that demonstrate evidence of perpetrator's bias.

For certain sex offenses<sup>9</sup>, the victim has the right to affirmatively request from University Police, after being informed of their options, that the victim's identity remain confidential. However, even if the victim requests confidentiality of identity, the University Police should specifically ask the victim if the victim's name can be provided to the Title IX Office so that the Title IX Coordinator can contact the victim to discuss supportive measures that can be offered. And in all cases, even when the victim requests confidentiality, the identity of the alleged perpetrator (if known) must be reported to the Title IX Coordinator.

Any victim of these crimes may request their name remain confidential in the police report narrative. These reports will be included in the university's annual disclosure of crime statistics.

## 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), Campus Security Authorities (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 Campus communities. It is intended to provide faculty, staff, and students with timely information about Clery reportable crimes occurring

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<sup>9</sup> 1 See Penal Code Sections 220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6.

within the defined Clery Geography of their Campuses, and to comply with the Timely Warning requirements of the Jeanne Clery Act.

As required by the Clery Act, CSU Campuses will keep their Campus communities informed by providing a timely warning when appropriate.

- Upon receipt of a Campus Security Authority (CSA) report of a Clery crime on Clery Geography, a Timely Warning analysis shall be completed and documented by the Chair of the Clery Compliance Committee. The Chair of the Clery Compliance Committee shall have authority to delegate this responsibility as appropriate. It is not necessary to document the completed Timely Warning analysis for referrals to disciplinary action.
- If it is determined that the report includes a Clery crime on Clery Geography, the Chair of the Clery Compliance Committee 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 Chair of the Clery Compliance Committee 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. Campuses are 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).

### **Case by case Analysis**

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 Chair of the Clery Compliance Committee (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 University Police Department (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 Campus Safety 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.<sup>10</sup>

Distribution methods vary from campus to campus and include, but are not limited to, any of the following:

- All employee and student mass 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 Chair of the Clery Compliance Committee (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.<sup>11</sup>

The institution is not required to issue a Timely Warning with respect to crimes reported to a pastoral or professional counselor.

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<sup>10</sup> Timely Warnings are distributed in a manner that withholds the names of victims as confidential, and with the goal of aiding in the prevention of similar occurrences.

<sup>11</sup> At CSUMB, Timely Warning Notices are typically written and distributed by the Chief of Police, or designee.

Campuses are required to maintain a list of the methods of distribution for timely warnings and include said list in the Campus's Annual Security Report.

At CSUMB, Timely Warnings will be distributed community-wide in a manner where there is a reasonable expectation to reach the entire campus community, which is typically sent via mass e-mail. Timely Warnings issued are posted on the [CSUMB Clery webpage](#).

If a person is triggered by a Timely Warning and wishes to seek mental health services, they are encouraged to contact the [Personal Growth and Counseling Center](#) if they are a student or if an employee, the [Employee Assistance Program](#).

If seeing a Timely Warning empowers someone to report their crime victimization, they can contact University Police by dialing the non-emergency number (831) 655-0268, Title IX by emailing [TitleIX\\_DHR@csumb.edu](mailto:TitleIX_DHR@csumb.edu), or may make a report to a [Campus Security Authority](#).

This list is not intended to be exhaustive or intended to prioritize the method of distribution. The Chief of Police will confer with the Chair of the Clery Compliance Committee (or management designee), if available, to determine the most appropriate method(s) to distribute a Timely Warning. In the absence of the Chair of the Clery Compliance Committee (or management designee), the Chief of Police will determine the appropriate method of distribution. Campuses are required to maintain a list of the methods of distribution for timely warnings and include said list in the Campus's Annual Security Report.

## **[OTTERalerts](#)**

In the event of an emergency, CSUMB will first issue an **[OTTERalert](#)**, which is CSUMB's emergency alert system. OTTERalert delivers emergency alerts via email, text, and an outdoor speaker system to all members of the CSUMB community.

CSUMB employees and students automatically receive emergency alert emails to their campus email address whenever there is an emergency on campus or when the system is undergoing testing.

### **OTTERalert by text**

Students, staff, and faculty have the option to receive OTTERalerts emergency notifications through text by signing up for them. This is a great way to get immediate information right to your mobile phone. Invite your family and friends to sign up also, so they are kept informed as well.

### **[Sign Up for Texts](#)**

Community members

Parents, supporters, visitors, and community members can sign up for OTTERalerts to receive emergency text alerts and emails from the campus.

### **[Community Sign Up](#)**

Update your information

If your email or phone number has changed, please [update your OTTERalert information](#).

## Emergency Notification Policy

This policy describes the procedures that will be used to immediately notify the Campus 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 a dangerous situation that poses an imminent or immediate threat shall report the information to University Police Department (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 any 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 and/or the Clery Director (or management designee) will 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.<sup>12</sup>

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<sup>12</sup> The messages are typically sent/issued by the Chief of Police.

Once the notification is prepared, the Chief of Police and/or the Chair of the Clery Compliance Committee (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 is not required 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 take to ensure their own safety
- A statement as to where or when additional information may be obtained

The Chief of Police and/or Chair of the Clery Compliance Committee (or management designees) 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 based on the circumstances at the time 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<sup>13</sup>

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<sup>13</sup> OTTERalert Notification System: This tool is used to send emergency notifications to every registered user. If a registered user does not have a phone, the message goes to their preferred email account. All students, faculty and staff are automatically enrolled in the emergency email message alert system. Students, faculty and staff are encouraged to sign up for emergency text messaging notifications in Otteralert.

- 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, which campuses shall disclose in their ASRs as applicable.

### ***CSUMB Emergency Communications***

The university has several means of communicating emergency information to the campus community. There is no single form of perfect communication, so it is critical that emergency information be communicated in a variety of ways to reach the greatest number of people possible.

Depending on the severity of the situation, the university may use any combination or all of the following forms of communication.

- **OTTERalert Notification System:** This tool is used to send emergency notifications to every registered user. If a registered user does not have a phone, the message goes to their preferred email account.

**All students, faculty and staff are automatically enrolled in the emergency email message alert system. Students, faculty and staff are encouraged to sign up for emergency text messaging notifications in Otteralert.**

Emergency notifications using OTTERalert have four options for methods of dissemination. When the notification system is initiated, posts to Facebook, Twitter, and all authenticated user dashboards occur simultaneously. All computers provided by the university will also receive desktop notifications. Students, faculty and staff will need to opt-out in order to stop receiving messages: [csumb.edu/otteralerts](http://csumb.edu/otteralerts).

- **Outdoor Notification System:** External speakers have been placed throughout the Main Campus. In the event of an emergency, information to the CSUMB MAIN CAMPUS/SALINAS can be broadcast over the campus via wireless system, utilizing solar power and battery backup systems.
- **Mass Email:** These global email lists allow the University to send an email message to every student, staff and faculty members' official CSUMB email account.
- **University Websites:** In the event of an emergency or natural disaster on campus, the University will post emergency information on the CSUMB Home Page and/or

the UPD Home Page at <https://csumb.edu/> and <https://csumb.edu/police>, respectively.

- **Mass Voicemail:** This voicemail broadcast tool can send a recorded voicemail to every voicemail box on the CSUMB phone system. When this is activated, the voicemail light will light up on phones. When users check their voicemail, they will hear a recorded message.
- **Emergency Update Hotline:** In the event of an emergency, the Emergency Response Team will regularly update a message on this phone number with critical information. The number is x5044 or 831-582-5044.
- **Local Media:** In the event of an emergency where cell phone towers may not be operable, a local TV station, the Campus TV Channel, and three local radio stations have agreed to broadcast emergency information for the University. These stations are: KSBW TV (Channel 8 on campus, Channel 6 on Comcast); Campus TV Channel 72 (on campus only); KAZU 90.3 FM; KWAV 96.9 FM.
- **Emergency Alert Systems:** The University's police vehicles are equipped with public address systems and can be utilized to announce information in public areas, if necessary, in an emergency.
- **Reverse 9-1-1:** Telephone Emergency Notification System (TENS) allows the UPD to make mass notifications to residential phone lines using the 9-1-1 system.

System to use	Primary Message Creator	Backup Message Creator	Authority for approving & sending messages	Primary Message Sender/ Distributor	Backup Message Sender/ Distributor
RAVE/Genasys	Emergency Manager (or designee)	Chief of Police (or designee)	Chief of Police, Emergency Manager	Emergency Manager (or designee)	Police Chief (or designee)
CSUMB Safe	Chief of Police or Emergency Manager	Communications Team	Chief of Police or President (or designee)	Police Department	Communications Team
Outdoor Notification System	Police Department	Emergency Management	Chief, W/C, or EM	EM or W/C	Same
Email	Chief or Emergency Manager	Communications Team	Chief, President, EM	Communications Team	Police Department
Websites	Chief	Communications	Chief, President	Communications	

Media	Chief	Communications	Chief, President	PIO	Communications
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To view CSUMB’s emergency operations plan, emergency action plan and active shooter protocol [visit this website](#). The Emergency Management Health & Safety (EMHS) Division of the University Police Department offers training and education programs intended to educate the campus community on disaster preparedness. For more information [visit this website](#).

CSUMB maintains an Emergency Response Plan that outlines responsibilities of campus units during emergencies. This plan outlines incident priorities, campus organization and specific responsibilities of particular units or positions.

University units are responsible for developing emergency response and continuity of operations plans for their areas and staff. Campus emergency management provides resources and guidance for the development of these plans. Emergencies occurring on campus should be reported to the CSUMB Police Department.

### *Testing and Evacuation System*

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, the campus emergency response and evacuation procedures will be publicized in conjunction with at least one test per calendar year. 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 Compliance Committee.

## Evacuation Policy

CSUMB Emergency Management maintains and coordinates emergency procedures for the CSUMB community. Information about the emergency procedures can be located here: [Emergency Procedures | California State University Monterey Bay](#)

### *Building Evacuation Policy*

#### **Purpose**

The purpose of this policy is to provide information and guidelines to the Cal State Monterey Bay (CSUMB) campus community regarding safe and orderly evacuation of buildings in the event of an emergency. Additionally, this policy outlines the conditions for which building occupants must evacuate a building and delineates the responsibility of the

campus population during a drill, exercise, test or emergency[2] for on-campus property and non-campus buildings[3] as outlined by CSU policy and federal regulation[4].

This policy is deemed to be consistent with the University's commitment to the principles, goals, and ideals described in the Cal State Monterey Bay Founding Vision and its core values.

## **Definitions**

**Access and Functional Needs:** Pertains to anyone who might need special considerations to access essential services or evacuate safely in a crisis situation. Examples include individuals limited in their ability to perform routine activities, including those with physical disabilities, older adults, people with limited English proficiency, individuals with chronic health conditions, children, or those with transportation challenges.

**Building Evacuation Drill:** A coordinated, supervised activity used to practice skills or capabilities that is done at least once a year or more frequently as needed (e.g., Student Housing & Residential Life (SHRL) evacuation drills). Building evacuation drills are intended as an all-hazard test of the building/facility evacuation process and are usually begun with the sounding of a fire alarm. The University Police Department (UPD), fire authorities, and SHRL reserve the right to conduct building evacuation drills building-by-building. Also referred to as "drill."

**Campus Population:** Includes, but may not be limited to, staff, faculty, and administrators employed by the University, the University Corporation, contracted vendors, students, guests, and volunteers.

**Emergency:** A sudden and usually unforeseen event that calls for immediate measures to minimize its adverse consequences, including conditions of disaster or extreme peril to the safety of persons and property, which require the response of community resources.

**Emergency Evacuation Plan Map:** Maps that are posted near exits of each building/facility and may also be [viewed online](#), showing exit routes and primary assembly areas.

**Emergency Action Plan:** An Emergency Action Plan (EAP) is a written document that helps employees and employers prepare for workplace emergencies. An EAP aims to minimize injury and loss of life by: training employees, assigning responsibilities, and procuring and maintaining necessary equipment.

**Essential Personnel:** Campus administrators, faculty, and staff who are required to report to a designated work location to ensure the operation of University functions during an

emergency or when the University is experiencing a suspension in function. Essential personnel vary depending on the type of emergency or suspended function.

**Evacuation:** The orderly withdrawal of building occupants to a designated primary assembly area in response to an actual or potential emergency.

**Evacuation Drills:** For the purpose of this policy, evacuation drills are coordinated, supervised and operated in coordination with a hazard-specific training event conducted campus-wide (e.g. The Great California Shakeout). Evacuation drills may not be accompanied by a fire alarm but will be announced by the AVP/Chief of Police, or designee, or University Communications. In some cases an evacuation notification may also be utilized (See Section 5.00 Evacuation Notification) immediately prior to an evacuation drill.

**Evacuation Notification:** A message, if warranted, issued to the occupants of a campus building affected by an emergency incident that instructs occupants to evacuate the building in accordance with the building's emergency evacuation plan map as an included component of an emergency notification. The term evacuation notification also refers to the notifications issued in conjunction with evacuation drills.

**False Alarm:** A fire alarm or other emergency signal intentionally or unintentionally activated when no emergency exists.

**Non-campus Building:** Any building owned or controlled by a student organization that is officially recognized by Cal State Monterey Bay; or any building or property owned or controlled by Cal State Monterey Bay that is used in direct support of, or in relation to, CSUMB's educational purposes, is frequently used by students, and is not within the same, reasonably contiguous geographic area of the University. For the purposes of this policy, non-campus buildings are only subject to training, drills, and exercises as outlined. Actual emergencies requiring evacuation will be responded to and handled by the appropriate local agencies.

**On-campus Property:** Any building or property owned or controlled by CSUMB within the same reasonably contiguous geographic area and used by the University in direct support of, or in a manner related to, the University's educational purposes, including residence halls; and any building or property that is within or reasonably contiguous to the campus that is owned by CSUMB but controlled by another person, is frequently used by students, and supports institutional purposes. Also referred to as "on-campus." On-campus property includes residential facilities.

**Primary Assembly Area:** A designated open-space area at least 50 feet away and easily accessible from the building and that is capable of holding all building occupants safely.

These areas will not include locations where emergency personnel are likely to respond or open areas contained within structures (e.g., courtyard). Each building's primary assembly area is visibly marked on its Emergency Evacuation Plan Map. Maps are posted near exits of each building/facility and may also be viewed online.

Test: Regularly scheduled drills, exercises, and appropriate follow-through activities, designed for assessment and evaluation of emergency plans and capabilities.

### **Building Management Coordination**

Managers/directors/supervisors/deans/department chairs/Pis (hereinafter "Supervisors") are all responsible for implementing evacuations in their work areas and for answering employee questions about the emergency evacuation and emergency preparedness training. Supervisors work with Human Resources to identify and assign the required training needed for their employees. In an emergency, all Supervisors are responsible for making a concerted effort to account for all employees under their supervision in collaboration with Human Resources and Emergency Management.

### **Responsibilities**

UPD and the AVP/Chief of Police are designated responsible for campus emergency management activities and programs by the Emergency Executive, the Vice President of Administration and Finance, or designee.

According to the National Fire Protection Association Standard (NFPA) Fire Prevention Code Section 3.22, drills include suitable procedures so that all persons who are subject to them participate. Drill and evacuation plans cover all persons in the building, therefore, occupants of University buildings must exit when alarms sound or when emergency authorities initiate an evacuation. Any person failing to comply with fire drill procedures may be escorted out of the building by UPD. Incidents of employee non-compliance to evacuate a building shall be reported to the employee's immediate supervisor for further review and corrective action. Any incidents of student non-compliance to evacuate may be forwarded to the Director of Student Conduct for consideration of corrective or disciplinary action. No person may leave the primary assembly area or campus until they have been counted and released as directed by UPD or other first response personnel.

Every person needs to take responsibility for preparing for emergencies, including determination of individual access and functional needs during evacuation.

### **Campus Population**

Members of the campus population shall:

1. Know the evacuation routes and assembly points for buildings they occupy;

2. Assist others in need during evacuations without placing themselves in danger;
3. Evacuate the building in an orderly manner whenever the fire alarm system is activated and/or an evacuation is ordered by an appropriate campus authority, or during planned evacuation drills, whether announced or not;
4. Adhere to all campus health, safety, and security policies;
5. Follow evacuation and emergency action plans in the event of an emergency situation, or drill; and,
6. Comply with the directions of identified University officials and uniformed emergency response personnel.

### **Faculty, Researchers, and Staff**

In addition to the responsibilities identified in section 4.10 of this policy, faculty, researchers, and staff who work directly with students are encouraged to:

1. Inform students of safety and evacuation procedures in the event of an emergency situation and implementing those procedures during an event or drill; and
2. Report in-class incidents and potential hazards to appropriate University departments (i.e. EM, Facilities Management, etc.) for follow-up action.

### **Individuals with Access and Functional Needs**

In addition to the responsibilities identified in section 4.10 of this policy, individuals with access and functional needs are encouraged to:

1. Consider personal needs and develop an individualized emergency plan in addition to making alternative emergency evacuation plans since; while emergency personnel are usually available to assist with evacuation, this may not always be the case.
2. Encourage family members and other caretakers who are not on campus to also sign up for OTTERalerts to facilitate communications should an emergency occur.

### **Evacuation Notification**

When evacuation of a building or facility is determined to be appropriate, an Evacuation Notification will be issued for the building(s). Consistent with section 4.10 of this policy, all students and employees shall immediately evacuate upon notification.

Evacuation notifications shall be coordinated by the AVP/Chief of Police, the Clery Compliance Officer, and management designee(s) as outlined in the [CSU Clery Policy](#).

Building evacuations may be announced using a variety of platforms, including but not limited to:

1. University websites;
2. Outdoor Public Address System;
3. OTTERalert (e.g. text message (SMS), email and Desktop Notification);
4. Mass e-mail;
5. Mass voicemail;
6. Emergency Update Hotline;
7. Monterey County Emergency Alert System;
8. Local media; and,
9. Fire alarm.

In-person communication or other means may be used to communicate in an emergency.

### **Emergency Notifications**

For the full policy on emergency notification, refer to Appendix B of the [CSU Emergency Notification section](#) of the CSU Clery policy.

### **Critical Operations**

Certain campus activities may pose an additional hazard if left unattended or in operation during evacuation. Emergency Management will work with departments involved in such activities to develop specific emergency response procedures. This may require additional training for involved employees, including recognition of risk and when to abandon the operation and evacuate.

### **Training**

The University Emergency Manager is responsible for emergency preparedness and evacuation training as well as the retention of training records.

All employees are required to complete the CSU-Emergency Procedures training in CSU Learn.

Additional evacuation training for the campus population may be necessary and/or requested by the appropriate administrator.

### **Test Protocol**

Emergency Management is responsible for coordinating and conducting the University's emergency response and evacuation drills.

Drills are planned in advance and 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.

Drills will be conducted in accordance with the Department of Homeland Security's Homeland Security Exercise Evaluation Program; the SHRL *Emergency Housing Plan*; and the University's *Emergency Management Multi-Year Training and Exercise Plan*.

After Action Reports/Improvement Plans (AARs/IPs) provide concrete steps that the University can improve their response capabilities and address areas for improvements observed during drill. Drills are also an opportunity to identify lessons learned and best practices that can help build the University's overall preparedness. As such, each drill shall be documented, including but not limited to:

1. A description of the drill;
2. The date(s) of the drill;
3. The drill's time(s);
4. Whether the drill was announced or unannounced;
5. Identification of gaps and lessons learned from the drill; and,
6. Development of a continuous improvement plan based on gap analysis and lessons learned from the drill.

The Emergency Manager, in concert with the Chair of the Clery Compliance Committee and the AVP/Chief of Police, or designee, shall publish a notice to all current students and employees of its annual drill requirement completion. The notice shall contain a summary of the drill's components and applicable evacuation procedures. The notice shall be publicized by University Communications upon the completion of the AAR/IP.

EM and the Chair of the Clery Compliance Committee shall work to retain records regarding the University's completion of Higher Education Opportunity Act's (HEOA) annual drill requirement in accordance with the [CSU Records Retention and Disposition Schedule](#) or federal mandate (seven years), whichever is greater.

### **Auxiliary Location Evacuation Plans**

Students, faculty and staff occupying an on-campus facility, or any off-campus facility during the time of an evacuation drill or emergency are to comply with this policy.

Students occupying any on-campus residential facility are subject to abide by SHRL evacuation procedures as outlined in the *Emergency Housing Plan* pursuant to Section 66210 of the California Education Code.

### **Making Appropriate Plans Before an Emergency Occurs**

Students, staff, and faculty are strongly advised to sign up for "OTTERalert" to receive timely notices via phone call, text, and/or email in the event of an emergency. For more information and to sign up for OTTERalerts visit [this page](#). Family members and other

caretakers who are not on campus may also sign up for [OTTERalerts](#) to facilitate communications should an emergency occur.

Every individual should become familiar with the area by locating exits, stairwells, elevators, fire alarms, and possible areas of rescue. If an individual notices that the Emergency Evacuation Map for a building they use on campus is missing or that other guidelines outlined in this policy need improvement, then they should contact EM to help remedy the situation. All students, staff, and faculty must take responsibility for their safety by engaging in all the above preparations. Additional information is located on the UPD [Emergency Management webpage](#).

## Security of and Access to Campus Facilities, and Security Considerations for the Maintenance of Campus Facilities

### **Notice of Pending Policy Change – Time, Place and Manner**

The new California State University system-wide policy about Time, Place and Manner was implemented by the Office of the Chancellor and applies to all universities in the CSU system. Individual campuses have limited latitude related to implementation. All [CSU Time, Place and Manner Policy](#) information will be posted on this CSUMB page. CSUMB has its own [Interim CSUMB Addendum](#) to the CSU Systemwide Time, Place and Manner Policy.

View the California State University System's [Interim Time, Place, and Manner Policy](#) in its entirety.

### **CSUMB Main Campus**

CSUMB maintains a policy that addresses the security of and access to university facilities, including campus residences, and security considerations used in the maintenance of university facilities. This policy complements the campus' Facilities and Grounds Use Policy. The Security of and Access to University Facilities policy can be viewed [here](#).

CSUMB employs both safety and security video systems and intrusion alarm systems at crucial areas throughout its main and separate campuses to strengthen its security capabilities. For added security, UPD is responsible for patrolling main campus facilities to monitor conditions and respond to emergencies. When necessary, UPD may make security related maintenance recommendations that may 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.

University facilities are inspected on a regular basis to ensure that repairs (e.g., broken windows and locks, failing video and intrusion alarm systems, and failing card readers) are made in an expeditious manner.

During normal business hours the administrative and academic facilities at CSUMB are open and accessible to students, staff, faculty, and visitors of the University. After normal business hours and during breaks, these facilities are locked and only accessible to authorized individuals. UPD officers conduct routine security and safety patrols of the academic and administrative buildings to monitor conditions and report any unusual circumstances. The Security of and Access to University Facilities policy can be viewed [here](#).

### CSUMB 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 (RA) and professional staff are on duty after hours. Residential Life live-in professional staff are available for assistance and support of students and an after hours on call structure is in place.

Students living on the 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 opens 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 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 rekey 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/community-standards/>.

## **SECURITY OF AND ACCESS TO CAMPUS NORTH SALINAS**

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 through Friday from 8:30 a.m. to 5:00 p.m. 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.

Contracted security personnel may be hired by CSUMB 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. 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 CSUMB campuses that maintain a police department or public safety security department.

## **Systemwide Law Enforcement Policy, Law Enforcement Authority**

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,

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

or by trustees or the state on behalf of 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.
- 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.

The CSU Police Department officers have the authority to enforce State, Local and Federal laws and University Policies. California State University encourages accurate and prompt reporting of crime. All members of the Campus community are encouraged 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 an operational agreement/memoranda of understanding (MOU) with the Monterey County Sheriff's Office in compliance with *California's Kristin Smart Campus Safety Act and Higher Education Opportunity Act* to share information regarding 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's 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**

The Salinas Police Department has primary jurisdiction for the enforcement of criminal offenses at CSUMB at North Salinas and is located at 312 E. Alisal St. Salinas, CA 93901.

The 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.

There is no memorandum of understanding or other written agreements between CSUMB and any local law enforcement agency regarding the investigation of criminal offenses for CSUMB at North Salinas.

## **Security Awareness and Crime Prevention Programs**

The following programs are designed to inform CSUMB's main campus 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 students at both the main and Salinas campuses.

During the 2024-2025 academic year, CSUMB police offered approximately 25-30 crime prevention and security awareness presentations.

## ***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 live upon request and is also 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. Orientation also includes information on CSU and CSUMB policies that prohibit sexual violence, discrimination, harassment and retaliation, alcohol and drug use and abuse and the possession and use of weapons on campus. Traditional orientation for all new students occurs in June each year.

Orientation for employees can occur at any point during the year for new employees as they may be hired at any time throughout the year.

## ***Disaster Service Worker (DSW) Virtual Academy***

The DSW Academy provides resources, information, and training to better prepare all public employees (i.e., CSUMB 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 CSUMB university employees have disaster worker status. The oath or affirmation per California Government Code §3102 is signed by all CSUMB employees as part of the hiring paperwork when first hired.

New CSUMB 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/>

## ***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 the 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/](http://csumb.edu/police/personal-safety/)

### ***Online Training***

Faculty, staff, and students are assigned various online training through the CSUMB 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, the 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***

The Night Walk Service provides escorts between main campus locations to anyone regardless of their affiliation with CSUMB. Escorts will be provided on foot and are available 24 hours a day, seven days a week. The service is provided by CSO's Monday through Friday evenings from 6:30 pm to midnight during the Fall and Spring semesters, and police officers during the times CSO's are not staffed. Call 831-655-0268 to request a Night Walk or email [parking@csumb.edu](mailto:parking@csumb.edu) for more information.

### ***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."

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 through the 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.

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

Although no university recognized student organization owns any off-campus<sup>15</sup> properties, student organizations can control properties on either a frequent or a repeated use.

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<sup>15</sup> Noncampus

When a CSUMB 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<sup>16</sup> 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 non-campus locations of student organizations.

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

For more information on [CSUMB's student conduct procedures and codes](#).

This is a link to view the California State University Student Conduct [Standards](#) and [Procedures](#).

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

California State University, Monterey Bay prohibits the unlawful possession, use, sale or distribution of illicit drugs and alcohol by students and employees. The university's drug and alcohol abuse education and prevention program is designed to prevent the unlawful possession, use, and distribution of drugs and alcohol on campus and at recognized events and activities.

Alcohol continues to be the most commonly used drug among CSUMB students and there are a larger number of alcohol violations compared to drug violations of the Student Code of Conduct each year.

While education and prevention remain a top priority, the consistent and timely enforcement of the Student Code of Conduct rules and regulations is critical to the quality of the educational environment and the success of students. Enforcement is focused on harm and risk reduction intervention strategies and decreased recidivism. Delivery is personalized and attentive to both the needs of individual students and the community as a whole.

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<sup>16</sup> Noncampus

The university enforces the Standards for Student Conduct and Student Conduct Procedures, the Discrimination, Harassment, and Sexual Misconduct Policy, the Alcohol and Drugs Policy, and the Drug-Free Workplace and Schools Policy and documents incidents of potential policy violations. Students involved in potential conduct violations are afforded opportunities to address allegations in accordance with the Student Conduct Process , and those students found in violation are given appropriate sanctions.

The Director of Student Conduct is responsible for the oversight and direction of student conduct administration. The Office of the Dean of Students works closely and collaboratively with the Student Housing & Residential Life to ensure student conduct policies are consistently enforced.

#### Sanctions Administered via the Standards for Student Conduct

Students who are alleged to have violated the [Standards for Student Conduct](#) are addressed via the procedures outlined in EO 1098, the [Student Conduct Process](#). Accused students are requested to attend a conference meeting to respond to the charges of misconduct. After discussion with the alleged student during the conference, the student conduct administrator determines whether the case would be appropriate to resolve via a written resolution agreement and determines sanctions that would be appropriate. More than one sanction may be imposed for any single violation, and if the student has a conduct history, the sanction(s) imposed are progressively more severe. Sanctions are structured to be consistent with the seriousness of the offense. If appropriate for resolution, the student and student conduct administrator would sign a written resolution agreement, which indicates that the matter is resolved with the University pending the student's completion of the sanction.

If the student does not respond to the charge letter or attend the conference meeting, a registration hold is placed on their student account pending participation and resolution. If the student participates in the process, but does not accept responsibility, or disagrees with the sanction determined by the student conduct administrator, the student has the right to take their case to a hearing. A hearing officer would determine the facts of the case and make a sanctioning recommendation to the Vice President of Student Affairs, who would issue a decision.

Student conduct administrators consider several factors in determining sanctions including:

- Helping the student accept responsibility for their actions.
- Helping the student learn how their behavior affects themselves and others.
- Helping the student make better choices in the future.
- The risk of the offender being a danger to themselves or to others in the community.
- Consistency of sanction(s) with the university mission.
- The impact of the behavior upon other individual(s).

In addition to the factors described above, student conduct administrators evaluate the attitude and level of understanding of the violation of the accused student, and their previous disciplinary history.

### **Student-Athlete Code of Conduct**

The Athletics Department utilizes a Student-Athlete Code of Conduct that describes the expectations of student-athletes in addition to those expectations defined in the university Student Conduct Code. CSUMB student-athletes have the responsibility to conduct themselves in accordance with relevant department, university, conference, and NCAA policies, in addition to federal, state, and local laws.

The Department of Athletics does not tolerate substance abuse, use of any substance banned by the NCAA, underage drinking or the inappropriate use of alcohol. Participation in intercollegiate athletics is a privilege. Student-athletes who refuse to sign the NCAA Drug-Testing Consent Form or refuse to participate in substance abuse prevention education programs will not be eligible to participate in intercollegiate athletics at CSUMB.

The Department of Athletics works closely with the Dean of Students in administering disciplinary action. Incidences brought to the attention of the CSUMB Athletic Department involving the unauthorized use of any NCAA Banned Substances or abuse of alcohol will result in sanctions. The Athletic Director and/or Assistant Athletic Director will determine the sanctions placed when such incidents occur. Incidents would not include monitoring specific team rules.

Possible sanctions include:

1. Warning - The issuance of a written warning.
2. Probation - Special status with conditions imposed for a limited time.
3. Restitution - Payment for damaged property.
4. Temporary Suspension - Removal of a student-athlete from all Department of Athletics activities, including athletic participation in team events, for a limited period of time.
5. Suspension - Removal of a student-athlete from all Department of Athletics activities, including athletic participation in team events, for a specified period with financial aid revoked.
6. Expulsion - Permanent removal from a team and/or Department of Athletics activities with all financial aid revoked.
7. Withdrawal of Financial Aid - Termination of athletic-related financial aid could be applied to probation, temporary suspension and suspension.

Possible sanctions for team violations (i.e. Hazing) include but are not limited to:

1. Team Probation.
2. Cancellation of Contests.
3. Cancellation of Season.

## **Student Housing and Residential Life (SHRL)**

Resident Advisors are responsible for monitoring, documenting, and reporting all incidents of violations or abuse involving alcohol, cannabis, and other drugs in Student Housing and Residential Life facilities via Maxient.

Documentation and reporting is conducted in the following manner:

1. A person/s who is found in possession of alcohol in a public area and who appears to be a minor or is known to be a minor is:
  - a. Asked for their student ID/s;
  - b. Asked to show all alcohol being consumed for documentation;
  - c. Educated on documentation procedure and follow up process;
  - d. Directed and escorted to pour out the alcohol in the nearest room or restroom sink and dispose of container/s in recycle bin outside;
  - e. Asked to instruct all who do not reside in the unit and non-residential students to leave the premises.
2. When a staff member responds to a room for any reason and learns underage persons may be in possession of alcohol, the staff member requests:
  - a. All present person to provide their student ID;
  - b. Photographs evidence of alcohol (if safely able to do so);
  - c. Explains documentation procedure and follow up process;
  - d. Has one resident pour out the alcohol in the manner described above;
  - e. Asks resident(s) of the room/unit to have others present leave the room or the building if they do not reside in unit or are non-residential students;
3. SHRL staff members do not assume responsibility for residents in situations when residents are documented or cited by University Police but not arrested or transported to the hospital or county jail. Police take the necessary steps to find someone to care for the student if necessary.
4. SHRL staff members do not transport students to the hospital or assume responsibility for care of an intoxicated student.
5. All students who are documented as being present during incidents which violate alcohol policies are referred through the community standards process or referred to the campus Title V conduct process. Residents of a room/unit may be held responsible if they or other minors in the room were in possession of alcohol.

## **Criminal Sanctions**

The California State University, Monterey Bay University (CSUMB) Police Department (UPD) is made up of the Police Division and the Parking Division and is a fully accredited law enforcement agency and not a branch of any other law enforcement agency. UPD employs sworn peace officers who are vested with full arrest authority in the State of California, pursuant to California Penal Code, Section 830.2(c) and Education Code, Section 89560.

UPD officers' arrest authority may extend to any place within the State of California and maintain primary law enforcement jurisdiction for all crimes occurring in or on all

properties owned and operated by CSUMB. UPD Police officers meet all the requirements specified by the California Peace Officer Standards and Training Commission, which are mandated for all sworn California law enforcement officers. Law enforcement duties and responsibilities of UPD police officers mirror those of municipal and county law enforcement agencies in your home communities.

UPD shares concurrent law enforcement jurisdiction on all adjacent public streets, areas, and in communities surrounding CSUMB properties. UPD patrol has concurrent jurisdiction one mile beyond the exterior boundaries of the core campus and in or about other grounds owned, operated, controlled, or administered by CSUMB pursuant to Section 830.2 of the California Penal Code and Section 89560 of the California Education Code. CSUMB maintains operational agreement/memorandums of understanding with the Monterey County Sheriff's Office that comply with the Kristin Smart campus Safety Act and Higher Education Opportunity Act in regard to sharing information and the investigation of Part I crimes; however, UPD is the primary law enforcement agency. 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.

The CSUMB University Police Department has primary responsibility for the enforcement of State underage drinking laws as well as the enforcement of Federal and State drug laws.

UPD officers who respond to alcohol and drug law and policy violations involving students have a degree of discretion in determining how to best respond. Several factors are considered by officers in determining the appropriate response including:

- The seriousness of the offense
- Impact of the crime on other individuals, property, and the community
- The level of impairment and actions of the violator
- The living arrangements of the violator and any victims
- Level of danger the violator poses to self or others
- Previous interactions with the offender

The officer may elect to arrest the student and refer the student to the Office of Student Conduct for disciplinary action. Regardless of whether an arrest is made, the officer documents the incident, and the department reports the matter to the Office of Student Conduct using an informational report. The Office of the Dean of Students then determines if disciplinary action against the student is appropriate. If the violator is not a student but attends another college or university, the referral form may be submitted to the Office Dean of Students who may then forward the report to the respective college or university student conduct officer.

### **Maxient Discipline Database**

California State University, Monterey Bay uses the Maxient database system. The system provides functionality, tracking of prior incidents, sanction follow-up, and reporting functions. Administrators use the system to study the number of violations of behavior and the recidivism rate of alcohol and other drug-related offenses.

#### Employee Assistance Program (EAP)

CSUMB offers EAP services through Empathia. Employees are eligible for up to 5 sessions of in-person counseling, per issue annually. Employees are eligible to utilize counseling services across the state and country, through a network of counselors contracted with Empathia. In addition, employees have access to financial counseling, legal counseling, life coaching, 24-hour assistance with a licensed mental health counselor, and MyLifeMatters.com web resources. For a full summary of EAP services, visit:

<https://csumb.edu/up/employee-assistance-program>

### **ALCOHOL AND OTHER DRUG EDUCATION AND PREVENTION PROGRAMS**

In compliance with the Drug Free Schools and Communities Act, CSU Monterey Bay publishes information regarding the University's prevention programs related to drug and alcohol abuse prevention which include standards of conduct that prohibit the unlawful possession, use, and distribution of alcohol and illegal drugs on campus and at institution-associated activities; sanctions for violations of federal, state, and local laws and University policy; a description of health risks associated with alcohol and other drug use and abuse; and a description of available counseling, treatment, rehabilitation and/or re-entry programs for CSUMB students and employees. A complete description of these topics, as provided in the University's annual notification to students and employees, is available online at: [Drug Free Schools and Communities Act \(DFSCA\) | California State University Monterey Bay](#)

The Health Promotion and Education program coordinates alcohol and other drug (AOD) preventive, educational, and supportive services for students on campus. The Campus Health Center and Personal Growth and Counseling Center also provide AOD supportive services for students, while university personnel coordinates supportive services for employees. Enforcement and adjudication oversight for students is provided by the University Police Department, Student Housing and Residential Life, and the Dean of Students Office. Services provided by these departments include:

- Presentations and prevention programming for students, faculty, and staff.
- Training programs by Health Promotion and Education, Student Housing and Residential Life and other campus departmental trainings.
- Consultation and referral services for students.
- Interventions for alcohol and other drug policy violators.
- Maintenance of an alcohol and other drug incident database.
- Currently enrolled students may access no additional cost individual and group counseling sessions via the Personal Growth and Counseling Center.

- Employees eligible for health insurance are provided access to an Employee Assistance Program (EAP). Although Health and Wellness Services is the primary provider of alcohol and other drug prevention education, many departments and campus partners are involved in educating students, staff, faculty and families.

#### [Personal Growth and Counseling Center](#) Individual Counseling

The Personal Growth and Counseling Center (PGCC) utilizes a screening form to assess both alcohol and drug use at the initial intake appointment. While the PGCC does not provide substance abuse treatment, clinicians assist students in accessing the resources that best suit their needs and make referrals when needed. PGCC clinicians are also available to consult with faculty, staff, and student supporters to strategize the best ways to support students contending with AOD issues.

#### [Campus Health Center](#) Substance Abuse Referrals

The Campus Health Center intake form includes screening questions to assess both alcohol and drug use. Patients complete this for every visit. If the patient has positively answered high-risk questions, they are given the opportunity to have the health risks and concerns addressed by a healthcare professional and be provided with a referral to substance abuse resources as appropriate.

#### [Health Promotion and Education](#)

##### **Group Presentations, Educational Workshops, and Outreach Events**

In addition to professional Health and Wellness Services staff providing health education, the Health Promotion and Education department houses the campus POWER Peer Educator program, a group of certified peer educators who provide wellness outreach and programming to their peers on campus. Workshops, trainings, and group presentations are provided upon request to targeted student populations (i.e. first-year students, international students, sororities/fraternities, students living in the residence halls, athletes). The following are outreach events, workshops, and group presentations related to alcohol and other drugs that HWS Professional Staff or Peer Health Educators offered to CSUMB students:

- KIN 161 Healthy Relationships Workshop (included AOD education)
- Otter Dreamers Club Health Fair Event
- Safe Spring Break Event
- Sexual Assault Awareness Month Otter Thursday Event (included AOD education)
- EOP Summer Bridge Alcohol Awareness Workshop
- Resident Advisor Fall Scenarios Training
- Water Polo Team Alcohol, Cannabis, and Vaping Presentation
- National Collegiate Alcohol Awareness Week (NCAAW) 21 Tips Event (with UPD)
- NCAAW Wall of Support, Encouragement, and Safety Tips Event (with Campus Advocate)

- NCAAW Trivia Trials Event (with Residential Life)
- NCAAW Otter Thursday Event
- Great American Smokeout Event

New Student Orientation Programming Health Promotion and Education, along with other departments within Health and Wellness Services, facilitates “Otter Be Healthy” workshops for incoming first time freshmen and transfer students attending new student orientation. The workshop includes information about campus and community resources dedicated to providing support for students concerned about their own alcohol use, and/or use by friends or family.

Safe Spring Break Health Promotion and Education hosts an annual Safe Spring Break event during the week prior to spring break. This wellness event provides students with interactive opportunities to learn about alcohol safety, sun safety, sexual health, sexual assault prevention, and other wellness topics and related resources.

Student Organization Officer Training: All student organization leaders (president, vice president, treasurer, and secretary) complete an annual online risk management course. This online course covers substance harm reduction, sexual misconduct prevention, hazing prevention and active bystander intervention.

## **Universal/Entire Population-Based Programs**

### **AlcoholEdu**

AlcoholEdu is a 2 to 3 hour online alcohol education course that is required to be completed by all incoming first year and transfer students. Designed for students entering college, this interactive online program uses the latest evidence-based prevention methods to create a highly engaging user experience, inspiring students to make healthier decisions related to alcohol and other drugs. This course includes tailored content that engages abstainers, light to moderate drinkers, and frequent drinkers with customized messaging; educates students on the mental and physical effects of alcohol; and prepares students to engage in bystander intervention.

### **Judicial Educator**

Judicial Educator is utilized by SLRL staff to assign trainings during the community standard and student conduct process. These trainings range from alcohol education, academic integrity, and anger management. More information on Judicial Educator is here:

[ResLife.net: The Judicial Educator](https://reslife.net/the-judicial-educator)

### **Social Marketing Campaigns**

Health and Wellness Services provides on-going education to students via health promotion messages on social media. Focus is placed upon events related to priority health topics such as: alcohol safety, sexual assault prevention, safety in social settings, spring

break safety, and mental health. In addition, social media outlets are used to promote health and wellness resources.

### **Passive Programming**

Health and Wellness Services is involved in many tabling and displays across campus as a passive approach to create awareness and enhance education/prevention to the university population. Examples of passive programming as it relates to substance abuse prevention and alcohol safety include safe spring and alcohol awareness week programming related to alcohol safety, sexual assault prevention, safety in social settings, and bystander intervention.

For more information on Alcohol and Other Drug Education and Prevention Program Elements, visit the [CSUMB Biennial Review](#) at page 10.

### **Related Policies:**

CSUMB [policy on illicit drug use](#).

CSUMB [policy on alcohol](#).

CSUMB [Student Conduct Policies](#).

CSUMB Student Housing [Community Standards 2025-2026](#).

CSU Systemwide Policy on [Smoke and Tobacco Free Environment](#)

## **Sexual Violence Prevention**

The California State University (CSU) promotes a safe living, learning, and working environment through systemwide policies and through a variety of campus educational programs provided to students, faculty, and staff. The CSU prohibits dating violence, domestic violence, sexual misconduct/sexual assault, sexual exploitation, and stalking (as defined by the Clery Act), and provides programs to prevent, educate, and promote awareness of these topics, in accordance with the CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation (“Nondiscrimination Policy”). These prohibited behaviors are also crimes as defined by 34 C.F.R. §668.46, and California criminal definitions.

The CSU provides comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to stop dating violence, domestic violence, sexual misconduct/sexual assault, sexual exploitation, and stalking before they occur through the promotion of behaviors that foster healthy relationships, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

The CSU’s prevention programs and initiatives are sustained over time and focus on increasing awareness and understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual misconduct/sexual assault, sexual exploitation,

and stalking, using a range of strategies with audiences throughout the CSU community. This includes both community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, reduce perpetration, promote safety and a culture of respect.

### **Federal Clery Act Definitions of Domestic Violence, Dating Violence, Sexual Assault and Stalking**

The Clery Act defines the crimes of domestic violence, dating violence, sexual assault and stalking as follows:

- **Domestic Violence:**
  - i. A Felony or misdemeanor crime of violence committed—
    - A) By a current or former spouse or intimate partner of the victim;
    - B) By a person with whom the victim shares a child in common;
    - C) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
    - D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
    - E) By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
  - ii. For the purposes of complying with the requirements of this section and §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.
  
- **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.
  - i. The existence of such a relationship shall be based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
  - ii. For the purposes of this definition—
    - A) Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
    - B) Dating violence does not include acts covered under the definition of domestic violence.
  - iii. For the purposes of complying with the requirements of this section and §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

- **Sexual Assault** An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting (UCR) program. Per the National Incident-Based Reporting System User Manual from the FBI UCR Program, a sex offense is "any sexual act directed against another person, without the consent of the victim, including instances where the victim if incapable of giving consent."
  - **Rape** is defined as the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
  - **Fondling** is defined as the touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
  - **Incest** is defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - **Statutory Rape** is defined as sexual intercourse with a person who is under the statutory age of consent.
  
- **Stalking:**
  - i. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
    - A) Fear for the person's safety or the safety of others; or
    - B) Suffer substantial emotional distress.
  - ii. For the purposes of this definition—
    - A) *Course of conduct* means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.
    - B) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
    - C) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

- iii. For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.
- The institution's definition (if one exists) of consent AND the purposes for which that definition is used.

Campus programs must include primary prevention and awareness training: (1) for all new Students<sup>17</sup>; and new Employees; (2) refresher programs at least annually for all Students; (3) twice a year for all Students who serve as advisors in residence halls; (4) annually for all Student members of fraternities and sororities; (5) annually for all Student athletes and coaches; and (6) annually for all Employees consistent with their role in responding to and reporting incidents. Ongoing prevention and awareness campaigns for all Students and Employees will also be conducted. The CSU system will provide online training for all Employees and each campus will provide online training for all Students. All training must be consistent with the applicable CSU policy and state and federal regulations.

Each campus must assess which student organizations participate in activities that may place Students at risk and ensure that they receive annual supplemental training focused on situations the group's members may encounter.

To ensure that all Students receive the necessary information and training enumerated above on dating violence, domestic violence, sexual misconduct/sexual assault, sexual exploitation, and stalking, campuses should impose consequences such as registration holds on those Students who do not participate in and complete such mandatory training.

### Training for Employees

Training will be mandatory for all employees within six months of their initial hiring, and on an annual basis thereafter. Such training will include, but not be limited to: what constitutes discrimination, harassment, retaliation, sexual misconduct/sexual assault, dating and domestic violence, sexual exploitation and stalking under applicable law; the rights and responsibilities of each Employee relating to discrimination, harassment, retaliation, sexual misconduct/sexual assault, dating and domestic violence, sexual exploitation and stalking including the duty to report and exceptions; the protection against retaliation for Employees who report discrimination, harassment, retaliation, sexual misconduct, dating and domestic violence, sexual exploitation and stalking; the procedures provided under the CSU Nondiscrimination Policy for filing, investigating and resolving a complaint; and the option and method for filing complaints with external government agencies such as the Department of Fair Employment and Housing (DFEH) and the Equal Employment Opportunity Commission (EEOC).

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<sup>17</sup> This includes incoming transfer, graduate, online, and extended education Students. The programs should occur no later than the first few weeks of the semester.

Under Cal. Govt. Code § 12950.1, each campus shall provide supervisory Employees at least two hours of interactive sexual harassment training within six months of the Employee's assignment to a supervisory position and every two years thereafter. Each campus shall maintain documentation of the delivery and completion of these trainings. For detailed guidance regarding the definition of "supervisor" and the implementation of this training, campuses shall consult Coded Memoranda HR 2005-35 and other applicable policies.

## Prevention and Awareness Programming

California State University campuses provide primary prevention programs to all incoming students and new employees. California State University campuses provide ongoing prevention programs to all students and employees during their time at the institution. The University engages in comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault and stalking that:

- A. Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research, or assessed for value, effectiveness, or outcome; and
- B. Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community and societal levels.

Educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for students and that include the list below.

To comply with CSU Policy and 34 C.F.R. §668.46., campus-specific programs to prevent dating violence, domestic violence, sexual misconduct/sexual assault, sexual exploitation, and stalking will include:

1. A statement that the CSU prohibits dating violence, domestic violence, sexual misconduct/sexual assault, sexual exploitation, and stalking as defined under CSU policy and 34 C.F.R. §668.46.
2. The definitions of "dating violence," "domestic violence," "sexual assault," and "stalking" in the applicable jurisdiction, California (California Penal Code) and the definitions under CSU policy (to also include the CSU policy definition of "sexual exploitation").
3. The definition of "consent," in reference to sexual activity, in the applicable jurisdiction, California (California Penal Code), and the definition of "affirmative consent" under CSU policy and the purposes for which that definition is used.
4. Common facts and myths about the causes of sexual misconduct/sexual assault.
5. A description of safe and positive options for bystander intervention, as exemplified below.
6. Information on risk reduction, exemplified below.

7. Information regarding campus, criminal, and civil consequences of engaging in acts of sexual misconduct/sexual assault, sexual exploitation, dating and domestic violence, and stalking.
  - A. Information about:
    - o procedures victims should follow if a crime of domestic violence, dating violence, sexual assault and stalking occurs (as described in “Procedures Victims Should Follow if a Crime of Domestic Violence, Dating Violence, Sexual Assault and Stalking Occurs” elsewhere in this document)
    - o how the institution will protect the confidentiality of victims and other necessary parties (as described in “Assistance for Victims: Rights and Options” elsewhere in this document);
    - o existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and in the community (as described in “Assistance for Victims: Rights and Options” elsewhere in this document); and
    - o options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures (as described in “Assistance for Victims: Rights and Options” elsewhere in this document);
    - o procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking (as described in “Adjudication of Violations” elsewhere in this document);
8. Adjudication, and disciplinary procedures as required by 34 C.F.R. §668.46 and as described in the procedures under the CSU Nondiscrimination Policy.

### **Primary Prevention and Awareness Programs**

CSUMB prides itself on prevention and awareness programs and offers a multitude of informational and educational initiatives throughout the school year. These programs include, but are not limited to:

- Mandatory Sexual Violence Prevention Training for all student;
- Mandatory Gender Equity and Title IX Training for all employees;
- Distribution of educational materials on topics of Title IX/DHR for new students and the campus community throughout the school year;
- In person trainings for Student Housing and Residential Life leadership and Residential Advisors;
- Trainings and Educational Meetings by Request.

## Information About Campus Reporting, Adjudication, and Discipline Procedures

Campus training programs will reference the procedures outlined in the CSU Nondiscrimination Policy that victims/survivors may follow if an incident of dating violence, domestic violence, sexual misconduct/sexual assault, sexual exploitation, or stalking has occurred. Training programs will also reference information about preserving evidence, reporting to the appropriate authorities, confidentiality options, available protective and supportive measures.

Campuses apply the relevant CSU policy and procedures when responding to all reports of dating violence, domestic violence, sexual misconduct/sexual assault, sexual exploitation, or stalking. Campuses shall establish processes to provide a print and/or digital copy of the "Rights and Options for Victims" as outlined in the CSU Nondiscrimination Policy to any community member who reports experiencing such harm, regardless of whether the incident occurred on or off campus.

Campus training programs regarding the procedures for reporting and addressing reports of dating violence, domestic violence, sexual misconduct/sexual assault, sexual exploitation, and stalking will include the following:

- A statement explaining that the campus' primary concern is the safety of members of the campus community; that the use of alcohol or drugs never makes the victim/survivor at fault for sexual misconduct/sexual assault, sexual exploitation, dating or domestic violence, or stalking; that Students who experience or witness sexual misconduct/sexual assault, sexual exploitation, dating or domestic violence, or stalking should not be deterred from reporting incidents out of a concern that they might be disciplined for related violations of drug, alcohol, or other CSU policies; and that Students who experience or witness sexual misconduct/sexual assault, sexual exploitation, dating or domestic violence, or stalking shall not be subject to discipline for related violations of conduct policies at or near the time of the misconduct unless the violation is egregious (including actions that place the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.)
- A statement that "CSU policy prohibits retaliation against a person who: reports sex discrimination, sexual harassment, sexual misconduct/sexual assault, sexual exploitation, dating or domestic violence, or stalking; assists someone with a report of such conduct; or participates in any manner in a related investigation or resolution.
  - Retaliation means that a substantial motivating reason for an Adverse Action taken against a person was because the person has or is believed to have:
    - Exercised their rights under this policy,

- Reported or opposed conduct which was reasonably and in good faith believed to be in violation of this policy,
  - Assisted or participated in an investigation/proceeding under this policy, regardless of whether the Complaint was substantiated,
  - Assisted someone in reporting or opposing a violation of this policy or assisted someone in reporting or opposing Retaliation under this policy.
  - Adverse Action means an action engaged in by the Respondent that has a substantial and material adverse effect on the Complainant's ability to participate in a university program, activity, or employment. Minor or trivial actions or conduct not reasonably likely to do more than anger or upset a Complainant does not constitute an Adverse Action.
  - Retaliation may occur whether or not there is a power or authority differential between the individuals involved.
- What someone should do if they have experienced or witnessed sexual misconduct/sexual assault, sexual exploitation, dating or domestic violence, or stalking.
  - Individuals to whom incidents may be reported along with information regarding what degree of confidentiality may be maintained by those individuals.
  - The availability of, and contact information for, campus and community resources for victims/survivors of sexual misconduct/sexual assault, sexual exploitation, dating or domestic violence, or stalking.
  - A description of campus and systemwide policies and disciplinary procedures available for addressing alleged violations and the consequences of violating these policies, including the fact that such proceedings shall:
    - Provide a prompt, fair, and impartial investigation and resolution; and,
    - Be conducted by officials who receive annual training on issues related to sexual misconduct/sexual assault, sexual exploitation, dating or domestic violence, or stalking and how to conduct an investigation and hearing process that protects the safety of victims/survivors and promotes accountability.
  - The fact that the Complainant and the Respondent will be afforded the same opportunities to have others present during a disciplinary proceeding, including the

opportunity to be accompanied to any related meeting or proceeding by the Advisor of their choice.

- The fact that both the Complainant and the Respondent shall be simultaneously informed in writing of:
  - The outcome of any disciplinary proceedings that arises from an allegation of a sex discrimination, sexual harassment, sexual misconduct/sexual assault, sexual exploitation, dating or domestic violence, or stalking.
  - The CSU's procedures for the Complainant or Respondent to appeal the results of the disciplinary proceeding.
  - Any change to the disciplinary results that occurs prior to the time such results become final.
  - When disciplinary results become final.
- Possible sanctions or remedies the campus may impose following the final determination of a campus disciplinary procedure regarding sexual misconduct/sexual assault, sexual exploitation, dating or domestic violence, or stalking.
- How the campus will protect the confidentiality of Complainants, including how publicly available recordkeeping (e.g., campus Clery reports) will be accomplished without the inclusion of identifying information about the Complainant to the extent permissible by law.
- That all students and employees must receive written notification about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims/survivors, both on campus and in the community.<sup>18</sup>
- That all students and employees who report being a victim/survivor of sexual misconduct/sexual assault, sexual exploitation, dating or domestic violence, or stalking must receive written notification of available assistance in, and how to request changing academic, living, transportation, and working situations, if requested and if such accommodations are reasonably available, regardless of whether the victim/survivor chooses to report the incident to campus police or local law enforcement.
- Procedures victims/survivors are recommended to follow if sexual misconduct/sexual assault, sexual exploitation, dating or domestic violence, or

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<sup>18</sup> California State University Monterey Bay complies with this requirement by providing this information to the campus community in writing each year through CSULearn assignment.

stalking has occurred, as well as the fact that the following written information must be provided to victims:

- The importance of preserving evidence following an incident of sexual misconduct/sexual assault, sexual exploitation, dating or domestic violence, or stalking, which may also be used to obtain a temporary restraining or other protective order.
- The name and contact information of the campus Employee(s) to whom the alleged incident should be reported.
- Reporting to law enforcement and campus authorities, including the option to: (a) notify law enforcement authorities, including on-campus and local police; (b) be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and, (c) decline to notify such authorities.
- Where applicable, the rights of victims/survivors and the campus' responsibilities regarding orders of protection, no contact directives, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court.

## Risk Reduction

The CSU provides community members with information and strategies for risk reduction designed to decrease perpetration, promote bystander intervention and healthy relationships, empower marginalized voices, and support victims/survivors. Information and strategies for risk reduction help promote safety and help individuals and communities address conditions that facilitate violence.

### *Sexual Misconduct/Sexual Assault*

The CSU is committed to maintaining a safe campus for all members of the CSU community. Risk reduction strategies are focused on creating a culture of respect, reducing the risk for perpetration and for victimization. It is important to emphasize that only those who engage in sexual misconduct/sexual assault, dating violence, domestic violence, sexual exploitation, and stalking are responsible for those actions. With this in mind, the following tips provide some possible strategies to help promote a caring community and mitigate personal risk.

- Communication is key to healthy relationships and healthy sexual interactions. Obtain Affirmative Consent from your partner for all sexual activity.
  - Affirmative Consent means an informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity.

- Engaging in any sexual activity without first obtaining Affirmative Consent to the specific activity is Sexual Misconduct, whether or not the conduct violates any civil or criminal law.
  - Affirmative Consent can be withdrawn or revoked at any time.
  - Affirmative Consent to sexual activity in the past does not mean consent in future – there must be voluntary consent for all sexual activity.
  - Lack of protest, resistance, or mere silence does not equal Affirmative Consent.
  - Sexual activity between a minor (a person younger than 18 years old) and a person who is at least 18 and two years older than the minor always constitutes Sexual Misconduct, even if there is Affirmative Consent to all sexual activity.
- Do not engage in sexual activity with someone who is incapacitated.
    - A person who is incapacitated by alcohol or drugs cannot give Affirmative Consent.
    - A person who is unconscious or asleep cannot give Affirmative Consent.
    - A person’s own intoxication or incapacitation does not diminish their responsibility to obtain Affirmative Consent from any person with whom they engage in sexual activity.
  - Signs that someone does not respect the importance of consent:
    - They pressure or guilt you into doing things you may not want to do.
    - They suggest you “owe” them something (including sexual acts) because you’re dating or because they have done or claim to have done something for you.
    - They react negatively with sadness, anger, or resentment if you don’t consent to something or don’t do so immediately

[Source: [Love Is Respect](#)]

### *Dating/Domestic Violence*

#### Common signs of abusive behavior in a relationship

According to the National Domestic Violence Hotline, one feature shared by most abusive relationships is that an abusive partner tries to establish or gain power and control through

many different methods, at different moments. Even one or two of the following behaviors is a red flag that a partner may be abusive.

- Showing extreme jealousy of friends or time spent away from a partner.
- Preventing or discouraging one's partner from spending time with friends, family members, or peers.
- Insulting, demeaning, or shaming a partner, especially in front of other people.
- Preventing one's partner from making their own decisions about working or attending school.
- Controlling finances in the household without discussion, including taking a partner's money or refusing to provide money for necessary expenses.
- Pressuring one's partner to have sex or perform sexual acts they are not comfortable with.
- Pressuring a partner to use drugs or alcohol.
- Threatening to harm or take away a partner's children or pets.
- Intimidating one's partner with weapons
- Destroying a partner's belongings or home

If you notice warning signs in your relationship or that of someone you care about, remember there are support resources available on your campus, including individuals with whom you can speak confidentially and who can assist you with making a safety plan. A good starting place for a list of resources is your campus Title IX webpage. You can also contact the National Domestic Violence Hotline at 1.800.799.SAFE (7233), which is free and confidential.

[Source: [National Domestic Violence Hotline](#)]

Abusive behaviors can be difficult to recognize in a relationship, even if you are the one engaging in them. In addition to some of the common signs of abusive behavior outlined above, ask yourself if your partner:

- Seems nervous around you,
- Seems afraid of you,
- Flinches, cringes, or retreats when you are emotional,
- Seems scared, or unable to contradict you or speak up around you, and/or

- Restricts their own interactions with friends, family, coworkers, or others in order to avoid upsetting you

If you recognize the behaviors above in yourself, or in how your partner reacts, these could be signs that you are hurting them. This can be a difficult realization to come to but it's vital that you do so if you want to change and stop harming your partner. By acknowledging that your actions are harmful and taking responsibility for them, you can continue to progress on the path toward correcting them.

You could consider contacting the psychological counseling center on your campus to speak with a counselor confidentially, or you could contact the National Domestic Violence Hotline at 1.800.799.SAFE (7233), which is free and confidential.

[Source: [National Domestic Violence Hotline](#)]

## *Stalking*

### Respecting boundaries

If someone tells you that they do not want you to contact them or do something like visit their home or send them gifts, or if they have stopped interacting with you, respect their choice. Everyone has the right to set boundaries.

### Recognizing stalking behaviors

A person who engages in stalking may:

- Repeatedly call or send other unwanted communication such as text messages, emails, social media messages, letters, etc.
- Follow the person and seem to “show up” wherever they are.
- Send unwanted gifts.
- Damage home, car, or other property.
- Monitor phone calls or computer use.
- Drive or linger near the home, school, or work of the person they are stalking.
- Use other people to try and communicate with the person they are stalking, like children, family, or friends.

[Source: [Victim Connect Resource Center](#)]

Below are some tips from the Stalking Prevention Awareness and Resource Center (SPARC) regarding steps one can take if they are experiencing stalking

- Trust your instincts – if you/someone feels they are in immediate danger or fear a threat of harm, call 911

- Keep a record or log of each contact with the stalker
- Save evidence when possible, such as emails, text messages, postings on social media, etc.

Know that there are support resources available on each CSU campus, including individuals with whom individuals can speak confidentially and who can assist in making a safety plan and/or seeking a protective order. A good starting place for a list of resources is your campus Title IX webpage.

### Bystander Intervention

The California State University and the campuses provide training on 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 misconduct/sexual assault, sexual exploitation, 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. Information about bystander intervention is included in a variety of prevention, outreach, and awareness programs across the CSU.

This training encourages employees and students to:

- Notice the Event
- Interpret the Event as a Problem
- Assume Personal Responsibility
- Learn How to Help
- And Step Up by utilizing the “4 Ds” – Direct, Distract, Delegate, and Delay
  - Direct – Directly addressing the situation.
  - Distract – Making a simple (or elaborate) distraction to diffuse the situation.
  - Delegate – Finding someone else to address the concern.
  - Delay – Checking in with the person after to see if you can do anything to support them.

### CSU Policy Definitions

Definitions of conduct that is prohibited under CSU policy are found in Article V of the CSU Nondiscrimination Policy. These definitions are applicable in relation to the University's

administrative processes and may differ from the criminal law definitions (California) found in Appendix A.

### Written Notification

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 same information is provided in writing to all students and employees within the CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation, and as part of annually assigned training.

This written notice (annually to all students and employees, and specifically to complaints as outlined above) includes the information below, including<sup>19</sup>:

- Supportive measures
- Rights and options available throughout the reporting process and/or the duration of any formal or informal complaint resolution process, including campus and criminal reporting options, available advocates, preserving evidence, medical care and treatment, and protective orders.
- Existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available

You have the right to be offered and receive reasonably available support services and supportive measures, available both on and off campus. You do not have to file a formal complaint or a criminal complaint in order to receive support services and/or supportive measures. Supportive services and supportive measures include, but are not limited to, counseling, victim/survivor advocates, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, 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, University Police Department and victim/survivor advocate on your campus can provide some of these services directly and/or provide you

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<sup>19</sup> Campuses apply the relevant CSU policy and procedures when responding to all reports of dating violence, domestic violence, sexual misconduct/sexual assault, sexual exploitation, or stalking. Campuses shall establish processes to provide a print and/or digital copy of the "Rights and Options for Victims" as outlined in the CSU Nondiscrimination Policy to any community member who reports experiencing such harm, regardless of whether the incident occurred on or off campus.

with information about and a referral to these and additional resources on and off campus for support.

## 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,<sup>20</sup> 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.

Regardless of whether a victim/survivor decides to maintain confidentiality, these individuals will still assist victims/survivors in receiving other necessary protection and support, such as victim advocacy, medical, mental health services, and/or legal services. However, these individuals may have limited ability to assist a victim/survivor with university academic support or accommodations, or changes to university-based living or working schedules, as such accommodations likely require the involvement of other University officials.

The Title IX/DHR Office can be contacted by email at: [titleix\\_dhr@csumb.edu](mailto:titleix_dhr@csumb.edu), in person at Gavilan Hall - Building 201, Suite 211, on the second floor, or by filing a report at: <https://csumb.edu/titleix/>. Please contact the Title IX/DHR Office if you wish to request an accommodation.

## On and Off Campus Services for Victims

The following is a list of on-campus and off-campus resources that offer a variety of services in the areas of victim advocacy, counseling, health, mental health, legal assistance, visa and immigration assistance, student financial aid and other areas. Campus advocates can help provide information about and referral to any of these resources if requested. These resources are available to victims/survivors whether or not they choose to make a criminal or administrative report.

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<sup>20</sup> And transportation.

Upon receipt of a report of domestic violence, dating violence, sexual assault or stalking, CSU Monterey Bay, will provide written notification to students and employees about existing assistance with and/or information about obtaining resources and services.<sup>21</sup>

### **Confidential Resources on-Campus**

<b>Resource Name</b>	<b>Type of Services</b>	<b>Contact Information</b>
Campus Advocate	Staffed by the Monterey County Rape Crisis Center (MCRCC). Provides survivor-centered support to students, staff and faculty including academic and housing accommodations, crisis intervention, referrals to both on campus and off campus resources such as counseling or legal support, making a report to law enforcement or Title IX, accompaniment to medical exams and legal advocacy	Name: Lorelei Ahlmeyer Phone: 831-402-9477 Website: <a href="http://csumb.edu/campusadvocate">csumb.edu/campusadvocate</a>
Personal Growth and Counseling Center (PGCC)	Counseling and mental health services for CSUMB students, including individual counseling, support groups, workshops, and educational outreach programs. Students can set up an	Phone: 831-582-3969 Website: <a href="http://csumb.edu/health">csumb.edu/health</a>

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<sup>21</sup> The University will offer and coordinate Supportive Measures as appropriate for the Complainant and/or Respondent to restore or preserve that person's access to the University's education programs, activities, employment, or to provide support during the University's formal complaint resolution process or during the informal resolution process. Supportive Measures may include, but are not limited to: counseling; extensions of deadlines and other course-related adjustments; changes to employee reporting line; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more Parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to prohibited conduct.

The Title IX Coordinator/DHR Administrator will describe and offer Supportive Measures to Complainants during the initial assessment (even if no Complaint is made or the Complaint is ultimately not investigated), and to Respondents during an initial meeting.

The Title IX Coordinator/DHR Administrator is responsible for coordinating the effective implementation of Supportive Measures if requested and reasonably available.

	appointment by phone or by completing a service interest form found on our website. Tele-Health and in person appointments are available.	
Campus Health Center	Medical services for CSUMB students, faculty and staff, including communicable disease control and women's health services	Phone: 831-582-3965 Website: <a href="http://csumb.edu/health">csumb.edu/health</a>
Employee Assistance Program (EAP)	CSUMB employees and household members can turn to the Employee Assistance Program for help with hundreds of wellness topics including stress, depression, alcohol or drug dependencies, family concerns, workplace conflicts, grief, financial and legal consultation and much more.	Phone: 800-367-7474 Website: <a href="http://csumb.edu/up/employee-assistance-program">csumb.edu/up/employee-assistance-program</a>

**Non-Confidential Resource On-Campus**

<b>Resource Name</b>	<b>Type of Services</b>	<b>Contact Information</b>
Office of Title IX/Discrimination, Prevention and Harassment (DHR)	CSUMB's Title IX Coordinator & DHR Administrator implements the Title IX and CSU Nondiscrimination policies, and oversees and coordinates prompt and equitable grievance procedures for students, staff, and faculty.	Main Office: 831-582-4084 Email: <a href="mailto:titleix_dhr@csumb.edu">titleix_dhr@csumb.edu</a> Website: <a href="http://csumb.edu/titleix/">csumb.edu/titleix/</a> File a report <a href="#">here</a> .
Student Conduct Office	Support CSUMB's educational mission by administering the CSU Student Disciplinary process in a fair, timely, respectful and educationally purposeful manner.	Phone: 831-582-4597 Email: <a href="mailto:studentconduct@csumb.edu">studentconduct@csumb.edu</a> Website: <a href="http://csumb.edu/studentconduct/">csumb.edu/studentconduct/</a>
Financial Aid Office	Assist students with financial aid products and services, including enrollment of financial aid, withdrawals, etc.	Phone: 831-582-5100 Website: <a href="http://csumb.edu/financialaid/">csumb.edu/financialaid/</a>
CSUMB International Programs	CSUMB International Programs serves the university and international community by providing support services to international students, and facilitating meaningful outbound Education Abroad experiences.	Phone: 831-582-4778 Email: <a href="mailto:international@csumb.edu">international@csumb.edu</a> Website: <a href="http://csumb.edu/international/">csumb.edu/international/</a>
Undocumented Student Success Support Center	The Chancellor's Office recognizes the efforts by the undocumented community to fight for safer educational institutions and the advocacy towards more equitable CSU campuses.	Email: <a href="mailto:undocusuccess@csumb.edu">undocusuccess@csumb.edu</a> Website: <a href="http://csumb.edu/undocumentedstudents/">csumb.edu/undocumentedstudents/</a>
Legal Assistance	Students and employees can call 211 in Monterey County to connect with free or low-cost legal services, or can connect with the <a href="#">Watsonville Law Center</a> .	Phone: 211 Website: <a href="#">Watsonville Law Center</a> .

### Law Enforcement Resources

<b>Resource Name</b>	<b>Types of Services</b>	<b>Contact Information</b>
University Police Department (UPD)	The mission of the CSU Monterey Bay Police Department is to protect life and property with a commitment to professionalism and community cooperation.	Emergency: 911 Non-Emergency: 831-655-0268 Website: <a href="http://csumb.edu/police/">csumb.edu/police/</a>
Marina Police Department	The mission of the Marina Police Department is to establish and maintain a safe environment in our community by providing efficient and professional law enforcement services.	Emergency: 911 Non-Emergency: 831-384-7575 Website: <a href="http://cityofmarina.org/17/Police-Department">cityofmarina.org/17/Police-Department</a>
Monterey County Sheriff's Department	The mission of the Monterey County Sheriff's Office is to safeguard the lives and property of the people within our county.	Emergency: 911 Non-Emergency: 831-647-7911 (Monterey) 831-755-5111 (Salinas) Website: <a href="http://montereysheriff.org/">montereysheriff.org/</a>

### **Community, National, Global Resources**

<b>Resource Name</b>	<b>Type of Services</b>	<b>Contact Information</b>
Monterey County Rape Crisis (MCRCC)	Provides ongoing advocacy, support and healing for all victims and survivors of sexual assault, human trafficking and child abuse; and to prevent sexual violence in our community through education.	Phone: 831-375-4357 Website: <a href="http://mtryrapecrisis.org/">mtryrapecrisis.org/</a>
National Domestic Violence Hotline	Provides expert support for anyone experiencing unhealthy or abusive behavior or seeking information on aspects of their relationship.	Phone: 800-799-SAFE (7233) Website: <a href="http://thehotline.org">thehotline.org</a>
National Crisis Text Line	Crisis Text Line provides free, 24/7, high-quality text-based mental	Text HOME to 741741 Website: <a href="http://crisistextline.org/">crisistextline.org/</a>

	health support and crisis intervention by empowering a community of trained volunteers to support people in their moments of need.	
National Suicide Prevention Hotline	Understanding the issues concerning suicide and mental health is an important way to take part in suicide prevention, help others in crisis, and change the conversation around suicide.	Phone: 800-273-8255 TTY 800-799-4889 Website: <a href="http://988lifeline.org/">988lifeline.org/</a> Text: 988
United States Department of Education Office of Civil Rights (OCR)	OCR's mission is to ensure equal access to education and to promote educational excellence through vigorous enforcement of civil rights in our nation's schools.	Phone: 800-421-3481 Website: <a href="mailto:ocr@ed.gov">ocr@ed.gov</a>  California Civil Rights Department Phone: 800-884-1684 Website: <a href="http://calcivilrights.ca.gov">calcivilrights.ca.gov</a>
RAINN (Rape, Abuse, and Incest National Network)	National network supporting victims/survivors of sexual assault and abuse. 24/7 free and confidential hotline and chat services.	Phone: 800-656-4673 Website: <a href="http://rainn.org/">rainn.org/</a>
U.S. Department of State - Office of Overseas Citizens Services	Assist victims/survivors who are overseas with local and/or US-based resources for victims of crime, including local legal representation.	Phone: From the US or Canada: 888-407-4747 From overseas: 202-501-4444 Website: <a href="http://travel.state.gov">travel.state.gov</a>

Other resources available to persons who report being the victim of sexual assault, domestic violence, dating violence, or stalking, include:

1. <http://www.rainn.org> – Rape, Abuse and Incest National Network
2. <http://www.ovw.usdoj.gov/sexassault.htm> - Department of Justice
3. <http://www2.ed.gov/about/offices/list/ocr/index.html> Department of Education, Office for Civil Rights

## Reporting Options

### Reporting to University Administration

Complaints of discrimination, harassment, sexual misconduct and sexual assault, dating and domestic violence, sexual exploitation, and stalking may be addressed through the University administrative process<sup>22</sup>. A complainant or reporting party can report an incident to the University by contacting the Title IX Coordinator on their campus. A complainant has the right to have a support person present with them while making a complaint.

The Title IX/DHR Office can be contacted by email at: [titleix\\_dhr@csumb.edu](mailto:titleix_dhr@csumb.edu), in person at Gavilan Hall - Building 201, Suite 211, on the second floor, or by filing a report at: <https://csumb.edu/titleix/>.

The University will protect the privacy of everyone involved in a report to the greatest degree possible under applicable law and University policy.<sup>23</sup> Personally identifiable information about the involved parties will be shared only on a need-to-know basis, e.g., to those who are investigating/adjudicating the report or those involved in providing support services. By only sharing personally identifiable information with individuals on a need-to-know basis, the University will maintain as confidential any supportive measures and remedies provided to the parties, to the extent that maintaining such confidentiality would not impair the ability of the University to provide supportive measures and remedies.

The CSU does not publish the name of victims/survivors or other identifiable information regarding victims/survivors in the Daily Crime Log or in the crime statistics that are disclosed in the *Annual Security and Fire Safety Report*. Furthermore, if a Timely Warning is issued on the basis of a report of sexual assault, dating violence, domestic violence, sexual exploitation, or stalking, the name of and other personally identifiable information about the victim/survivor will be withheld.

### The importance of preserving evidence

Victims/survivors are encouraged to preserve all physical evidence, including but not limited to: clothing worn during the assault, bed sheets, and/or photos of any injuries. This evidence may be helpful in proving that a crime occurred, in the event the victim/survivor chooses to report now or in the future. It may also be helpful in obtaining a court-ordered protective or restraining order. If a victim/survivor does not have any evidence preserved, they still have an option to report the crime and request a medical evidentiary examination.

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<sup>22</sup> See page #65

<sup>23</sup> Regardless of whether a victim has opted-out of allowing the University to share "directory information.

Victims/survivors of sexual misconduct, sexual assault, sexual exploitation, stalking, dating violence and domestic violence are also encouraged to preserve evidence by saving text messages, instant messages, social networking pages, other communications, pictures, logs or other copies of documents that may be useful to University investigators or police should the victim/survivor decide to report now or in the future.

## Medical Care and Treatment

### Medical Checkups, Evidentiary Exams and VAWA Exams

In some instances, sexual misconduct, sexual assault, sexual exploitation, stalking, dating violence and domestic violence may result in the need for medical care. You have a right to seek important medical care to address any injury or physical health concerns and to preserve evidence if the conduct alleged warrants such consideration. Regardless of whether an incident of sexual violence is reported to the police, it is important to seek immediate medical attention, even if there is no evidence of serious injury. A medical examination is important to check for sexually transmitted infections or other infections/injuries and for pregnancy. If needed, campus advocates can help you find an appropriate medical provider.

In the event you need transportation to a hospital for medical treatment, your campus Advocate, University Police Department and Title IX Coordinator are all able to provide you with more information about transportation and/or accompaniment to a hospital, including the name(s) of university personnel who may transport you.

### **Medical Check-ups**

- *Do not require a police report and do not collect evidence*
- Students may schedule an appointment with their primary care provider, Student Health Services, or Planned Parenthood. Employees may schedule an appointment with their primary care provider or Planned Parenthood. You may ask them for preventative STI medication or emergency contraceptives. Emergency contraception can also be accessed at your local pharmacy.

### **Evidentiary Exams**

- *Requires a police report*
- Victims have the right under state and federal law to receive a medical evidentiary examination anonymously, at no cost to them. If a victim/survivor chooses not to report to law enforcement, they still have the right to a forensic exam (see “VAWA Exams” below).

An evidentiary exam requires a police report and is sometimes referred to as a Sexual Assault Forensic Exam (SAFE). It is recommended that the examination

occurs within a reasonable timeframe after the assault for optimal evidence collection. Law enforcement can provide transportation to the facility, and the victim/survivor will meet with a victim advocate before the exam begins. A specially trained medical provider, called a Sexual Assault Nurse Examiner (SANE), will conduct the exam.

### **VAWA Exams**

- *Do not require a police report*
- Victims have the right under state and federal law to receive a medical evidentiary examination anonymously, at no cost to them. If a victim/survivor chooses not to report to law enforcement, they still have the right to a forensic exam. This exam is sometimes referred to as a VAWA (Violence Against Women Act) exam, anyone of any gender identity can receive a VAWA exam. The evidence is collected and preserved for up to two years if the survivor decides to move forward with making a report to law enforcement.

If a victim/survivor visits a medical facility solely for the purpose of requesting a forensic exam, law enforcement will be notified. A victim/survivor has the right not to participate or agree to participate in the criminal justice system, either prior to the examination or at any other time.

### **Reporting to law enforcement and making a criminal report**

If your physical safety is at imminent risk, we encourage you to seek immediate assistance from the police.

Some forms of misconduct prohibited under the Nondiscrimination Policy may also be prohibited by law. You have a right to be informed of law enforcement options and information regarding the availability of a criminal or civil prosecution for victims of crime.

It is a victim's/survivor's choice to report a crime. You have the right to report or decline to report an incident to law enforcement. You have the right to not be forced, coerced, or pressured into reporting to law enforcement.

A victim/survivor may report an incident to law enforcement at any time, including on campus and local police. In the event of an emergency where immediate assistance is required, a victim/survivor should dial 9-1-1 to be connected with the nearest police department. If there is no emergency, victims/survivors can file a police report at any time in the jurisdiction where the assault occurred.

The CSUMB University Police Department may also be reached in person at 100 Campus Center, Bldg 82F, Seaside, CA 93955 or by phone by contacting dispatch at (831) 655-0268. Additional information about the CSUMB Police department may be found online at: [University Police | California State University Monterey Bay](#).

A confidential victim advocate<sup>24</sup> can assist the victim/survivor in filing the report if requested.

Victims/survivors of crimes such as sexual assault, sexual exploitation, stalking, dating violence, domestic violence, abuse, threats of abuse and/or serious harassment all have a right to petition the court in the appropriate jurisdiction for a protective order (also referred to as a restraining order).

Your Campus Advocate, University Police Department and Title IX Coordinator are all able to provide you with more information about pursuing criminal prosecution, civil prosecution and/or protective orders.

A victim/survivor of specific offenses [enumerated in California Government Code section 7923.615(b)(1)] has the right to request to be listed as a confidential victim in a law enforcement agency's report. Being listed as a confidential victim in a law enforcement agency's report prevents the law enforcement agency from disclosing the confidential victim's name and address as a matter of public record. However, the confidential victim's information can be released to the prosecutor, parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, probation officers of county probation departments, or other persons or public agencies where authorized or required by law. Please see California Penal Code section 293 for more information.

Employees of the University Police Department have a duty to report to the Title IX Coordinator / DHR Administrator any time they know or have reason to know of incidents that may violate this Nondiscrimination Policy, so that the Title IX Coordinator or DHR Administrator can carry out their duties under the law and under this Nondiscrimination Policy. At a minimum, the information to be reported includes all the information authorized to be disclosed under the law in response to records requests, but without requiring a formal request<sup>25</sup>. Such information includes but is not limited to the time, substance, and location of all complaints or requests for assistance received by University Police and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, the identity of the alleged perpetrator, and a general description of any injuries, property, or weapons involved<sup>26</sup>.

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<sup>24</sup> The CSUMB campus advocate can be reached here: [Campus Advocate | California State University Monterey Bay](#)

<sup>25</sup> See Government Code 7923.615

<sup>26</sup> See Government Code 7923.615

For certain sex offenses <sup>27</sup>the victim has the right to affirmatively request from University Police, after being informed of their options, that the victim's identity remain confidential<sup>28</sup>. However, even if the victim requests confidentiality of identity, the University Police should specifically ask the victim if the victim's name can be provided to the Title IX Office so that the Title IX Coordinator can contact the victim to discuss supportive measures that can be offered. And in all cases, even when the victim requests confidentiality, the identity of the alleged perpetrator (if known) must be reported to the Title IX Coordinator.

## Protective Orders

### Civil reporting options & protective orders

A victim/survivor may choose to file a civil lawsuit against the alleged offender, whether or not criminal charges have been filed. A civil lawsuit provides an opportunity to recover actual money damages, which may include compensation for medical expenses, lost wages, pain, suffering and emotional distress. An Advocate can assist a victim/survivor with identifying the necessary steps and processes for filing a lawsuit if requested.

### Court-Ordered Restraining Orders

A victim/survivor may choose to obtain a 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 help protect a victim/survivor who has experienced or is reasonably in fear of physical violence, sexual violence, domestic violence, dating violence and stalking.

### Emergency Protective Order (EPO)

An Emergency Protective Order (EPO) is a type of restraining order that only law enforcement can ask for by calling a judge. Typically, this is done by an officer responding to the scene of a domestic violence incident. Judges are available to issue EPOs 24 hours a day. The EPO takes effect immediately and can last up to seven calendar days. The judge can order the alleged abuser to leave the domicile and stay away from the victim and their children for up to a week. This provides the victim with time to go to court to request a temporary restraining order.

### Temporary Domestic Violence Restraining Order (TRO)

A TRO is a type of protective order. In order to obtain one, the victim/survivor must fill out paperwork explaining the facts and why a protective order is needed. If a judge agrees that

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<sup>27</sup> See Penal Code Sections 220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6.

<sup>28</sup> Additionally, the confidential victim's information can be released to the prosecutor, parole officers of the Department of Corrections and Rehabilitation, hearing officers of the parole authority, probation officers of county probation departments, or other persons or public agencies where authorized or required by law. Please see California Penal Code section 293 for more information.

protection is needed, the judge will issue a temporary restraining order. Temporary restraining orders usually last until the court hearing date, typically 20 to 25 days after the petition is filed.

### Criminal Protective Order (CPO)

When there is a claim that a domestic violence incident occurred, a criminal charge (or charges) may be filed by a prosecutor (such as the City Attorney or District Attorney) against the person who allegedly committed the criminal act. The prosecutor commonly asks a judge to issue a Criminal Protective Order while the criminal case proceeds. A CPO typically requires the defendant (the person who allegedly committed the criminal act) to stay away from and not to hurt, threaten, or communicate with the victim/accuser. If the defendant is convicted of or pleads guilty to the criminal charge(s), the CPO may last for up to ten years after the case is over.

### Civil Harassment Restraining Order

This type of court order is available to individuals who have been harassed by any of the following: a neighbor, roommate (as long as no dating/romantic relationship existed or exists), friend, family member more than two degrees removed (e.g., an aunt/uncle, niece/nephew, cousin, or more distant relative), stranger, or another person not closely related to the victim of the harassment.

An individual who has been civilly harassed by a current or former spouse/partner, or someone with whom a dating/romantic relationship existed, or a close relative (parent, child, brother, sister, grandmother, grandfather, in-law) may qualify for a domestic violence restraining order but would not qualify for a civil harassment restraining order.

### The CSU, Restraining Orders and Protective Orders

The CSU complies with California law in recognizing restraining orders and protective orders. If you obtain a restraining order a copy should be provided to your campus Police Department. In order to comply with the restraining order, Title IX Coordinators, DHR Administrators, Advocates and/or the University Police Department on your campus may assist with setting up escorts, establishing special parking arrangements, changing classroom or employment locations, or additional measures as needed. Victim/Survivor Advocates on your campus can offer assistance with obtaining a restraining order.

### Disciplinary Procedures

Disciplinary procedures for sexual misconduct/sexual assault, sexual exploitation, dating and domestic violence, and stalking will provide a prompt, fair, and impartial initial process and final resolution, outlined in the following excerpts from the [CSU Nondiscrimination Policy](#).<sup>29</sup> As required by law, the excerpts in this Annual Security Report capture the steps,

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<sup>29</sup> Track 1: The Federal Mandated Hearing Process ("Track 1") is applicable instead of the processes under the Interim CSU Nondiscrimination Policy – Student Respondent Procedures and the Interim CSU Nondiscrimination Policy – Employee and Third-Party Respondent Procedures for cases that are

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 Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation.

The Title IX/DHR Office can be contacted by email at: [titleix\\_dhr@csumb.edu](mailto:titleix_dhr@csumb.edu), in person at Gavilan Hall - Building 201, Suite 211, on the second floor, or by filing at report at: <https://csumb.edu/titleix/>. Please contact the Title IX/DHR Office if you wish to request an accommodation.

Complaints alleging violations of this Nondiscrimination Policy against a President, Title IX Coordinator / DHR Administrator, the Chancellor, or member of the Board of Trustees will be made to the Office of Civil Rights Programming & Services at [CO-Complaints@calstate.edu](mailto:CO-Complaints@calstate.edu). Any person may report an alleged violation of the Nondiscrimination Policy.

Reports may be made at any time, and individuals are encouraged to report an alleged violation of the Nondiscrimination Policy regardless of how much time has passed. The University's ability to interview witnesses and otherwise investigate or act, however, may be limited by various factors, including the passage of time, fading witness memories, and/or preservation of evidence. In all cases, the Title IX Coordinator/DHR Administrator is available to discuss Supportive Measures with the Complainant at any time, regardless of how much time has passed since the incident described in the report.

The University's primary concern is the safety of the campus community. Any person who reports an alleged violation of the Nondiscrimination Policy should discuss any concerns about safety with the Title IX Coordinator/DHR Administrator

The Nondiscrimination Policy prohibits Retaliation. If a Student or Employee is reluctant to report because they fear Retaliation, they should discuss their concerns with the Title IX Coordinator/DHR Administrator as soon as possible.

Any Student who participates as a Complainant or witness in a Complaint process (including investigation or hearing) relating to Sexual Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, or Stalking will not be disciplined for related violations of the Standards for Student Conduct at or near the time of the incident, unless the University determines that the violation was egregious. The University may, however, take other appropriate action including having an educational discussion with the Student. Egregious conduct includes, but is not limited to, action that places the

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defined by the 2020 Title IX Federal Regulations as sexual harassment in an education program or activity against a person (including, but not limited to students and employees) in the United States. Track 1 procedures are attached in Appendix B.

health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

### Applicable Complaint Procedures

The CSU has adopted grievance procedures that provide for the prompt and equitable resolution of Complaints made by Students, Employees, designated officials, or other individuals who are participating or attempting to participate in its education programs, activities, or employment and allege any action that would be prohibited by this Nondiscrimination Policy. The following describes the appropriate procedures for investigating or resolving Complaints that fall under this Nondiscrimination Policy for Complaints that allege conduct that occurred on or after August 1, 2024.

- A. Track 1 (Federal Mandated Hearing Process) attached to this document (see Appendix C) sets out the procedures that will apply to Complaints against a Student, Employee, Third Parties, and/or Student-Employees where the alleged conduct:
  - i. Meets the definition of Sexual Harassment as defined in Article V.B of the Nondiscrimination Policy (also defined in Track 1, Article II.K); and
  - ii. Occurred in the United States; and
  - iii. Occurred in an education program or activity at the university, as defined in Track 1, Article II.E.
- B. Where Track 1 does not apply: For Complaints against a Student, the [CSU Nondiscrimination Policy – Student Respondent Procedures](#) apply.
- C. Where Track 1 does not apply: For Complaints against Employees, Third Parties, and/or Student-Employees (where the alleged conduct arose out of their status as an Employee and not their status as a Student), the [CSU Nondiscrimination Policy – Employee or Third-Party Respondent Procedures](#) apply.
- D. Complaints against a President, Title IX Coordinator/DHR Administrator, the Chancellor, or member of the Board of Trustees.
  - i. Where Track 1 does not apply: Complaints against a President, Title IX Coordinator/DHR Administrator, the Chancellor, or member of the Board of Trustees will be processed under the [CSU Nondiscrimination Policy – Employee or Third-Party Respondent Procedures](#).
  - ii. Complaints against the Chancellor or member of the Board of Trustees shall be made to the Title IX Coordinator/DHR Administrator at the Chancellor’s Office.
    - a. If it is alleged that the Chancellor or a member of the Board of Trustees directly engaged in conduct that violates this Nondiscrimination Policy, the Title IX Coordinator/DHR Administrator

at the Chancellor's Office shall inform the chair or vice chair of the Board.

- b. Any other Complaints against the Chancellor or a member of the Board of Trustees (for example, that the Chancellor or member of the Board of Trustees had no substantial involvement in other than to rely on or approve a recommendation made by another administrator) will be made to and addressed by the Office of Civil Rights Programming & Services at [CO-Complaints@calstate.edu](mailto:CO-Complaints@calstate.edu).
- iii. Complaints alleging violations of this Nondiscrimination Policy against a President or Title IX Coordinator/DHR Administrator shall be made to the Office of Civil Rights Programming & Services at [CO-Complaints@calstate.edu](mailto:CO-Complaints@calstate.edu).
  - a. If the President or Title IX Coordinator/DHR Administrator's role in the alleged incident was limited to a decision on a recommendation made by another administrator, and the President or Title IX Coordinator/DHR Administrator had no other substantial involvement in the matter, the Complaint shall be processed by the Campus.
- iv. When circumstances warrant, the Chancellor, Vice Chancellor for Human Resources, or Associate Vice Chancellor for Civil Rights Programming & Services may determine in other cases that a Complaint will be addressed by the Office of Civil Rights Programming & Services at the Chancellor's Office rather than the Campus.

#### Simultaneous Written Notification

Communication with the Parties regarding a Complaint, an investigation, or hearing will be sent to their designated CSU campus email address, unless the Party has specifically requested in writing to the Title IX Coordinator/DHR Administrator, Investigator, or Hearing Coordinator that communication be sent to a different email address. Communication with Parties who are neither Students nor Employees will be sent to an email address that they provide. 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 to the Complainant and the Respondent at the same time.

#### Outreach to Complainant

After receiving a report, the Title IX Coordinator/DHR Administrator will assess the report and provide outreach to the possible Complainant named in the report. This outreach will include the following:

- a. A statement that the University has received a report of conduct that may be prohibited by the Nondiscrimination Policy (e.g. Discrimination, Harassment, Sexual

Misconduct, Sexual Harassment, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, Prohibited Consensual Relationship, or Retaliation.)

- b. A description of the role of the Title IX Coordinator/DHR Administrator.
- c. A request for the Complainant to meet with the Title IX Coordinator/DHR Administrator, or other designated employee, to discuss the Complainant's options and next steps.
- d. A statement that the Complainant can be accompanied by an Advisor of their choice during any meeting relating to the report and any subsequent Complaint process.
- e. Information regarding counseling, resources, and potential Supportive Measures.
- f. An explanation of how the University responds to reports of Nondiscrimination Policy violations and a description of potential disciplinary consequences.
- g. A summary of the investigation procedures.
- h. A statement regarding the importance of preserving evidence.
- i. A statement that the Complainant may, but is not required to, report to law enforcement any allegations that could constitute criminal behavior.
- j. A statement that retaliation for making a Complaint or participating in a Complaint process is prohibited by the Nondiscrimination Policy.

In addition to the information provided in the outreach communication, the Title IX Coordinator/DHR Administrator will provide Complainants alleging Sexual Misconduct, Sexual Exploitation Dating Violence, Domestic Violence or Stalking, with the information in Attachment D - Rights and Options for Victims of Sexual Misconduct/Sexual Assault, Sexual Exploitation, Dating And Domestic Violence, And Stalking.

#### Initial Assessment & Intake Meeting

The Title IX Coordinator/DHR Administrator will offer to conduct an intake meeting with any Complainant who responds to outreach communication, or otherwise makes a report of a potential Nondiscrimination Policy violation to discuss the Complainant's options, explain the available processes (including informal resolution and the formal complaint resolution process), and provide information about Supportive Measures. The Title IX Coordinator/DHR Administrator will consider the need for a follow-up meeting with the Complainant, as appropriate. Any subsequent investigation will include an interview with the Complainant conducted by the assigned investigator. The investigatory interview will be intended to build upon and clarify the information provided during intake.

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 one Advisor of their choice, who may be, but is not required to be, an attorney or a union representative during meetings or any stage of the Complaint process.

The University will not limit the choice or presence of the Advisor for the Complainant or Respondent in any meeting or proceeding. However, the unavailability of a specific Advisor will not unduly interfere with prompt scheduling.

A Party's Advisor may not answer questions regarding the subject matter of the investigation for the Complainant or the Respondent. However, the Advisor may observe and consult with the Complainant or Respondent.

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.

## Confidentiality Requests and Requests Not to Investigate

### *Confidentiality Requests*

The University will maintain confidentiality of reports, Complaints, and associated processes whenever possible. When necessary, to protect the campus community and to facilitate investigations and/or Supportive Measures, certain information may be shared on a "need-to-know" basis. Therefore, the University cannot guarantee confidentiality.

### *Requests not to Investigate*

When a Complainant requests that no investigation occur, the Title IX Coordinator/DHR Administrator will balance the request against the University's duty to provide a safe and non-discriminatory environment for all members of the campus community. In cases where the Complainant does not want to pursue an investigation, the Title IX Coordinator/DHR Administrator should inform the Complainant that the ability to take corrective action may be limited.

The Title IX Coordinator/DHR Administrator will consider, at a minimum:

- a. The Complainant's request not to proceed with initiation of a Complaint;
- b. The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- c. The risk that additional acts of prohibited conduct would occur if a Complaint is not initiated;
- d. The severity of the alleged prohibited conduct including whether the conduct, if established, would require the removal of a Respondent from campus or imposition of another Disciplinary Sanction to end the alleged prohibited conduct and prevent its recurrence;
- e. Whether the Respondent poses an imminent threat to the campus community, which may include violence, threats of violence, use of a weapon, physical restraints, or unwanted physical contact.
- f. The age and relationship of the Parties, including power imbalance
- g. The scope of the alleged conduct, including information suggesting a pattern (such as multiple or prior reports of misconduct against the Respondent), ongoing conduct, or conduct alleged to have impacted multiple individuals;
- h. Whether the University is able to conduct a thorough investigation and obtain relevant evidence without the Complainant's cooperation;
- i. The availability of evidence to assist a decisionmaker (Investigator or Hearing Officer) in determining whether the alleged prohibited conduct occurred;
- j. Whether the University could end the alleged prohibited conduct and prevent its recurrence without initiating the formal complaint resolution process; and
- k. For Employee Complainants, the University will also consider its obligation to maintain a safe work environment in determining whether an investigation is necessary.
  - a. The Title IX Coordinator/DHR Administrator will document the basis for the decision to initiate or to not initiate the investigation based on this assessment criteria.

### *Decision to Proceed with Complaint*

Based on the assessment criteria above, the Title IX Coordinator/DHR Administrator has discretion to initiate an investigation without the Complainant's participation.

When the Title IX Coordinator/DHR Administrator decides to proceed with an investigation without a Complainant's participation, the Title IX Coordinator/DHR Administrator will make the Complaint on behalf of the University. The Title IX Coordinator/DHR Administrator will remain neutral in applying the Nondiscrimination Policy and these Procedures. In these cases, the Title IX Coordinator/DHR Administrator will provide the impacted party with the same notices, updates, and opportunities to participate as the Respondent throughout the investigation and, where applicable, hearing process, unless the impacted party confirms in writing that they do not want to receive these

communications and do not wish to participate in the process. The impacted party may rescind this notice at any time in writing to the Title IX Coordinator/DHR Administrator.

When the Title IX Coordinator/DHR Administrator initiates an investigation without the Complainant's participation, the Complainant will be informed in advance of the Title IX Coordinator/DHR Administrator disclosing the Complainant's identity and details of the Complaint or report to the Respondent, or initiating an investigation. The Title IX Coordinator/DHR Administrator will work with campus partners to take steps to arrange reasonable safety measures for the Complainant if appropriate. At the Complainant's request, the Title IX Coordinator/DHR Administrator will inform the Respondent that the Complainant asked the University not to investigate or seek discipline.

A Student Complainant will not be required to participate in an investigation if they do not wish to do so.

#### *Decision not to proceed with investigation:*

If a request for confidentiality or no investigation is granted, the Title IX Coordinator/DHR Administrator will nevertheless take reasonable steps to limit the effects of the alleged prohibited conduct and prevent its recurrence without initiating formal action against the Respondent or revealing the identity of the Complainant. Examples include increased temporary monitoring, supervision, or security at locations or activities where the alleged misconduct occurred; providing additional training and education materials for students and employees; or conducting climate surveys. Reasonable steps will be taken to provide for the safety of a Complainant while keeping the Complainant's identity confidential as appropriate and if possible. These steps may include changing living arrangements or course schedules, assignments, or tests. The Complainant will be notified that the steps the campus will take may be limited by the request for confidentiality.

#### **Supportive Measures**

The University will offer and coordinate Supportive Measures as appropriate for the Complainant and/or Respondent to restore or preserve that person's access to the University's education programs, activities, employment, or to provide support during the University's formal complaint resolution process or during the informal resolution process. Supportive Measures may include, but are not limited to: counseling; extensions of deadlines and other course-related adjustments; changes to employee reporting line; campus escort services; increased security and monitoring of certain areas of the campus; restrictions on contact applied to one or more Parties; leaves of absence; changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to prohibited conduct.

The Title IX Coordinator/DHR Administrator will describe and offer Supportive Measures to Complainants during the initial assessment (even if no Complaint is made or the Complaint is ultimately not investigated), and to Respondents during an initial meeting.

The Title IX Coordinator/DHR Administrator is responsible for coordinating the effective implementation of Supportive Measures if requested and reasonably available.

Review of Supportive Measures (Applies only to Reports or Complaints of Sexual Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, or Stalking)

A Complainant or Respondent may request modification or reversal of a decision to provide, deny, modify, or terminate Supportive Measures applicable to them.

This request will be reviewed by an appropriate and impartial Employee:

- a) If the original decision about Supportive Measures was made by a person with authority delegated by the Title IX Coordinator/DHR Administrator, the review will be conducted by the Title IX Coordinator/DHR Administrator.
- b) If the original decision about Supportive Measures was made by the Title IX Coordinator/DHR Administrator, the review will be conducted by a Systemwide Director for Civil Rights.

If the reviewer determines that the decision to provide, deny, modify, or terminate the Supportive Measure was inconsistent with the Nondiscrimination Policy's requirements, expectations, or standards for Supportive Measures, they may modify or reverse the decision. In making this determination, the reviewer should consider:

- a) Do the Supportive Measures unreasonably burden a Complainant or Respondent?
- b) Are the Supportive Measures punitive?
- c) Are the Supportive Measures reasonably available and restore access to the CSU's programs, activities, or employment?
- d) Are the Supportive Measures being offered or provided during the informal resolution process or formal complaint resolution process?

A Complainant or Respondent may also seek additional modification or termination of a Supportive Measure applicable to them if circumstances change materially by contacting the Title IX Coordinator / DHR Administrator.

The University will not share information about any Supportive Measures with anyone other than the person to whom they apply, including informing one Party of Supportive Measures provided to another Party, unless necessary to provide the Supportive Measure or restore or preserve a Party's access to the CSU's education programs, activities, or employment, or when otherwise required by state or federal law.

## No-Contact Directives

No-contact directives may be issued as a Supportive Measure, Remedy, or in connection with an Informal Resolution Agreement, with or without an investigation. When reasonably requested by a Complainant or otherwise needed to protect health and safety or to preserve the integrity of the investigation, the University will issue an interim no-contact directive, which may be unilateral (prohibiting the Respondent from contacting the Complainant) or mutual (prohibiting the Parties from contacting each other) while the investigation is pending.

No-contact directives that are not part of an Informal Resolution Agreement must meet the following requirements:

1. No-contact directives that limit an individual's movement on a University campus may only be issued where the conduct alleged is egregious or where an objective threat of physical harm exists.
2. A mutual no-contact directive (applicable to both Parties) may only be issued prior to an investigation outcome. Mutual no-contact directives will not be issued automatically. The Title IX Coordinator/DHR Administrator must consider, based on the circumstances of each case, whether a mutual no-contact directive is necessary or justifiable to protect the Respondent's safety or well-being, or to address concerns about interference with an investigation.
3. If there is a finding that the Nondiscrimination Policy has been violated and a mutual no-contact directive is already in effect, unless there are extenuating circumstances, the no-contact directive will promptly be converted to a unilateral no-contact directive (applicable only to the Respondent).
4. Any no-contact directive (whether mutual or unilateral) will be delivered to both Parties in writing and will be accompanied by a written explanation of the terms of the directive and the consequences for violating the no-contact directive. A no-contact directive is intended to be temporary and should be periodically assessed to confirm the continued need for, and appropriateness of, its specific terms (conditions), including whether it should be mutual (applicable to both Parties), or unilateral (only applicable to the Respondent).
5. Violations of no-contact directives will be addressed by the campus Student Conduct Administrator in the same manner as any violation of the Student Conduct Code. If the alleged violation of the no-contact directive is itself a violation of the Nondiscrimination Policy, the matter will be referred to the Title IX Coordinator/DHR Administrator.

In considering the reasonableness and terms of a requested no-contact directive, the Title IX Coordinator/DHR Administrator may consider various factors, including the need expressed by the Complainant or Respondent; the ages of the Parties involved; the nature of the allegations and their continued effects on the Complainant or Respondent; whether the Parties continue to interact directly in the University's education program or activity, including through student employment, shared residence or dining facilities, class, or

campus transportation; and whether steps have already been taken to mitigate the harm from the Parties' interactions, such as implementation of a civil protective order.

### *Criminal Complaints and Concurrent Investigations*

Complainants will be informed during the intake meeting of their right to make a criminal complaint with University police or other appropriate law enforcement agencies. The Title IX Coordinator/DHR Administrator will offer to assist the Complainant and will assure them that filing a criminal complaint will not unreasonably delay the University's investigation. The University will typically not wait until the conclusion of a criminal investigation to begin its own investigation. Although it may be necessary to temporarily delay the investigation while law enforcement is gathering evidence, once notified that law enforcement has completed the fact gathering portion of their investigation, the University will promptly resume and complete its own investigation. Individuals who first report to University police will be encouraged to also make a Complaint with the Title IX Coordinator/DHR Administrator.

### *Interim Suspension*

An interim suspension may be considered for a Student Respondent, where there is reasonable cause to believe that interim suspension of that Student is necessary to protect the personal safety of persons within the Campus community or Campus property, and to ensure the maintenance of order during an investigation. Such interim suspensions will be implemented in accordance with the procedures under the Student Conduct Process and will only remain in effect during the Complaint process until determined to be no longer necessary. In determining whether an interim suspension is necessary, the Title IX Coordinator/DHR Administrator will coordinate with the Student Conduct Administrator to ensure appropriate on-going assessment and implementation occurs.

### *Transcript Notations*

If a Respondent withdraws, transfers, or disenrolls from the University pending an investigation or disciplinary proceeding concerning a violation of the Nondiscrimination Policy, transcript notations may be appropriate and will be addressed under the Student Conduct Process. As appropriate to the situation, the University may place an administrative hold on registration transactions, release of records, and transcripts of a Student who has been sent written notice of a pending investigation or disciplinary matter concerning that Student, and may withhold awarding a degree otherwise earned until the completion of the investigation or disciplinary process, including the completion of all sanctions imposed.

### *Complaints*

When the Title IX Coordinator/DHR Administrator receives a Complaint, they will determine whether to open an investigation after making a preliminary inquiry into the allegations. An investigation may not be warranted where the reported information does not allege facts with enough specificity or include conduct that would, even if true, constitute a violation of

the Nondiscrimination Policy. These determinations will be documented in writing by the Title IX Coordinator/DHR Administrator and maintained in accordance with systemwide records retention policies.

When more than one Complainant or more than one Respondent is involved, references in these Procedures to a Party, Complainant, or Respondent include the plural, as applicable.

### Complaints Accepted for Investigation

Within 10 Working Days of the date of an intake meeting or receipt of a request for investigation from the Complainant (whichever is later), or making a determination that an investigation is necessary without a request from or participation by the Complainant, the Title IX Coordinator/DHR Administrator will send a Notice of Investigation to the Complainant and Respondent.

### Complaint Not Accepted for Investigation

If the Title IX Coordinator/DHR Administrator determines that the Complaint does not allege a violation of the Nondiscrimination Policy, the Title IX Coordinator/DHR Administrator will, within 10 Working Days of the date of the intake or receipt of a written request for investigation (whichever is later), notify the Complainant in writing that the Complaint will not be investigated without further information. The Title IX Coordinator/DHR Administrator may refer the Complaint to another campus office if appropriate and will notify the Complainant of any referral. The Title IX Coordinator/DHR Administrator will retain a record of the Complaint, the written determination and any referrals made to another campus office.

### Discretionary Dismissal

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:

1. 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
2. If the specific circumstances prevent the University from reasonably gathering evidence necessary to reach a determination as to the Complaint or part of the Complaint.
3. The University will notify the Parties in writing of the dismissal, that a dismissal may be appealed, and will provide the Parties with an opportunity to appeal the dismissal of a Complaint.

The appeal must be submitted within 10 working days from the date of the notice of dismissal. Dismissals may be appealed on the following bases:

- a. Procedural irregularity occurred that would have likely changed the outcome of the decision to dismiss;

- b. New evidence that was not reasonably available at the time of the dismissal and would have likely changed the outcome of the decision to dismiss; or
- c. The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome.

Appeals will be submitted to the Civil Rights Appeals Unit at the Chancellor's Office and will be addressed to:

Civil Rights Appeals Unit  
Office of the Chancellor  
401 Golden Shore  
Long Beach, California 90802  
[CO-Appeals@calstate.edu](mailto:CO-Appeals@calstate.edu)

1. If a Party is unable to submit an appeal or a response to an appeal electronically, they should contact the campus Title IX Coordinator/DHR Administrator for assistance.
2. When an appeal is submitted, the Civil Rights Appeals Unit will notify the other Party and the campus Title IX Coordinator/DHR Administrator in writing. The non-appealing Party may submit a written statement in support of or challenging the dismissal no later than 5 Working Days after the notice of appeal. Within 10 Working Days of the Civil Rights Appeals Unit's receipt of the appeal, the Civil Rights Appeals Unit will notify the Parties (via email and at the same time) of its decision.
3. The Civil Rights Appeals Unit will not consider evidence that was not introduced to the campus during the Complaint review process unless the new evidence was not reasonably available at the time of the Complaint review.
4. The Civil Rights Appeals Unit has discretion to extend the timelines for the dismissal appeal process for good cause or for any reasons deemed to be legitimate by the Civil Rights Appeals Unit. This includes the time for filing an appeal and the time for the Civil Rights Appeals Unit to respond to the appeal. The Civil Rights Appeals Unit will notify the Parties and the Title IX Coordinator/DHR Administrator of any extensions of time granted pertaining to any portion of the appeal process.
5. The Civil Rights Appeals Unit appeal response is final and concludes the discretionary dismissal process under these Procedures.

### Consolidation

The University may consolidate Complaints against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against another Party, when the allegations arise out of the same or substantially similar facts or circumstances. The Title IX Coordinator/DHR Administrator will determine whether a

Complaint should be consolidated (subject to FERPA and other applicable privacy laws). In addition, during the course of the investigation, the investigation may reveal the existence of additional or different violations of the Nondiscrimination Policy, which may also be consolidated following notification to the Parties. Depending on the timing and circumstances, the Title IX Coordinator/DHR Administrator retains discretion to resolve Complaints using the same investigator or following the resolution of the initial Complaint, such as through appropriate Disciplinary Sanctions.

### Student Grade Appeals

Grade appeals that allege a violation of the Nondiscrimination Policy proceed under the campus procedures per *CSU Grading, Repetition of Courses, Academic Renewal, and Appeals Policy* (or any superseding policy) *and* under these Procedures as follows:

1. The Student will promptly request a grade appeal and note that the grade appeal procedure should be paused until such time as the campus investigation and any appeal process under these Procedures have concluded.
2. The determination whether a violation occurred under the Nondiscrimination Policy will be provided to the campus grade appeal committee, and the committee will be bound by the determination when the grade appeal process resumes.

### Alternative Resolution Process

#### Informal Resolution

The Parties may voluntarily choose to participate in an informal resolution process to resolve an alleged violation of the Nondiscrimination Policy. The filing of a formal Complaint is not required to initiate the informal resolution process.

#### *General Principles*

The Title IX Coordinator / DHR Administrator has discretion to determine whether it is appropriate to offer an informal resolution process and may decline to allow informal resolution despite the request of one or more of the Parties. Circumstances when the Title IX Coordinator/DHR Administrator may decline to allow informal resolution include but are not limited to a determination that the alleged conduct would present a future risk of harm to others.

The Title IX Coordinator/DHR Administrator will conduct or oversee the informal resolution process and conduct an initial and on-going assessment as to whether the process should continue.

Prior to approving an informal resolution, the Title IX Coordinator/DHR Administrator will consult with the appropriate administrator responsible for discipline.

The Title IX Coordinator/DHR Administrator will make the final determination on all informal resolution processes regarding whether the terms agreed to by the Parties are appropriate considering all of the circumstances of the Complaint.

When the informal resolution process is offered, and to the extent necessary, the Title IX Coordinator/DHR Administrator will also take other appropriate prompt and effective steps to ensure that the alleged violations of the Nondiscrimination Policy do not continue or recur within the University's education programs, activities, or employment.

Neither Party will be required or pressured to participate in an informal resolution process. The Title IX Coordinator/DHR Administrator must obtain the Parties' voluntary written consent to participate in the informal resolution process and must not require waiver of the right to an investigation and determination of a Complaint as a condition of enrollment or continuing enrollment, employment or continuing employment, or exercise of any other right.

The person facilitating the informal resolution process must not be the same person as the Investigator or the Hearing Officer in the formal complaint resolution process. A Title IX Coordinator/DHR Administrator may facilitate the informal resolution process. When the Title IX Coordinator/DHR Administrator facilitates the informal resolution process, they cannot serve as the Investigator. In addition, any informal resolution agreements facilitated by the Title IX Coordinator/DHR Administrator must be signed by the assigned Systemwide Director for Civil Rights.

Any person facilitating an informal resolution process will receive appropriate training and must be free from a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

### *Notice of Informal Resolution Process*

Before beginning the informal resolution process, the Title IX Coordinator/DHR Administrator will explain in writing to the Parties:

- a. The allegations;
- b. The requirements of the informal resolution process;
- c. That any Party has the right to withdraw from the informal resolution process and begin or continue with the formal complaint resolution process at any time before agreeing to a resolution;
- d. The Parties' right to consult with an Advisor;
- e. Any resolution must be in writing and signed by both Parties and the Title IX Coordinator/DHR Administrator;
- f. That if the Parties agree to a resolution at the end of the informal resolution process, they cannot begin or continue with the formal complaint process in relation to the same allegations;

- g. The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the Parties; and
- h. What information the University will maintain and whether and how the University could disclose such information for use in the formal complaint resolution process if such procedures begin or resume.

### *Potential Terms*

Potential terms that may be included in an informal resolution agreement include, but are not limited to:

- a. Apology, written or verbal;
- b. Relocation or removal from University provided housing, subject to availability;
- c. Changes in academic arrangements, such as changing class sections or locations;
- d. Changes in work schedules or locations;
- e. Limitations on or agreements related to participation in and/or presence in/at events, extracurricular activities, student organizations, recreational facilities, athletics, etc.
- f. Participation in and/or successful completion of alcohol or drug education or counseling;
- g. Participation in counseling services for mental or behavioral health;
- h. Participation in specific educational opportunity or training;
- i. Voluntary educational, mentoring, coaching, or counseling sessions, which may or may not include stipulations, such as proof of successful completion or statement of active participation from the mentor / coach / counselor;
- j. Verbal counseling or warnings;
- k. Collaborative agreements on behavioral or institutional changes;
- l. No-contact directives, or other restrictions on contact, communication, and/or interactions between the Parties;
- m. Restrictions on Respondent's movement or access to specific locations at the University;
- n. Alternative seating arrangements for graduation;
- o. Complainant sharing of an impact statement with the Respondent;
- p. Admission or acceptance of responsibility for causing harm and/or the alleged conduct;

- q. Community service;
- r. Voluntary participation in formal disciplinary action for Respondent;
- s. Restrictions on the Respondent's participation in one or more University programs or activities or attendance at specific events, including restrictions the University could have imposed as Remedies or Disciplinary Sanctions had it determined at the conclusion of the formal complaint resolution process that a violation of the Nondiscrimination Policy occurred; or
- t. Other mutually agreed upon outcomes or resolutions.
  - Any agreed-upon Remedies and Disciplinary Sanctions agreed to in an informal resolution have the same effect as Remedies given and Disciplinary Sanctions imposed following an investigation or hearing.

### *Timeframe*

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. The Parties and the Title IX Coordinator / DHR Administrator may agree to one or more extensions of the 60 Working Day deadline, which will be confirmed in writing. The timeline of the formal complaint resolution process will be paused during the pendency of any informal resolution process.

### *Written Agreement-Not Subject to Appeal*

The terms of any informal resolution must be in writing and signed by the Parties and the Title IX Coordinator/DHR Administrator. Use of electronic signatures is permitted. A signed agreement to an Informal Resolution is final and is not appealable by either Party.

### *Restrictions on Mediation Between the Parties*

Mediation between the Parties cannot be used, even on a voluntary basis, to resolve Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, or Stalking Complaints.

### *Acceptance of Responsibility*

The Respondent may, at any time during the investigation or hearing process, prior to an Investigator or Hearing Officer issuing their determination, choose to accept responsibility for the alleged conduct prohibited under the Nondiscrimination Policy.

Before a Respondent accepts responsibility for the alleged misconduct, the Title IX Coordinator / DHR Administrator or designee will discuss with the Respondent that the matter will be referred to the University president or designee for a decision regarding an appropriate Disciplinary Sanction, and that the acceptance of responsibility could – but will not necessarily – be regarded as a mitigating factor that results in less severe sanctions.

Acceptance of responsibility will only be recognized if the Respondent accepts responsibility by signing a written document prepared by the Title IX Coordinator / DHR Administrator that describes the range of Disciplinary Sanctions that the president or designee will consider in reaching a decision about Disciplinary Sanctions.

If the Respondent has accepted responsibility in writing, the Title IX/DHR office will issue a brief written summary of the allegations and a statement that the Respondent has accepted responsibility. The written summary will be sent to both the Complainant and the Respondent.

Within 5 Working Days of receiving the written summary from the Title IX/DHR Office, each Party may submit to the Title IX Coordinator / DHR Administrator an impact statement or other statement regarding discipline that is no more than 2000 words in length. The document is an opportunity for each Party to suggest disciplinary outcomes and to provide information that they believe is important for the president or designee to consider when reaching a sanction decision. The Student Conduct Administrator and/or Title IX Coordinator / DHR Administrator will also submit a written statement regarding aggravating and mitigating factors (that is, factors that would warrant a more severe or less severe sanction), including whether the Respondent was previously found to have violated the Standards for Student Conduct or the Nondiscrimination Policy. These written statements will be provided to the president or designee who will decide an appropriate sanction.

The Parties may appeal the sanction only on the grounds that the sanction(s) imposed was objectively unreasonable, or arbitrary based on the conduct for which the Respondent accepted responsibility. The appeal process will otherwise be in accordance with the appeals procedures below.

Where there is an acceptance of responsibility regarding some but not all of the alleged conduct, the investigation and hearing process will continue to conclusion, unless otherwise resolved through Informal Resolution

## Investigations-The Formal Complaint Resolution Process

### Purpose of the Investigation and Resolution Process

The investigation and resolution of Complaints under these Procedures is not intended to be an adversarial process between the Complainant, the Respondent, and witnesses. Rather, it is a process and opportunity for the University to educate students, provide an environment free from prohibited conduct under the Nondiscrimination Policy, and comply with its obligations under law. The University will provide for adequate, reliable, and impartial investigation of Complaints. The University will treat Complainants and Respondents equitably.

### *Cooperation in the Investigation Process*

All Employees, and Students who are not Parties to the Complaint, are required to cooperate with the investigation and other processes set forth in these Procedures, including but not limited to, attending meetings and interviews, and being forthright and honest during the process.

### *Written Notice*

The University will provide a Party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the Party to prepare to participate.

### *Prohibition on Retaliation*

The University strictly prohibits Parties or witnesses from engaging in Retaliation against anyone for reporting or filing a Complaint, assisting or participating in an investigation or hearing, interfering with a Party's or witness's rights or privileges under the Nondiscrimination Policy, or for assisting someone else in reporting or opposing conduct prohibited by the Nondiscrimination Policy. Any acts of Retaliation are subject to disciplinary action.

### *Privacy*

The University will take reasonable steps to protect the privacy of the Parties and witnesses, including ensuring compliance with the Family Educational Rights and Privacy Act (FERPA) and other applicable privacy laws. During the formal complaint resolution process, beginning with the Notice of Investigation and concluding when the deadline for an appeal has passed or the Civil Rights Appeals Unit has issued its final response, the Parties and witnesses are prohibited from using or disclosing the information or records obtained through the formal complaint resolution process. This prohibition shall not restrict the ability of the Parties to obtain and present evidence, including by speaking to witnesses, consulting with family members, confidential resources, or Advisors, or otherwise preparing for or participating in the formal complaint resolution process. These restrictions also do not apply to information learned through other means, such as personal experience, or to disclosures made during another administrative proceeding or through litigation. For especially sensitive materials, including but not limited to recordings and medical records, the University will provide such records for viewing or inspection only -- and not for copying or possessing. The Parties and their Advisors may be asked to sign written acknowledgements agreeing to these restrictions on disclosure and re-disclosure. Whether or not such acknowledgements are signed, violations of these prohibitions, including disregarding any restrictions on the use of records (such as re-disclosing records to unauthorized individuals or copying records that are provided for viewing only), may subject a Student or Employee to discipline.

## Standard and Burden of Proof

The standard of proof for hearings and investigations under these Procedures is the Preponderance of the Evidence. Preponderance of the Evidence is a standard of proof that determines whether alleged conduct more likely than not occurred based on the evidence presented or facts available at the time of the decision. The responsibility is not on the Parties – but on the University — to conduct an investigation that gathers sufficient evidence to determine whether alleged prohibited conduct occurred. The Complainant does not have the burden to prove, nor does the Respondent have the burden to disprove, the underlying allegation or allegations of misconduct. The University presumes that the Respondent is not responsible for the alleged conduct until a determination is made at the conclusion of the formal complaint resolution process.

## Role of the Title IX Coordinator / DHR Administrator in the Investigation Process

The Title IX Coordinator/DHR Administrator will either investigate the Complaint or assign this task to an Investigator. If assigned to an Investigator, the Title IX Coordinator/DHR Administrator will supervise and oversee the investigation, including reviewing all draft investigation reports before they are final to ensure that the investigation complies with these Procedures. If the Title IX Coordinator/DHR Administrator investigates the Complaint, a Systemwide Director or other appropriately trained administrator will review all draft investigation reports in the place of the Title IX Coordinator/DHR Administrator.

## Neutrality of Process

The University requires that any Title IX Coordinator/DHR Administrator, investigator, or decisionmaker not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. A decisionmaker may be the same person as the Title IX Coordinator/DHR Administrator or investigator. The Title IX Coordinator/DHR Administrator will take affirmative steps 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. A conflict of interest exists if a person has a personal relationship with one of the Parties or witnesses, has a reporting employment relationship with a Party, or has demonstrated actual bias towards a Party or witness or towards Complainants or Respondents in general. Mere belief or opinion does not constitute evidence of bias or conflict of interest.

## Investigation Where a Respondent Does Not Participate

The Respondent will not be found to have violated the Nondiscrimination Policy solely because the Respondent did not participate in the investigation or hearing process. Nor will the Respondent be found not to have violated the Nondiscrimination Policy solely because a Complainant or other witness did not participate in the investigation or hearing process.

## Timeframe, Extensions, and Status Updates

The University has established the following timeframes for the major stages of the formal complaint resolution process:

Stage	Timeframe
Complaint accepted or not accepted for investigation	Within 10 Working Days of the date of the intake or receipt of a written request for investigation (whichever is later)
Investigation – Review of Evidence Response Submission	10 Working Days from date Preliminary Investigation Report sent to Parties
Investigation – Final Investigation Report	100 Working Days from the date the Notice of Investigation is sent to Parties
Notice of Hearing	At least 20 Working Days prior to date of hearing
Hearing Officer’s Decision Report	15 Working Days from end of hearing
Final Decision from President or Designee	10 Working Days from receipt of Hearing Officer’s sanction recommendation
Appeal Submission	10 Working Days from date Notice of Investigation Outcome (non-hearing) or Final Decision (hearing) is sent to the Parties
Appeal Determination	30 Working Days after receipt of the written appeal

The University has also established the following process that allows for the reasonable extension of timeframes in these Procedures on a case-by-case basis for good cause. A Party, Investigator, and/or Hearing Officer may request a reasonable extension of the timeframes in these Procedures at any time from the Title IX Coordinator/DHR Administrator. The Title IX Coordinator/DHR Administrator may also initiate a reasonable extension of the timeframes in these Procedures at any time. For an extension to be granted, the following process must be followed:

1. Good cause for the extension must exist. Good cause may include:
  - a) To ensure the integrity and thoroughness of the investigation;
  - b) The reasonable absence of a Party, Party's advisor, or witness;
  - c) To comply with a request by law enforcement, including a concurrent law enforcement investigation;<sup>2</sup>

- d) Based on the need to provide language assistance, disability accommodations, or other modifications to allow the full participation of a Party or witness;
  - e) Academic breaks or exam periods;
  - f) A particularly complex investigation or hearing process, such as one involving multiple Complainants, multiple Respondents, a large number of witnesses, voluminous evidence, or length of the written record;
  - g) The severity and extent of the alleged misconduct; or
  - h) Other extenuating or unforeseen circumstances that are not within the control of the University, Party, witnesses, Investigator, or Hearing Officer.
2. The Title IX Coordinator/DHR Administrator is the final decision-maker with respect to all extensions
  3. The Parties receive written notice from the Title IX Coordinator/DHR Administrator or designee that an extension is necessary and an explanation for the delay. The notice will indicate if the extension alters the timeframes for the major stages of the Complaint process and provide a new estimated timeline.

### *Requests for Extensions*

While requests for delays by the Parties and witnesses may be considered, the University cannot unduly or unreasonably delay the prompt resolution of a Complaint under the Nondiscrimination Policy.

- a. Students – As required by California law, the Title IX Coordinator/DHR Administrator will not unreasonably deny a Student Party's request for an extension during periods of examinations or academic breaks.
- b. Employees – The fact that an Employee is off contract or between semesters, without more, does not excuse an Employee from their expected participation in the Complaint resolution process.

### *Status Updates*

In addition to the communications at each major stage of the process, the University will provide a status update to the Complainant and Respondent every 30-days, beginning from the date that the Notice of Investigation is issued until the Notice of Investigation Outcome or Final Decision is issued to the Parties, unless a Party requests in writing not to receive these updates.

- a. For cases involving a hearing under Addendum A-Track 2 Hearing Process the Title IX Coordinator/DHR Administrator shall notify the Complainant of any Disciplinary Sanctions imposed against a Respondent.

- b. The Civil Rights Appeals Unit will provide status updates to the Parties and Title IX Coordinator/DHR Administrator as required by the timelines in these Procedures.
- c. In addition, either Party may, at any time, request from the Title IX Coordinator/DHR Administrator a status update regarding investigation, hearing, and appeal timeframes.

### Reasonable Accommodations

Any person with a Disability who seeks reasonable accommodations to participate in the Complaint submission or investigation process will be referred to the appropriate campus administrator (for Students, the services for students with disabilities administrator, and for Employees the appropriate human resources administrator) who may consult with the Title IX Coordinator/DHR Administrator to determine the reasonableness of a requested accommodation.

### Notices of Investigation

The University will prepare Notices of Investigation for the Parties upon initiation of the formal complaint resolution process. The Notices of Investigation must be issued to the Parties in writing, at the same time, and with sufficient time and information for the Parties to prepare a response before any initial interview. A Notice of Investigation must include the following information:

1. An overview summary of the Complaint allegations (e.g., "who," "what," "when," and "where"), including the identities of the Parties, the conduct alleged to constitute violation of the Nondiscrimination policy, and the date(s) and location(s) of the alleged incident(s);
2. A copy of, or internet link to, these Procedures and the Nondiscrimination Policy, as well as a summary of the alleged Nondiscrimination Policy violations;
3. A summary of the Nondiscrimination Policy formal complaint resolution process, including the right to appeal and the informal resolution process;
4. That Retaliation is prohibited;
5. The Respondent is presumed not responsible for the alleged conduct until a determination is made at the conclusion of the formal complaint resolution process. Prior to such a determination, the Parties will have an opportunity to provide Relevant evidence to a trained, impartial decisionmaker (Investigator or Hearing Officer);
6. The estimated timeline for completion of the investigation;
7. Information regarding counseling and other Supportive Measures;
8. The Parties may have one Advisor of their choice who may be, but is not required to be, an attorney or union representative;

9. The Parties will have an equal opportunity to access the Relevant and not otherwise impermissible evidence used in the investigation;
10. A statement that the Complainant and Respondent will have equal opportunities to identify Relevant witnesses and evidence in connection with the investigation and at any hearing, including the ability to:
  - a. Submit documentary information to the Investigator;
  - b. Submit a list of potential witnesses to the Investigator; or
  - c. Request that the Investigator attempt to collect additional relevant evidence;
11. A statement that any evidence available, but not disclosed during the investigation might not be considered in any findings made, including at any hearing, and likely will not be considered for purposes of appeal;
12. A statement that the Standards for Student Conduct prohibits furnishing false information to a University official, faculty member, or campus office;
13. A statement that the Complainant and Respondent will be provided with periodic status updates in accordance with the timelines established in these Procedures; and
14. A statement regarding the possible range of Disciplinary Sanctions. If new but related allegations are raised during the investigation that are materially different from those described in the Notice of Investigation, the Title IX Coordinator / DHR Administrator will issue a revised Notice of Investigation to the Parties, along with a corresponding revised timeline for completion, if appropriate.

## Respondent Initial Meeting

In the Notice of Investigation, the Title IX Coordinator/DHR Administrator will offer to have an initial meeting with the Respondent. This meeting is not intended to be investigatory in nature. 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 process the Respondent and the Complainant will have the opportunity to present evidence, identify witnesses, and review evidence.

## Gathering Evidence

During the investigation, the Investigator will take reasonable steps to gather all Relevant evidence from the Parties, witnesses, or other sources, including interviews with the Complainant, the Respondent, and Relevant witnesses. The University will provide an equal opportunity for the Parties to present fact witnesses and other inculpatory (meaning that it shows or tends to show a person's involvement in the alleged conduct) and exculpatory (meaning that it shows or tends to show that a person was not involved in the alleged

conduct) evidence that is Relevant. The Investigator will interview the Parties and Relevant witnesses and review documents and physical evidence. As appropriate to the investigation, the Investigator may conduct follow-up interviews or request responses to questions in writing.

### *Opportunity to Submit Evidence and Identify Witnesses*

The Complainant and Respondent will be asked to identify witnesses and provide other Relevant information, such as documents, communications, and other available evidence. The Parties are encouraged to provide all Relevant information as soon as possible to facilitate a prompt resolution to the Complaint. The Investigator may receive any information presented by the Parties, but the Investigator, not the Parties, is responsible for gathering Relevant evidence. If a Party or witness declines to voluntarily provide material information or delays in doing so, the University's ability to conduct a prompt, thorough, and equitable investigation may be impacted. The University will not restrict the ability of either Party to discuss the allegations under investigation or to gather and present Relevant evidence. Parties and witnesses must not engage in actions that could be considered Retaliation, including confronting, threatening, intimidating, attempting to influence, or otherwise taking inappropriate actions against any Party, witness, or anyone else participating in the investigation or hearing process. The Investigator will document the steps taken to gather evidence, even when those efforts are not successful.

### *Bases for Declining a Request to Gather Evidence*

The Investigator will gather evidence and ask questions proposed by the Parties, except as follows:

- a. The Investigator determines that the questions are repetitive, irrelevant, or harassing.
- b. The request seeks information that can be reasonably and adequately obtained by the requesting Party from other independent or publicly available sources.
- c. The burden of obtaining the information is likely to substantially outweigh the benefit that the evidence bears on a disputed issue.
- d. The requested information can be reasonably obtained through other means less likely to intrude on a person's privacy.

### *Investigations Involving Allegations of Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, or Stalking*

The University will review all evidence gathered through the investigation and determine what Relevant evidence may be considered. Questions are Relevant when they seek evidence that may aid in showing whether or not the alleged conduct occurred, and evidence is Relevant when it may aid a decisionmaker in determining whether or not the alleged conduct occurred.

1. Impermissible evidence is evidence that is not allowed to be accessed, considered, or otherwise used by the University, except to determine if one of the exceptions listed below applies. The following types of evidence, and questions seeking that evidence, are impermissible, regardless of whether they are Relevant:
  - a. Evidence protected by a privilege recognized by state or federal law (unless waived by the Party or witness holding the privilege);
  - b. A Party's or witness's private medical records maintained by a physician, psychologist, or other recognized professional or paraprofessional (unless the Party or witness voluntarily consents to its use in writing); or
  - c. Evidence that relates to the Complainant's or Respondent's sexual interests or prior or subsequent sexual conduct (unless offered to prove someone other than the Respondent committed the alleged conduct or offered to prove how the Parties communicated consent in prior or subsequent consensual, sexual relations).
    - i. Where the Investigator allows consideration of evidence about a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent, the fact that the Complainant and Respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual.
    - ii. Prior consensual, sexual conduct between the Complainant and the Respondent does not prevent the University from finding that the conduct alleged in the Complaint constitutes a violation of the Nondiscrimination Policy.

### *Expert Witnesses*

In rare cases, an Investigator may need to consult medical, forensic, technological, or other experts when expertise on a topic is needed to achieve a fuller understanding of the issues under investigation. In such cases, the Investigator must consult with the Title IX Coordinator/DHR Administrator prior to engaging an expert witness.

### *Preliminary Investigation Report*

The University will provide each Party and the Party's Advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of prohibited conduct and not otherwise impermissible evidence.

Before finalizing the investigation, the Investigator will share with the Complainant and Respondent a preliminary investigation report, along with all Relevant evidence gathered. The preliminary investigation report will list any evidence offered by the Parties or any other witnesses that the Investigator concluded are not Relevant. This evidence will be available for review upon request. The preliminary investigation report will:

- a. Describe the allegations.
- b. Describe the investigative process to date.
- c. Set forth the relevant policy language and the Preponderance of Evidence Standard.
- d. Describe the evidence presented and considered.
- e. Identify the material facts – disputed and undisputed – with explanations as to why any material fact is disputed.

### *Access to Preliminary Investigation Report*

The Investigator, in consultation with the Title IX Coordinator/DHR Administrator, will use discretion in determining how to provide the Parties with secure access to the preliminary investigation report. The University will take reasonable steps to prevent and address the Parties' and their Advisors' unauthorized disclosure of information and evidence obtained solely through the formal complaint resolution process.

### *Review of Evidence*

Each Party will be given a reasonable opportunity to respond to the preliminary investigation report and any attached evidence and ask questions. The opportunity to review and respond to the preliminary investigation report is known as the "review of evidence" process. The Parties will have 10 Working Days to review the evidence. Each Party may:

- a. Respond to the evidence in writing.
- b. Request that the Investigator gather additional evidence or ask specific questions to the other Party and other witnesses.
- c. Identify additional witnesses.

### *Conclusion of Review of Evidence*

The Investigator will share with the Parties the answers to questions posed during the review of evidence and additional Relevant evidence gathered. This will be shared with all Parties, who may then respond to any new evidence and ask questions. The Investigator determines when it is appropriate to conclude the review of evidence process.

### *Final Investigation Report*

#### *Final Investigation Report (Track 3-Hearing Not Required)*

For Complaints of Discrimination, Harassment, and Retaliation under these Procedures (not including Sexual Harassment, Sexual Misconduct, Dating Violence, Domestic Violence, Sexual Exploitation, and Stalking, as each of these forms of prohibited conduct are defined in Article V.A of the Nondiscrimination Policy), a hearing is not required, and the

investigator will make the final determination in the case. A final investigation report will be provided to the Parties along with a Notice of Investigation Outcome.

- a. The final investigation report will include:
  - i. A summary of the allegations,
  - ii. The investigation process,
  - iii. The Preponderance of the Evidence standard,
  - iv. A detailed description of the evidence considered,
  - v. Analysis of the evidence including relevant credibility evaluations,
  - vi. Appropriate findings, and
  - vii. Relevant exhibits and documents attached to the written report.
- b. The Notice of Investigation Outcome will attach the final investigation report and include the following:
  - i. A summary of the allegations and the investigative process.
  - ii. That the Preponderance of the Evidence standard was employed.
  - iii. A summary of the findings of fact.
  - iv. A determination as to whether the Nondiscrimination Policy was violated, and if so, any Remedies to be afforded to the Complainant.
  - v. Notice of Parties' right to appeal under these procedures.
- c. The notice will usually be delivered to the Parties electronically. If the notice includes a determination that there was a violation of the Nondiscrimination Policy, the Title IX Coordinator/DHR Administrator will notify the appropriate University administrator responsible for discipline of the investigation outcome and provide a copy of the final investigation report. This notice will include the appeal rights available to the Respondent prior to the initiation of any Disciplinary Sanctions.

### *Final Investigation Report (Track 2- Hearing Required)*

For Complaints under these Procedures involving allegations of Sexual Harassment, Sexual Misconduct, Dating Violence, Domestic Violence, Sexual Exploitation, and Stalking, as each of these forms of prohibited conduct are defined in Article V.A of the Nondiscrimination Policy, a hearing is required.

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.

## Hearings

As part of the formal complaint resolution process for Sexual Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, and Stalking cases, the CSU will provide a live hearing that enables the decisionmaker – “the Hearing Officer” – to question the Parties and witnesses to assess a Party’s or witness’s credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations.

A hearing will be provided when:

1. the respondent is a Student; AND
2. The Complaint includes allegations of Sexual Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, and Stalking. The Complainant and Respondent will be treated equitably throughout the pre-hearing and hearing processes.

## Privacy

The University will take reasonable steps to protect the privacy of the Parties and witnesses during the hearing process, provided that the steps do not restrict the ability of the Parties to obtain and present evidence, including by speaking to witnesses (subject to the University’s prohibition on Retaliation), consulting with their family members, confidential resources, or Advisors, or otherwise preparing for or participating in the process.

Pre-Hearing Schedule and Response Deadlines:

### *Role of the Hearing Coordinator*

The Hearing Coordinator (either the student conduct administrator, Title IX Coordinator, or other appropriate administrator) is the person responsible for coordinating the hearing process. The Hearing Coordinator will act as liaison between the Parties and the Hearing Officer on procedural matters and therefore may not be the Investigator assigned to the matter. The Hearing Coordinator may appropriately delegate administrative tasks but should have overall supervision of the hearing coordination process.

### *Notice of Hearing-20 Working Days Prior to Hearing*

The Parties will be sent a written notice of the hearing at least 20 Working Days before the hearing. The notice will include the date, time, location, and purpose of the hearing as well as the name of the Hearing Officer. The notice is considered received on the date it is sent.

### *Submission of Proposed Witness List*

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.

### *Information Regarding Advisors and Support Persons*

A Party may be accompanied at the hearing by one Advisor (for consultation) and one Support Person (for emotional support) of their choice. No later than 15 Working Days before the hearing, the Parties will provide to the Hearing Coordinator the name of, and contact information for, the Party's Advisor and Support Person (if any).

### *Objections to the Hearing Officer*

A Hearing Officer will not have a conflict of interest or bias for or against complainants or respondents generally or an individual Complainant or Respondent. Objections to the assigned Hearing Officer will be made in writing to the Hearing Coordinator no later than 15 Working Days before the hearing.

- a) The objection may only be based on an actual conflict of interest. An actual conflict of interest exists if the Hearing Officer has a personal relationship with one of the Parties or witnesses or has demonstrated actual bias towards a Party or witness, or complainants or respondents generally.
- b) The fact that the Hearing Officer has previously served as a hearing officer in a University proceeding is not a conflict of interest. Mere belief or opinion does not constitute evidence of actual bias or conflict of interest.
- c) The Hearing Coordinator will determine if there is a conflict of interest. In that event, the Parties will be notified in writing of the name of the new Hearing Officer. The date for the hearing may need to be rescheduled. Any objection to the new Hearing Officer will be made following the same process described above.

### *Location of Hearing-15 Working Days Prior to Hearing*

Generally, the University will conduct hearings with the Parties physically present in separate locations using videoconferencing technology that allows the Hearing Officer and the Parties to simultaneously see and hear the Party or witness while that person is speaking. Any objections from a Party about being out of the physical presence of the Hearing Officer will be made in writing no later than 15 Working Days before the hearing.

### *Space and Technology Needs*

Any Party who anticipates that they will not have a private space from which to participate in the hearing and/or technology access, including a reliable internet connection, should notify the Hearing Coordinator no later than 15 Working Days before the hearing so that the Hearing Coordinator can assist with appropriate arrangements for a private on-campus space and technology access.

### *Disability Accommodations*

Any Party who requires a disability accommodation to facilitate their full participation in the hearing should notify the Hearing Coordinator no later than 15 Working Days before the

hearing. The Hearing Coordinator will refer such requests to the appropriate campus administrator (for Students, the services for students with disabilities administrator, and for Employees the appropriate human resources administrator), who may consult with the Hearing Coordinator to determine the reasonableness of a requested accommodation.

### *Notification to Witnesses and Facilitation of Witness Participation*

No later than 10 Working Days before the hearing, the Hearing Coordinator will share the witness list with the Parties and notify each witness of the date, time, and location of or how to access the hearing. a. The campus will direct Employee and Student witnesses to attend the hearing where the witnesses are timely identified to the Hearing Coordinator. b. The University will accommodate Student and Employee witnesses, including arranging for them to be excused from class attendance or work duties where necessary. Witnesses will be instructed to promptly direct any questions or concerns about their attendance at the hearing to the Hearing Coordinator. c. Any Employees, including those in bargaining units, who fail to comply with the directive may be subject to discipline under the applicable provisions of their collective bargaining agreement or other University policy. d. Students who fail to comply may be subject to discipline depending on the circumstances.

### *Submission of Proposed Questions*

No later than 5 Working Days prior to the hearing, the Parties will submit a list of proposed questions to the Hearing Coordinator, who will share these with the Hearing Officer. Proposed questions will not be shared with the other Party or witnesses in advance of the hearing.

### *Questions/Concerns About the Witness List*

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.

### *Pending Requests*

No later than 1 Working Day before the hearing, the Hearing Officer will resolve all pending requests regarding participation at the hearing. The Hearing Coordinator will give prompt notice to the Parties (and witnesses) as appropriate.

### *Role of Hearing Officer in Pre-Hearing Matters*

The Hearing Officer will make all determinations regarding pre-hearing matters, including which witnesses will participate and which questions, if submitted, are Relevant and will promptly notify the hearing coordinator who, in turn, will promptly notify the Parties. The Hearing Officer may also identify and request witnesses from the final investigation report not previously listed by the Parties attend the hearing.

### *Audio Recording of Hearing*

The University will make an official audio recording of the hearing. No other recording of the hearing is permitted. The recording is University property. The audio recording will be

retained by the University in accordance with the records retention policy. Parties may request to review the recording.

### *Hearing Attendees and Participants*

1. The following individuals are permitted to attend the hearing:
2. The Parties
3. The Hearing Office
4. Witnesses while they are answering questions
5. The Title IX Coordinator/DHR Administrator
6. The Hearing Coordinator 6. The Student Conduct Administrator
7. One Advisor per Party
8. One Support Person per Party
9. An appropriate Chancellor's Office administrator, University police or security officer, or other individuals may be present as necessary for security, technological support, language assistance or other approved reasonable accommodation but will not participate in the hearing.

### *Role of Advisors and Support Persons*

The Parties may each be accompanied at the hearing by one Advisor and one Support Person. An Advisor and Support Person may observe and consult with the Parties. However, during the hearing, the Advisor and Support Person will not make the opening statement or speak regarding the substance or the process of the hearing. Parties may make a request to the Hearing Officer for a break to speak with their Advisor or Support Person.

### *Party Failure to Appear*

If a Party does not appear at the hearing without good cause, the hearing will proceed as scheduled. Whether good cause exists is determined by the Hearing Officer.

The Respondent will not be found to have violated the Nondiscrimination Policy solely because the Respondent or other witness failed to appear at the hearing. Nor will the Respondent be found not to have violated the Nondiscrimination Policy solely because a Complainant or other witness failed to appear at the hearing.

### *Participant Conduct*

Abusive or otherwise disorderly behavior that causes a material disruption will not be tolerated. The Hearing Officer may excuse anyone from the hearing (including either Party or their Advisor or Support Person) whose behavior causes a material disruption. The Hearing Officer, at their discretion, may postpone the hearing when a participant has been excused. In making this decision, the Hearing Officer will consider the equity of postponement for both Parties.

## *New Evidence*

Generally, the Parties may not introduce evidence, including witnesses and their statements, at the hearing that the Party did not identify during the investigation and that was available at the time of the investigation. The Hearing Officer has discretion to accept for good cause, or exclude, new evidence offered during the pre-hearing stage or at the hearing.

## *Opening Statements*

Each Party will be given an opportunity to make an opening statement of no longer than 10 minutes. 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. The Parties will not make closing statements.

## *Questioning*

All questions will be asked by the Hearing Officer. The Hearing Officer may ask questions of the Complainant, Respondent, Investigator, any campus official (e.g., Title IX Coordinator / DHR Administrator or Student Conduct Administrator), and any witness.

1. The process for proposing and asking Relevant and not otherwise impermissible questions and follow-up questions of Parties and witnesses, including questions challenging credibility, will:
  - a. Allow the Hearing Officer to ask such questions, and
  - b. Allow each Party to propose such questions that the Party wants asked of any Party or witness and have those questions asked by the Hearing Officer, subject to the procedures for evaluating and limiting questions described below.
2. Procedures for the Hearing Officer to evaluate the questions and limitations on questions:
  - a. The Hearing Officer will determine whether a proposed question is Relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible.
  - b. Questions that are unclear or harassing of the Party or witness being questioned will not be permitted.
  - c. The Hearing Officer will give a Party an opportunity to clarify or revise a question that the Hearing Officer determines is unclear or harassing. If the Party sufficiently clarifies or revises the question, the question will be asked.
  - d. The Parties may also submit written follow-up questions to the Hearing Officer during the hearing, at appropriate times designated by the Hearing Officer.
  - e. The Hearing Officer will ask the questions proposed by the Parties except for questions that:

- i. Seek information that is unreasonably duplicative of evidence in the Hearing Officer's possession;
- ii. Are not relevant to material disputed issues, are repetitive, argumentative or harassing or unduly intrude on a witness' privacy;
- iii. Relate to the Complainant's or Respondent's sexual interests or prior or subsequent sexual conduct, unless offered to prove someone other than the Respondent committed the alleged conduct;
- iv. Relate to the existence of a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent unless the evidence is relevant to how the Parties communicated consent in prior or subsequent consensual sexual relations.
  1. Note: If the Hearing Officer allows consideration of evidence about a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent the mere fact that the Complainant and Respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual.
  2. The Hearing Officer shall provide a written explanation to the Parties as to why consideration of the evidence is consistent with this section in the Hearing Officer's Report.

### *Party or Witness Failure to Participate*

The Hearing Officer may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions deemed Relevant and not impermissible. The Hearing Officer will not draw an inference about whether alleged conduct occurred based solely on a Party's or witness's refusal to respond to such questions.

### *Questions, Concerns, and Objections to Questions Posed*

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.

### *Hearing Officer Discretion to Rephrase or Decline Questions*

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.

## *The Hearing Officer's Report*

The Hearing Officer will prepare a written report that includes findings of facts and conclusions about whether the Respondent violated the Nondiscrimination Policy.

1. The report will include:
  - a. A description of the alleged conduct and potential Nondiscrimination Policy violations, which should correspond with those detailed in the Notice of Investigation and any amended notices.
  - b. Information about the policy and procedures that the University used to evaluate the allegations.
  - c. A summary of any procedural issues raised by the Parties before or during the hearing.
  - d. The definition of the Preponderance of the Evidence standard and a statement that this was the standard applied by the Hearing Officer in reaching their determinations
  - e. Any material evidence identified by the Parties or witnesses that the Hearing Officer determined was not Relevant (or duplicative) and the reason why the evidence was not considered to be Relevant.
  - f. A list of all questions submitted by the Parties at the hearing, and if any questions were not asked, why.
  - g. The Hearing Officer's evaluation of the Relevant and not otherwise impermissible evidence including an analysis of the credibility of the Parties and witnesses, when credibility assessments are required to resolve factual disputes. Credibility determinations will not be based on a person's status as a Complainant, Respondent, or witness.
  - h. A determination whether the alleged conduct occurred and if the conduct violated the Nondiscrimination Policy.
  - i. When the Hearing Officer finds that a violation of the Nondiscrimination Policy occurred, any Disciplinary Sanctions the University will impose on the Respondent, whether Remedies other than the imposition of Disciplinary Sanctions will be provided by the University to the Complainant, and, to the extent appropriate, other students identified by the University to be experiencing the effects of the violation of the Nondiscrimination Policy.
  - j. The procedures and permissible bases for the Complainant and Respondent to appeal.
2. The Title IX Coordinator will review the Hearing Officer's report to ensure compliance with the Nondiscrimination Policy.
3. The Hearing Coordinator will notify the Parties at the same time and in writing of the determination as to whether the alleged conduct and violation of the Nondiscrimination Policy occurred and will include a copy of the Hearing Officer's report. This notification will be issued within 15 Working Days of the end of the hearing, unless an extension is granted by the Title IX Coordinator/DHR Administrator. The notification will also include information regarding the Parties'

appeal rights. The Student Conduct Administrator or other appropriate administrator will also be notified of the Hearing Officer's determination.

### *Hearing Outcome – No Violation Found*

If no violation is found, the Hearing Coordinator will notify the Parties of the outcome and their appeal rights, as described above. The University president or designee will also be notified.

### *Hearing Outcome – Violation Found*

If there is a determination that a violation of the Nondiscrimination Policy occurred, as appropriate, the Title IX Coordinator will:

1. Coordinate the provision and implementation of Remedies to a Complainant and other people the University identifies as having had equal access to its education programs or activities limited or denied by the Nondiscrimination Policy violation.
2. Coordinate the imposition of any Disciplinary Sanctions on a Respondent, including notification to the Complainant of any such Disciplinary Sanctions;
3. Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the University's education programs or activities; and
4. Comply with the Nondiscrimination Policy procedures before the imposition of any Disciplinary Sanctions against a Respondent.

### *Statements from Parties, Title IX Coordinator, and Appropriate Administrator*

If the Hearing Officer finds a violation of the Nondiscrimination Policy, the Parties may submit to the Hearing Coordinator an impact statement or other statement regarding discipline. 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 statement may not be more than 2000 words in length and will be submitted to the Hearing Coordinator no later than 5 Working Days after the Hearing Officer's report is sent to the Parties.

The appropriate administrator and/or the Title IX Coordinator/DHR Administrator will also submit to the Hearing Coordinator 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. The Hearing Coordinator will provide these statements to the Hearing Officer. Any information in the impact statement relied upon by the Hearing Officer in making their Disciplinary Sanction recommendation will be shared with the other Party with the president (or designee's) final decision and notification.

### *Recommendation as to Disciplinary Sanctions*

Within 5 Working Days after receiving and considering the statements described above, the Hearing Officer will update their Hearing Officer's report to include the recommended Disciplinary Sanctions and submit it to the president (or designee).

### *Final Decision and Notification*

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 Disciplinary Sanction.

1. Adoption of Sanctions – The president (or designee) 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 or rejects sanctions altogether, the president must set forth the reasons in the Decision Letter.
2. Remedies – The University may also provide Remedies, which may include counseling, extensions of deadlines or other course or work-related adjustments, modifications of work or class schedules, Campus escorts, 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 Administrator is responsible for determining the reasonableness of the requested Remedy and coordinating the effective implementation of Remedies
3. Decision Letter – The Decision Letter will include:
  - a. The outcome of the hearing, including any sanction imposed, and the name of the Respondent.
  - b. A copy of the Hearing Officer's Report, including the Hearing Officer's recommended Disciplinary Sanctions.
  - c. Notice of the Complainant's and Respondent's right to appeal.
4. Notification of Final Decision – The president will send the Decision Letter electronically to the Respondent and Complainant at the same time.
  - a. The decision will also be sent to the appropriate administrator and the Hearing Officer.
  - b. The president will also send the Decision Letter to the Title IX Coordinator/DHR Administrator so that they may determine whether any additional Remedies or other Supportive Measures will be afforded or undertaken to maintain a safe and nondiscriminatory University environment.
  - c. A copy of the Decision Letter issued to the Complainant will be redacted as to findings regarding conduct that does not constitute a "crime of violence," Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking (34 C.F.R. § 99.31 et seq.).
  - d. Unless the University 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.

## Appeal Procedures

For Complaints alleging Sexual Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, and Stalking, either Party may file an appeal. For Complaints involving allegations of Discrimination, Harassment, Prohibited Consensual Relationships, or Retaliation only the non-prevailing Party may appeal.

### Filing an Appeal to the Chancellor's Office

A written appeal may be submitted to the Chancellor's Office Civil Rights Programming & Services Appeals Unit ("Civil Rights Appeals Unit") no later than 10 Working Days after the date of the Notice of Investigation Outcome (non-hearing cases) or Final Decision (hearing cases). All arguments and/or evidence supporting the appeal must be submitted by the deadline to file the appeal. Arguments or evidence submitted after the appeal submission deadline will not be considered by the Civil Rights Appeals Unit. A written appeal may not exceed 3,500 words, excluding exhibits. Appeals will be submitted to:

Civil Rights Appeals Unit  
Systemwide Human Resources  
Office of the Chancellor  
401 Golden Shore Long Beach, California 90802  
[CO-Appeals@calstate.edu](mailto:CO-Appeals@calstate.edu)

Electronic submission to the email address listed above is the preferred method of submitting appeals.

### Bases for Appeal

An appeal will be based only on one or more of the appeal issues listed below:

1. There was no reasonable basis for the findings or conclusions that resulted in the investigation or hearing outcome.
2. Procedural errors occurred that would have likely changed the outcome of the investigation or hearing.
3. New evidence is available that would change the outcome and that was not reasonably available when the Investigator's or Hearing Officer's determination was made.
4. The Title IX Coordinator/DHR Administrator, Investigator, or Hearing Officer had a conflict of interest or bias for or against complainants or respondents generally or the individual Complainant or Respondent that would change the outcome.
5. The sanctions imposed was objectively unreasonable, or arbitrary based on substantiated conduct. (For Acceptance of Responsibility cases or Appeal reversals).

### Issues and Evidence on Appeal

The issues and evidence raised on appeal will be limited to those raised and identified during the investigation or hearing, unless new evidence that was not reasonably available at the time of the investigation or hearing and that could change the investigation or

hearing outcome becomes available after the University investigation or hearing was completed and is submitted by the appealing Party. The Civil Rights Appeals Unit may conduct an interview, at their discretion, with the appealing Party to clarify the written appeal.

### Acknowledgement of Appeal

The Civil Rights Appeals Unit 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 University 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 Civil Rights Appeals Unit will be provided to the appealing Party for informational purposes only.

### Reasonable Accommodation

The Civil Rights Appeals Unit will provide reasonable accommodations to any Party or witness in the appeal process with a qualified Disability upon request by the person needing the accommodation. A reasonable accommodation may include an extension of time under these Procedures. The timeframe for the Civil Rights Appeals Unit Response will automatically be adjusted for the time needed, if any, to provide reasonable accommodations. The Civil Rights Appeals Unit will consult with the appropriate university administrator (for Students, the services for students with disabilities administrator, and for Employees the appropriate human resources administrator) to determine the reasonableness of a requested accommodation.

### Scope of Review

The Civil Rights Appeals Unit will not conduct a new investigation; however, the Civil Rights Appeals Unit may make reasonable inquiries to determine if the new evidence could have affected the investigation or hearing determination. On appeal, the Civil Rights Appeals Unit 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.

### Civil Rights Appeals Unit Response

The Civil Rights Appeals Unit 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 determinations reached regarding the issues identified within the written appeal. A copy of the final Civil Rights Appeals Unit response will be forwarded to the Complainant, the Respondent, and the Title IX Coordinator/DHR Administrator. The appeal response determination is final and is not subject to further appeal.

### Reopening a University Investigation or Hearing

If the Civil Rights Appeals Unit 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 University and the investigation or hearing reopened at the campus level. The Civil Rights Appeals Unit will return the matter to the University and will specify in writing the timeline by which a reopened investigation or hearing must be completed. The Civil Rights Appeals Unit will notify the Parties of the reopening of the investigation or hearing and the timeline for completion of the reopened investigation or hearing. The University will complete the reopened investigation or hearing and provide the Civil Rights Appeals Unit with an amended final investigation report or Hearing Officer report. The University will also provide the Parties with amended notices of investigation outcome or 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 University, the non-prevailing Party will be given an opportunity to appeal.

### Reversal by Civil Rights Appeals Unit

If the Civil Rights Appeals Unit determines that no reasonable fact finder (Investigator or Hearing Officer) could have made the findings as determined by the Investigator or Hearing Officer, the Civil Rights Appeals Unit may vacate and reverse the investigation or hearing outcome, but only with respect to whether the Nondiscrimination Policy was violated (and not with respect to factual findings). If the Civil Rights Appeals Unit vacates and reverses the investigation or hearing outcome, it will notify the Parties at the same time and in writing, as well as the Title IX Coordinator/DHR Administrator. Following a reversal of an investigation or hearing outcome by the Civil Rights Appeals Unit, the decision is final and is not subject to further appeal. In the event that the final outcome has been reversed by the Civil Rights Appeals Unit and a sanction will be imposed by the University, 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 University for reconsideration of the sanction.

### Timeline for Response to Appeal

The Civil Rights Appeals Unit will respond to the appealing Party no later than 30 Working Days after receipt of the written appeal, unless the timeline has been extended pursuant to Section L below.

### Timelines and Extensions

The Civil Rights Appeals Unit has discretion to extend the timelines for the appeal process for good cause or for any reasons deemed to be legitimate by the Civil Rights Appeals Unit. This includes the time for filing an appeal, the time for a reopened investigation or hearing to be completed, and the time for the Civil Rights Appeals Unit to respond to the appeal.

The Civil Rights Appeals Unit will notify the Parties and the Title IX Coordinator/DHR Administrator of any extensions of time granted pertaining to any portion of the appeal process.

### Disciplinary Sanctions and Remedies

The University will not impose discipline on a Respondent for violations of the Nondiscrimination Policy unless: 1) there is a determination at the conclusion of the formal complaint resolution process (including appeals) that the Respondent violated the Nondiscrimination Policy; or 2) where discipline is agreed to as part of an informal resolution process.

If there is a determination that a violation of the Nondiscrimination Policy occurred, the Title IX Coordinator/DHR Administrator will, as appropriate:

1. Coordinate the provision and implementation of Remedies to a Complainant and any other individuals who the University identifies as also having been deprived of equal access to the University's education programs, activities, or employment due to a violation of the Nondiscrimination policy;
2. Coordinate the imposition of any Disciplinary Sanctions on a Respondent, including notification to the Complainant of any such Disciplinary Sanctions;
3. Take other appropriate prompt and effective steps to ensure that prohibited conduct under the Nondiscrimination Policy does not continue or recur within the University's education programs, activities, or employment; and
4. Comply with these Procedures before the imposition of any Disciplinary Sanctions against a Respondent.

Students who are found to have violated the Nondiscrimination Policy will be subject to discipline in accordance with state and federal requirements, student conduct rules, and other CSU policies. Sanctions for Students determined to have violated the Nondiscrimination Policy are identified in the Student Conduct Process: restitution, loss of financial aid, educational and remedial sanctions, denial of access to campus or persons, disciplinary probation, suspension, and expulsion. The University may also temporarily or permanently withhold a degree. Other sanctions and remedies may be agreed upon through the Informal Resolution process.

Employees who are found to have violated the Nondiscrimination Policy will be subject to discipline that is appropriate for the violation and in accordance with state and federal requirements and other CSU policies and applicable collective bargaining agreements. The possible sanctions for Employees determined to have violated the Nondiscrimination Policy are education, training, counseling, reprimand, unpaid suspension of varying lengths, demotion, and/or termination.

### 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/>

California law allows the following additional information regarding a registered sex offender on campus, whose information is not available to the public via the internet website, to be released to a campus community (Penal Code § 290.01(d)):

1. The offender's full name
2. The offender's known aliases
3. The offender's sex
4. The offender's race
5. The offender's physical description
6. The offender's photograph
7. The offender's date of birth
8. Crimes resulting in the registration of the offender under Penal Code § 290
9. The date of last registration

For purposes of this section, campus community shall be defined as those persons present at or regularly frequenting any place constituting campus property, satellite facilities, laboratories, public areas contiguous to the campus and other areas set forth in Penal Code § 290.01(d).

Registrant information that is released should include notification that:

1. The offender registry includes only those persons who have been required by law to register and who are in compliance with the offender registration laws.
2. The information is provided as a public service and may not be current or accurate.
3. Persons should not rely solely on the offender registry as a safeguard against offenses in their communities.
4. The crime for which a person is convicted may not accurately reflect the level of risk.
5. Anyone who uses information contained in the registry to harass registrants or commit any crime may be subject to criminal prosecution.
6. The purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders (Penal Code 290.45).

### Missing Student Notification Procedures, including for On-campus Student Housing Facilities

Student housing and/or Residential Life offices under the leadership of the Director shall forward information about missing students to the University Police Department. Anyone who has knowledge that a CSU student is missing should report the information to Student Affairs or the [University Police Department](#). This report must be made when a student has been missing for 24 hours, but the University encourages you to report immediately.

Reports made to Student Affairs will immediately be referred to the University Police Department. For more information, please click [here](#).

The CSU Police Department does not consider any report of a missing person to be routine and assumes that the missing person is in need of immediate assistance until an investigation reveals otherwise. The CSU Police Department gives missing person cases priority over property-related cases and will not require any time frame to pass before beginning a missing person investigation (Penal Code § 14211).

Any member encountering a person who wishes to report a missing person or runaway shall render assistance without delay (Penal Code § 14211). This can be accomplished by accepting the report via telephone or in-person and initiating the investigation. Those members who do not take such reports or who are unable to render immediate assistance shall promptly dispatch or alert a member who can take the report.

A report shall be accepted in all cases and regardless of where the person was last seen, where the person resides or any other question of jurisdiction (Penal Code § 14211).

Officers or other members conducting the initial investigation of a missing person should take the following investigative actions, as applicable:

- Respond to a dispatched call as soon as practicable.
- Interview the reporting party and any witnesses to determine whether the person qualifies as a missing person and, if so, whether the person may be at risk.
- Notify a supervisor immediately if there is evidence that a missing person is either at risk or may qualify for a public alert, or both (see the Public Alerts Policy).
- Broadcast a "Be on the Look-Out" (BOLO) bulletin" if the person is under 21 years of age or there is evidence that the missing person is at risk. The BOLO should be broadcast as soon as practicable but in no event more than one hour after determining the missing person is under 21 years of age or may be at risk (Penal Code § 14211).
- Ensure that entries are made into the appropriate missing person networks as follows:
  - Immediately, when the missing person is at risk.
  - In all other cases, as soon as practicable, but not later than two hours from the time of the initial report (34 USC § 41308).
- Complete the appropriate report forms accurately and completely and initiate a search as applicable according to the facts.
- Collect and or review:
  - A photograph and a fingerprint card of the missing person, if available.
  - A voluntarily provided biological sample of the missing person, if available (e.g., toothbrush, hairbrush).
  - Any documents that may assist in the investigation, such as court orders regarding custody.

- Any other evidence that may assist in the investigation, including personal electronic devices (e.g., cell phones, computers).
- When circumstances permit and if appropriate, attempt to determine the missing person's location through their telecommunications carrier.
- Contact the appropriate agency if the report relates to a missing person report previously made to another agency and that agency is actively investigating the report. When this is not practicable, the information should be documented in an appropriate report for transmission to the appropriate agency. If the information relates to an at-risk missing person, the member should notify a supervisor and proceed with reasonable steps to locate the missing person.
- Any student residing in campus housing has the option to identify a contact person or persons<sup>30</sup> whom the institution shall notify within 24 hours of the determination that the student is missing. This contact information will be registered confidentially, accessible only to authorized campus officials, and may not be disclosed except to law enforcement personnel in furtherance of a missing person investigation. Notification of the confidential contact person or persons shall be documented within the appropriate report.

Employees should complete all missing person reports and forms promptly and advise the appropriate supervisor as soon as a missing person report is ready for review. The responsibilities of the supervisor shall include, but are not limited to:

- Reviewing and approving missing person reports upon receipt. The reports should be promptly sent to the Records Bureau.
- Ensuring resources are deployed as appropriate.
- Initiating a command post as needed.
- Ensuring applicable notifications and public alerts are made and documented.
- Ensuring that records have been entered into the appropriate missing persons networks.
- Taking reasonable steps to identify and address any jurisdictional issues to ensure cooperation among agencies.

If the case falls within the jurisdiction of another agency, the supervisor should facilitate transfer of the case to the agency of jurisdiction.

## CSU Hazing Policy

### I. Statement of Values

The California State University (CSU) is committed to maintaining an inclusive and equitable community that values diversity, mutual respect, and fosters healthier and safer

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<sup>30</sup> If the person reported missing is under 18 years of age and not emancipated, the institution must notify a custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to notifying any additional contact person designated by the student.

environments for living and learning. Hazing is contrary to our institution's values and will not be tolerated.

## **II. Policy**

This policy establishes a systemwide policy on hazing prohibition in conjunction with hazing prevention efforts and activities. The provisions of this policy are pursuant to the Stop Campus Hazing Act in California Education Code 66305 – 66309 and the federal Stop Campus Hazing Act, 20 U.S.C. Section 1092(f)(9).

## **III. Hazing**

The federal definition of hazing: The term 'hazing' means any intentional, knowing, or reckless act committed by a person (whether individually or in concert with other persons) against another person or persons regardless of the willingness of such other person or persons to participate, that is committed in the course of an initiation into, an affiliation with, or the maintenance of membership in, a student organization; and causes or creates a risk, above the reasonable risk encountered in the course of participation in the institution of higher education or the organization (such as the physical preparation necessary for participation in an athletic team), of physical or psychological injury including— whipping, beating, striking, electronic shocking, placing of a harmful substance on someone's body, or similar activity; causing, coercing, or otherwise inducing sleep deprivation, exposure to the elements, confinement in a small space, extreme calisthenics, or other similar activity; causing, coercing, or otherwise inducing another person to consume food, liquid, alcohol, drugs, or other substances; causing, coercing, or otherwise inducing another person to perform sexual acts; any activity that places another person in reasonable fear of bodily harm through the use of threatening words or conduct; any activity against another person that includes a criminal violation of local, state, tribal or federal law; and any activity that induces, causes, or requires another person to perform a duty or task that involves a criminal violation of local, state, tribal, or federal law.

The term "hazing" is defined broadly. The CSU Student Code of Conduct, found at Title 5, California Code of Regulations, [Section 41301](#) (b)(8) and [California Penal Code section 245.6](#) defines "hazing" as "any method of initiation or pre-initiation into a student organization or student body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause physical harm, personal degradation or disgrace resulting in physical or mental harm, to any former, current, or prospective student of any school, community college, college, university or other educational institution" as well as "any act likely to cause physical harm, personal degradation or disgrace resulting in physical or mental harm, to any former, current, or prospective student of any school, community college, college, university or other educational

institution. "Hazing" does not include customary and ordinary athletic events or school sanctioned events."

Any method or act of initiation or preinitiation into (or the maintenance of status within) a student organization or student body, whether or not the organization or body is officially recognized by the CSU, which is likely to cause serious bodily injury or mental harm to any former, current, or prospective student of the CSU is prohibited and constitutes a violation of this Policy. Hazing includes not just conduct or actions likely to cause physical harm or pose a risk to the health and safety of an individual(s) but also conduct likely to cause personal degradation that could result in physical or mental harm. Hazing includes any action taken or situation created, whether on or off a campus, to produce mental or physical discomfort, embarrassment, harassment, or ridicule.<sup>31</sup>

Section 41301(b)(8) makes clear that "neither the express or implied consent of a victim of hazing, nor the lack of active participation in a particular hazing incident is a defense." The express or implied consent of a victim of hazing does not excuse or constitute a defense. Hazing violates this Policy regardless of a person's consent or willingness to participate and even if the person voluntarily submits to being hazed.

Section 41301(b)(8) also makes clear that apathy or acquiescence in the presence of hazing is not a neutral act and is also a violation of this section." Passive participation in hazing (such as attending a hazing incident or being a spectator) violates this Policy. The tacit or explicit endorsement, approval or validation of hazing violates this Policy. In addition, an

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<sup>31</sup> For purposes of the University's Hazing policy, the phrase "student organization" means "an organization at CSU Monterey Bay (such as a club, society, association, varsity or junior varsity athletic team, club sports team, fraternity, sorority, band, or student government) in which two or more of the members are students enrolled at the University." While student organizations that are not recognized or established by the University are not subject to the University's disciplinary jurisdiction, individuals who engage in violations of the standards of conduct outlined in the University's Hazing policy will be held accountable regardless of whether the student organization in which the Hazing activities occurred is recognized or established by the institution.

Any student organization recognized or established by the University that is found to be responsible for violating the University's Hazing policy will be recorded in the Campus Hazing Transparency Report. However, all reports of hazing involving student organizations that occur in the University's Clery Geography will be included in the crime statistics regardless of whether the organization is established or recognized by the institution.

The University reserves the right to hold a sub-group of an organization accountable for Hazing policy violations, rather than the entire student organization, when circumstances reasonably indicate a sub-group, not the entire student organization, committed a Hazing policy violation. For example, affinity groups or position groups within an athletic team that meet the definition of student organization may be held accountable for Hazing in lieu of the entire athletic team.

individual who is in a position to be able to take reasonable action to stop or prevent hazing but fails to do so violates this Policy.

Participation in hazing, actively or passively, will result in both individual student and student organizational disciplinary action, including possible expulsion from the California State University system and a permanent loss of recognition for the student organization. Disciplinary action will also be initiated against organizational officers who permit hazing to occur. Organizational officers are expected and required to be aware of any potential hazing and to prevent any such conduct from occurring.

Student organizations and their organizational officers are responsible for controlling the actions of their alumni, inactive members, and any other individuals participating in their member activities.

Examples of prohibited activities include *but are not limited to*:

1. Any form of physically demanding or dangerous activity (calisthenics, runs, etc.) not part of a sanctioned university or auxiliary activity.
2. Paddling, shoving, hitting, slapping, punching, dragging, kicking, or shocking an individual regardless of degree or nature.
3. Compelling, pressuring or forcing an individual to consume, use or be exposed to alcohol, tobacco, or drugs or engage in drinking games.
4. Compelling, pressuring or forcing an individual to consume unusual, undue amounts, or odd preparations of food, liquids, substances or other items.
5. Throwing, pouring, submerging, or otherwise applying substances to the bodies, clothing, or belongings of individuals.
6. Morally degrading or humiliating games, performances, or other activities that make an individual the object of ridicule, amusement or intimidation.
7. Abducting or transporting an individual to undisclosed locations, abandoning individuals, or conducting any "kidnap," "road trip," or "ditch" that may in any way endanger or compromise the physical or mental health, safety, or comfort of any individual.
8. Confining an individual to unreasonably small, poorly ventilated, unsanitary, uncomfortable or unlit areas.
9. Restraining an individual in any manner.
10. Intentionally exposing an individual to unsafe, hazardous, or uncomfortable temperatures, conditions, or environments.
11. Compelling, pressuring or forcing an individual to engage in, encourage, or witness nonconsensual sexual behavior, including kissing, touching private parts, fondling, or intercourse, or in sexual simulations.
12. Activities that require an individual to remain in a fixed position for an extended period of time.

13. "Line-ups" involving intense or demeaning intimidation or interrogation, such as shouting obscenities, insults, or quizzing an individual.
14. Using demeaning, degrading or humiliating language, or derogatory names, or otherwise engaging in verbal abuse.
15. Assigning activities such as pranks or scavenger/treasure hunts in which a person is asked to deface or steal property, engage in humiliating acts, stunts, or bother other individuals or organizations/teams.
16. Exposing an individual to bodily fluids, including, but not limited to, blood, vomit, feces, urine, saliva, and semen, or compelling an individual to engage in activity that induces bodily functions.
17. Compelling individuals to wear or carry unusual, embarrassing, degrading, uncomfortable or physically burdensome items or apparel.
18. Depriving individuals of sufficient sleep, comfortable sleeping arrangements, meals, or access to showers, baths, and sinks.
19. Activities that interfere with an individual's academic efforts by causing exhaustion, loss of sleep, or loss of reasonable study time or by interfering with an individual's ability to attend class.
20. Compelling, pressuring or forcing an individual to engage in acts of personal servitude for others including errands, cleaning, standing in line, completing academic assignments or tasks, driving and shopping.
21. Compelling an individual to modify their body by way of branding, tattooing, piercing, shaving, weight loss, or other forms of modification.
22. Compelling, pressuring or forcing an individual to not participate in familial, religious, cultural, or traditional activities, holidays, or events.
23. Intentionally creating a mess and forcing others to clean up.
24. Compelling individuals to purchase an animal or engage in animal cruelty or mistreatment.
25. Blindfolding individuals in a manner that may cause intimidation, fear, or harm.
26. Depriving new members access to or use of cell phones, wallets, keys or key fobs, or other personal possessions.

#### **IV. Policy Requirements**

##### **A. University Hazing Website**

Each university shall establish a website that functions as a repository for information regarding hazing that, at minimum, contains the following:

1. A statement providing the public with a notice of availability for hazing statistics provided in the Annual Security Report, including a direct link to the report,
2. Systemwide and university policies and procedures on hazing,
3. Local and Tribal laws on hazing,

4. Information or links to the Campus Hazing Transparency Report as described in Article V of this policy,
5. Information or links to the institutions Campus-Recognized Sorority and Fraternity Transparency Act pursuant to [California Education Code 66310-66312](#), and
6. Information regarding where to report (including anonymous reports) hazing incidents.

### **B. Hazing Prevention and Awareness Programs**

The Hazing prevention and awareness program activities listed below shall be implemented by all institutions of the California State University system. These activities shall be research based and include:

- (1) (1) Every incoming student's orientation includes information on hazing awareness, prevention, and reporting.
- (2) (2) Athletic teams and affiliated social sororities and fraternities receive annual hazing prevention training that includes information on hazing awareness, bystander intervention, ethical leadership and ways to build group cohesion without hazing, consequences of engaging in hazing activities (including mental health, student wellness, student conduct, student organization, criminal and civil), and options for reporting. Each University shall develop a list of other programs or organizations that shall receive annual training.
- (3) (3) Officers of Recognized Student Organizations, University Sponsored Organizations, and club sports complete annual hazing prevention training that includes information on hazing awareness, bystander intervention, ethical leadership and ways to build group cohesion without hazing, consequences of engaging in hazing activities (including mental health, student wellness, student conduct, student organization, criminal and civil), and options for reporting. Each organization/team delivers to the vice president of student affairs, or their designee, verification that they have participated in the training. This verification shall be submitted annually.
- (4) (4) Each University implements at least one campus wide event or activity as part of National Hazing Prevention Week that promotes the CSU Policy on Hazing Prohibition and Prevention; campus resources related to hazing including how to report hazing; and prevention and bystander intervention training as it relates to hazing. The event or activity should be open to students, staff, faculty, families, and alumni.

Specifically, the University provides Hazing prevention and awareness programs to students through a variety of trainings and information sharing. Hazing is listed and defined in the

Standards for Student Conduct and is covered in presentations and trainings related to Student Conduct that are given on-campus. Additionally, all students who are planning on joining a Greek organization must attend a presentation which features information on hazing awareness, prevention, and reporting prior to starting their recruitment process. Student officers of registered student organizations, including club sports, complete an online anti-hazing training module as part of their onboarding to their officer position. Finally, students are connected to University websites, the Office of Student Engagement and Leadership Development, and the Office of Student Conduct if they would like to learn more about anti-hazing prevention and resources at CSUMB.

### **C. Reporting Incidents of Hazing**

Each University shall distribute and make publicly available a mechanism or procedure for reporting hazing. The mechanism or procedure must provide an option for an individual to submit an anonymous report. The mechanism or procedure must provide information about how an individual can report hazing without fear of retaliation or reprisal. Alleged victims and witnesses should not be deterred from reporting any incidents of hazing out of a concern that they might be disciplined for related violations of hazing or other university policies. The CSU's primary concern is the safety of the university community. A person who participates as a complainant or witness in investigations or proceedings involving hazing shall generally not be subject to discipline for related violations of the Student Conduct Code at or near the time of the incident, unless the University determines the violation was sufficiently egregious that it placed the health and safety of another person or the university at risk. It shall also be known that retaliation against any person participating or perceived to be participating in the reporting of or investigation into acts of hazing will constitute a violation of this Policy, as well as the Student Conduct Process.

Any individual who experiences or witnesses Hazing is strongly encouraged to report the incident immediately. Any incident involving an in-progress crime or emergency should be reported immediately to the local law enforcement agency with jurisdiction by dialing 911.

Reports of alleged hazing at CSUMB are encouraged to be made via the hazing reporting form, which is publicly available and can be found [here](#). This hazing reporting form allows for anonymous reporting, including reports of hazing related to student organizations.

While the primary reporting mechanism for hazing on our campus is the hazing reporting form listed above, students can also file a report by contacting the Office of Student Conduct, located in Sand Hall, Building 8, or via email at [studentconduct@csumb.edu](mailto:studentconduct@csumb.edu).

Incidents of Hazing involving employees can be reported to the human resources department by contacting them [here](#).

## D. Hazing Investigation Process

- 1) All reported acts of hazing committed by students or impacting students shall be reported to the vice president of student affairs<sup>32</sup> or their designee for appropriate investigation and sanctioning processes. Investigations will be handled in accordance with the CSU Student Conduct Procedures Policy and CSU Student Activities Policy.
  - i) Student Conduct

Universities shall follow applicable system and university policies when investigating and sanctioning reported acts of hazing. Sanctions for students found to have hazed other students can be found in the [CSU Student Conduct Process Policy](#).

- ii) Recognized Student Organization Conduct

Universities shall follow applicable system and university policies when investigating and sanctioning reported acts of hazing on recognized student organizations. Sanctions for recognized student organizations found to have permitted hazing to occur include permanent loss of recognition as a student organization.

## E. Supportive Measures

Supportive Measures are individualized services offered to the hazing victim, as appropriate, when reasonably available, not for punitive or disciplinary reasons, and without fee or charge, regardless of whether an investigation occurs. Supportive Measures are designed to restore or preserve equal access to CSU education programs, 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 provide support to the victim during the reporting or investigation process. Supportive Measures may include counseling, extensions of deadlines or other course or work-related adjustments, modifications of work or class schedules, Campus escorts, no-contact directives (unilateral or mutual, depending on the circumstances) or restrictions on contact with the other Party, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the Campus, and other similar measures. The vice president for Student Affairs (or designee) is responsible

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<sup>32</sup> Reports should be made to Dr. Reuban Rodriguez, Associate Vice President for Student Affairs and Dean of Students, via the online hazing reporting [form](#):

for coordinating the effective implementation of Supportive Measures. Supportive Measures will remain confidential to the greatest extent possible.

## V. Reporting Requirements

### A. Federal Stop Campus Hazing Act: Campus Hazing Transparency Report (CHTR)

Pursuant to federal law, each University shall prepare and publish a report that includes all hazing violations that occurred during the reporting period, without disclosing personally identifiable information of individuals. The report shall only include information for recognized student organizations as defined in the CSU Student Activities Policy.

1. Reporting periods: The January 15<sup>th</sup> reporting period shall be for all hazing incidents that occurred between July 1 – December 31 of the previous year. The June 30<sup>th</sup> reporting period shall be for incidents that occurred between January 1<sup>st</sup> and June 30<sup>th</sup> of that year.
2. Report Title: The report shall be titled “Campus Hazing Transparency Report” and clearly indicate the reporting period as well as the date the report was completed. If there are no reports to disclose during a reporting period, the University shall include the following statement under the report title: “There are no reports of hazing during the reporting period.”
3. Report Content: Each report shall include information for each hazing violation for established or recognized organizations and include the following components:
  1. The organization or team’s name found guilty, responsible, or culpable for the hazing violation and their recognition status at the university, with no personally identifiable information,
  2. General description of the violation (and whether the violation included the abuse or illegal use of alcohol or drugs),
  3. The date the incident occurred, the date the investigation was initiated, the date the investigation ended, and the date the organization was notified,
  4. The violation that resulted in a formal finding, and
  5. Any sanctions and lengths of the sanctions imposed.
4. Report Publication and Distribution:
  1. Reports should be published in a readily accessible location on the University’s website.
  2. The Report should also have a link to the Annual Security Report.
  3. Reports shall remain on the University’s website for a minimum of five years.
5. Report Definitions:
  1. For purposes of the CHTR, the following definition applies to established or recognized organization
    - i. Recognized Organizations: defined in the CSU Student Activities Policy.
    - ii. Established organization:

1. an organization that includes students and is affiliated with the university such as a band, athletics team, student government, or
2. an organization that was previously recognized at the institution.

#### B. California Stop Campus Hazing Act ([California Education Code 66305-66309](#))

Pursuant to [California Education Code Section 66309](#), no later than June 30<sup>th</sup> of each year, campuses shall include the number of hazing incidents that constitute a violation of university policy. The university shall report how many of those violations were affiliated with a conference-based competitive program or a recognized social sorority or fraternity.

#### C. Clery Act Annual Security Report

Pursuant to the federal Stop Campus Hazing Act, all reports of hazing as defined in Appendix A that are reported to have occurred in locations defined as Clery geography by [34 CFR 668.46\(a\)](#) shall be reported promptly through the Clery Act reporting channels established by the institution. The Clery Compliance Committee shall be responsible for including these reports of hazing in the Annual Security Report.

#### V. Authority

This policy is issued pursuant to Section II of the Standing Orders of the Board of Trustees of the California State University, and as further delegated by the Standing Delegations of Administrative Authority.

At California State University, Monterey Bay, incidents can be reported without fear of retaliation or reprisal to Student Conduct through the reporting form at: <https://cm.maxient.com/reporting.php?CSUMontereyBay>, the the Student Conduct email: [studentconduct@csumb.edu](mailto:studentconduct@csumb.edu), or by phone at: 831-582-4597.

## Fire Safety Report

The 2024 Fire Safety Report is available at the following link: <https://csumb.edu/clery/>

## Appendix A: Jurisdictional Definitions<sup>33</sup>

### Rape (CA Penal Code Chapter 1 Section 261)

(a) Rape is an act of sexual intercourse accomplished under any of the following circumstances:

(1) If a person who is not the spouse of the person committing the act 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. This paragraph does not preclude the prosecution of a spouse committing the act from being prosecuted under any other paragraph of this subdivision or any other law.

(2) If 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) If 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) If 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) If 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 artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.

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<sup>33</sup> Note that these are not the definitions used to compile the statistics at the beginning of these document. The federal definitions of Rape, fondling, incest, statutory rape, domestic violence, dating violence, and stalking are used for the statistics, as required by federal law.

(6) If 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) For purposes of this section, the following definitions apply:

"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.

"Menace" means any threat, declaration, or act that shows an intention to inflict an injury upon another.

#### [Sodomy \(CA Penal Code Chapter 1 Section 286\)](#)

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 (CA Penal Code Chapter 1 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 (CA Penal Code Chapter 1 Section 285 and Section 289)

#### 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.

#### 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 (CA Penal Code Chapter 9. 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, or any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will, to masturbate or touch an intimate part of either of those persons or a third person, 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 Civil Rights Department 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 does not 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 (CA Penal Code, Chapter 1, 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 18 years of age or older.

(b) A 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) A 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.

(e) (1) Notwithstanding any other provision of this section, an adult who engages in an act of sexual intercourse with a minor in violation of this section may be liable for civil penalties in the following amounts:

(A) An adult who engages in an act of unlawful sexual intercourse with a minor less than two years younger than the adult is liable for a civil penalty not to exceed two thousand dollars (\$2,000).

(B) An adult who engages in an act of unlawful sexual intercourse with a minor at least two years younger than the adult is liable for a civil penalty not to exceed five thousand dollars (\$5,000).

(C) An adult who engages in an act of unlawful sexual intercourse with a minor at least three years younger than the adult is liable for a civil penalty not to exceed ten thousand dollars (\$10,000).

(D) An adult over 21 years of age who engages in an act of unlawful sexual intercourse with a minor under 16 years of age is liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000).

(2) The district attorney may bring actions to recover civil penalties pursuant to this subdivision. From the amounts collected for each case, an amount equal to the costs of pursuing the action shall be deposited with the treasurer of the county in which the judgment was entered, and the remainder shall be deposited in the Underage Pregnancy Prevention Fund, which is hereby created in the State Treasury. Amounts deposited in the Underage Pregnancy Prevention Fund may be used only for the purpose of preventing underage pregnancy upon appropriation by the Legislature.

(3) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars (\$70) against a person who violates this section with the proceeds of this fine to be used in accordance with Section 1463.23. The court shall, however, take into consideration the defendant's ability to pay, and a defendant shall not be denied probation because of their inability to pay the fine permitted under this subdivision.

(f) A person convicted of violating subdivision (d) who is granted probation shall not complete their community service at a school or location where children congregate.

#### [Incest \(CA Penal Code, Chapter 1, Section 285\)](#)

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: \(CA Family Code, 6203 \(definitions\) 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 (CA Penal Code, Chapter 2, Section 273.5 and Section 243)

#### CA Penal Code 273.5

(a) A 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 someone with whom the offender has, or previously had, an engagement or dating relationship as defined in paragraph (10) of subdivision (f) of Section 243.

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

#### CA Penal Code 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.

(10) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement independent of financial considerations.

Stalking: CA Penal Code, Chapter 2, 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 their safety, or the safety of their 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: CA Penal Code, Chapter 2, Section 653m

(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 (CA Penal Code, Chapter 1, section 261.6 and section 261.7)

- a) Consent is 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.
- b) A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is at issue in a prosecution under section 261, 286, 287, or 289, or former section 262 or 288a
- c) This section shall not affect the admissibility of evidence or the burden of proof on the issue of consent.

In prosecutions under Section 261, 286, 287, or 289, or former Section 262 or 288a, in which consent is at issue, evidence that the victim suggested, requested, or otherwise communicated to the defendant that the defendant use a condom or other birth control device, without additional evidence of consent, is not sufficient to constitute consent.

## Appendix B: Clery Act Annual Security Report Definitions

The statistics in the Annual Security Report will likely not match the statistics in the Campus Hazing Transparency Report. The two reports differ in the following ways:

- The “Where”: The Annual Security Report statistics are limited to Clery geography, so the Campus Hazing Transparency Report, which has no such limitation, is broader.
- The “Who”: The Annual Security Report defines student organization as an organization at an institution of higher education (such as a club, society, association, varsity or junior varsity athletic team, club sports team, fraternity, sorority, band, or student government) in which two or more of the members are students enrolled at the institution of higher education, whether or not the organization is established or recognized by the institution. The Annual Security Report statistics are broader than the Campus Hazing Transparency Report.
- The “What”: The Annual Security Report statistics include reports, whereas the Campus Hazing Transparency Report includes only sustained findings of misconduct against the recognized student organization, so the Annual Security Report is broader. In addition, the Campus Hazing Transparency Report uses the definitions in this policy, whereas the Annual Security Report uses federal definitions, listed below:
  - The term ‘hazing’ means any intentional, knowing, or reckless act committed by a person (whether individually or in concert with other persons) against another person or persons regardless of the willingness of such other person or persons to participate, that is committed in the course of an initiation into, an affiliation with, or the maintenance of membership in, a student organization; and causes or creates a risk, above the reasonable risk encountered in the course of participation in the institution of higher education or the organization (such as the physical preparation necessary for participation in an athletic team), of physical or psychological injury including—
    - whipping, beating, striking, electronic shocking, placing of a harmful substance on someone’s body, or similar activity;
    - causing, coercing, or otherwise inducing sleep deprivation, exposure to the elements, confinement in a small space, extreme calisthenics, or other similar activity;
    - causing, coercing, or otherwise inducing another person to consume food, liquid, alcohol, drugs, or other substances;
    - causing, coercing, or otherwise inducing another person to perform sexual acts;
    - any activity that places another person in reasonable fear of bodily harm through the use of threatening words or conduct;

- any activity against another person that includes a criminal violation of local, State, Tribal or Federal law; and
  - any activity that induces, causes, or requires another person to perform a duty or task that involves a criminal violation of local, State, Tribal, or Federal law.
- Statistics shall be compiled per each single hazing incident and if the same person or persons commit more than one hazing act, and the time and place intervals separating each such act are insignificant, such acts shall be reported as a single hazing incident

## Appendix C: Track 1: Federal Mandated Hearing Process

**Track 1:** The Federal Mandated Hearing Process (“Track 1”) is applicable instead of the processes under the Interim CSU Nondiscrimination Policy – Student Respondent Procedures and the Interim CSU Nondiscrimination Policy – Employee and Third-Party Respondent Procedures for cases that are defined by the 2020 Title IX Federal Regulations as sexual harassment in an education program or activity against a person (including, but not limited to students and employees) in the United States.

### Background

In 2020, the United States Department of Education, Office for Civil Rights (OCR) issued and amended federal regulations (Federal Regulations) implementing the sex discrimination law known as "Title IX," which is part of the Education Amendments of 1972. The Federal Regulations are titled Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance (34 C.F.R. 106). The Federal Regulations were published in the Federal Register on May 19, 2020, and took effect August 14, 2020.

In 2024, OCR issued amended federal regulations. However, on January 9, 2025, a federal judge in Kentucky vacated the 2024 Title IX Regulations. This meant that the regulations were no longer applicable nationwide. On January 31, 2025, OCR issued a “Dear Colleague Letter” (“DCL”) which clarified the position of the federal government that the 2020 Title IX Regulations are in immediate effect. A subsequent DCL was issued on February 4, 2025, providing further clarification of the position of the Department of Education. The February 4, 2025, DCL directed educational institutions to apply the 2020 Title IX Regulations to all new cases and to reevaluate any pending cases to ensure they align with the 2020 Title IX Regulations. The procedures in this document – Track 1 – implement the requirements of the 2020 Title IX Regulations.

### Article I. Procedure Scope and Applicability of Track 1

Track 1 is applicable to cases that are defined by the 2020 Federal Regulations as Sexual Harassment in an Education Program or Activity against a person (including Students and Employees of the CSU) in the United States (Title IX prohibited conduct).

The Title IX Coordinator and the DHR Administrator, will assess allegations of non-Title IX prohibited conduct not covered by Track 1 but set forth in the same Complaint that arise out of the same facts and/or incidents that may also be investigated and resolved (including sanctions and discipline) in accordance with the process in Track 1 or other CSU policies or procedures.

## Article II. Definitions

Track 1 (Title IX) prohibited conduct is defined under Article V.B of the CSU Nondiscrimination Policy. Capitalized terms are defined in this document (Track 1) and in Article V.C of the Nondiscrimination Policy. In implementing this process, the Track 1 definitions apply where they differ from those listed in Article V.C of the Nondiscrimination Policy. For purposes of Track 1 specifically, the following definitions apply:

A. **Affirmative Consent** means an agreement to engage in sexual activity that is informed, affirmative, conscious, voluntary, and mutual. Affirmative Consent must be given freely and without coercion, force, threats, intimidation, or by taking advantage of another person's incapacitation. It is the responsibility of each person involved in the sexual activity to ensure Affirmative Consent has been obtained from the other participant(s) prior to engaging in the sexual activity.

1. Affirmative consent is given by clear words or actions. Affirmative consent includes knowledge and agreement to engage in the specific sexual activity.
2. Affirmative Consent must be ongoing throughout a sexual activity and can be withdrawn or revoked at any time, including after sexual activity begins. Once consent is withdrawn or revoked and clearly communicated, the sexual activity must stop immediately.
3. Consent to one form of sexual activity or one sexual act does not constitute consent to other forms of sexual activity. Consent given to sexual activity on one occasion does not constitute consent on another occasion.
4. Affirmative Consent cannot be inferred from an existing or previous dating, social, or sexual relationship between the Parties.
5. Silence does not mean there is Affirmative Consent.
6. Lack of protest or resistance does not mean there is Affirmative Consent.
7. A request for someone to use a condom or birth control does not, in and of itself, mean there is Affirmative Consent.

8. Affirmative Consent cannot be given by a person who is incapacitated. A person is unable to consent when asleep, unconscious, or incapacitated due to the influence of drugs, alcohol, or medication.

**B. Bias and Conflict of Interest** means that whether bias exists against Complainants or Respondents generally or against individual Complainants or Respondents, requires examination of the particular facts of a situation. In determining whether bias exists, the following should be considered:

1. an objective (whether a reasonable person would believe bias exists), common sense approach to evaluating whether a particular person serving in a Title IX role is biased;
2. an evaluation that does not apply generalizations that might unreasonably conclude that bias exists (for example, assuming that a declaration that one is a feminist, or survivor, means that they are biased against men, or that a male is incapable of being sensitive to women, or that prior work as a victim advocate, or as a defense attorney, renders the person biased for or against Complainants or Respondents); and
3. whether the bias will impede the impartiality of the person being evaluated.

**C. Complainant**<sup>34</sup> means an individual who is alleged to have been subjected to conduct that could constitute Sexual Harassment as defined under Article V.B of the Nondiscrimination Policy.

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

**E. Education Program or Activity** includes all the operations of the CSU as well as locations, events, or circumstances over which the CSU exercised substantial control over the Respondent (Student, Employee, or Third Party) and the context in which the Sexual Harassment occurs. Education Program or Activity also includes any building owned or controlled by the CSU or a student organization that is officially recognized by the CSU.

**F. Formal Complaint** means a document or electronic submission filed by a Complainant that contains the Complainant's physical or digital signature<sup>35</sup> or a document signed by the Title IX Coordinator<sup>36</sup> alleging Sexual Harassment against a Respondent and requesting an

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<sup>34</sup> Track 1 incorporates the requirements of the U.S. Department of Education's 2020 Federal Regulations and generally tracks language used in the regulations. However, in keeping with the most current best practices, Track 1 has substituted other terms for "victim" where possible.

<sup>35</sup> A Formal Complaint may exist even without a signature where something otherwise indicates that the complainant is the person filing the formal complaint. An e-mail from the Complainant would be sufficient.

<sup>36</sup> By signing the Formal Complaint, the Title IX Coordinator does not become a party to the investigation or demonstrate bias.

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.

**G. Incapacitation:** A person is incapacitated if they lack the physical and/or mental ability to make informed, rational decisions about whether or not to engage in sexual activity. A person with a medical or mental disability may also lack the capacity to give consent. Incapacitation exists when a person could not understand the fact, nature, or extent of the sexual activity.

1. It shall not be a valid excuse that a person affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the person was unable to consent to the sexual activity under any of the following circumstances:
  - a. The person was asleep or unconscious;
  - b. The person was incapacitated due to the influence of drugs, alcohol, or medication, so that the person could not understand the fact, nature, or extent of the sexual activity; or
  - c. The person was unable to communicate due to a physical or mental condition.
2. It shall not be a valid excuse that the Respondent believed that the person consented to the sexual activity under either of the following circumstances:
  - a. The Respondent's belief in Affirmative Consent arose from the intoxication or recklessness of the Respondent;
  - b. The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the person affirmatively consented.
3. Whether an intoxicated person (as a result of using alcohol, drugs, or medication) is incapacitated will require an individualized determination about the extent to which the alcohol or other drugs impact the person's decision-making ability, awareness of consequences, and ability to make informed judgments. The level of intoxication may change over a period of time based on a variety of individual factors, including the amount of substance consumed, speed of intake, body mass, height, weight, tolerance, food consumption, drinking patterns, and metabolism. A person's own intoxication or incapacitation from drugs or alcohol does not diminish that person's responsibility to obtain Affirmative Consent before engaging in sexual activity.
4. Incapacitation due to alcohol, drugs or medication is a state of intoxication that is so severe that it interferes with a person's capacity to make informed and knowing decisions. A person who is incapacitated may not be able to understand where they are, whom they are with, how they got there, or what is happening. Signs that a

person may be incapacitated due to the influence of drugs, alcohol, or medication include, but are not limited to, the following:

- a. slurred speech or difficulty communicating clearly;
  - b. clumsiness or lack of physical coordination (e.g., difficulty standing or walking without assistance);
  - c. impaired motor skills (e.g., eating, drinking, texting);
  - d. disorientation regarding time and place;
  - e. difficulty concentrating;
  - f. Vomiting;
  - g. combativeness or emotional volatility; or
  - h. sleeping, unconsciousness, or going in and out of consciousness.
5. Incapacitation may also include memory impairment or an inability to recall entire or partial events (sometimes referred to as “black-out” or “brown-out”). A person may experience this symptom while appearing to be functioning “normally,” including communicating through actions or words that can reasonably and objectively be interpreted as communicating consent to engage in sexual activity. Total or partial loss of memory, alone, may not be sufficient, without additional evidence, to prove that an individual was incapacitated under this Policy. Whether sexual activity under these circumstances constitutes Prohibited Conduct depends on the presence or absence of the outwardly observable factors indicating that an individual is incapacitated, as described above.
6. In evaluating Affirmative Consent in cases involving incapacitation, the CSU considers the totality of available information in determining whether a Respondent knew or reasonably should have known that the Complainant was incapacitated.

H. **Relevant** means having significant and demonstrable bearing on the matter at hand.

I. **Remedies** are individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant at the conclusion of the Formal Complaint process where the Respondent has been found responsible.

Remedies may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escorts, 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 is responsible for coordinating the effective implementation of Remedies.

J. **Respondent** means an individual who has been alleged to be a perpetrator of conduct that could constitute Sexual Harassment as defined under Article V.B of the Nondiscrimination Policy.

K. **Sexual Harassment** means conduct on the basis of Sex that satisfies one or more of the following:

1. An Employee conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.
2. Unwelcome conduct determined based on the reasonable person standard to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an Education Program or Activity.
3. **Sexual Assault** includes the following:
  - a. **Rape** is the penetration, or attempted penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Affirmative Consent of the Complainant. Rape also includes the attempted penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Affirmative Consent of the Complainant, with the present ability and the intent to commit Rape.
  - b. **Fondling** is the touching of the private body parts of another person for the purpose of sexual gratification, without the Affirmative Consent of the victim, including instances where the Complainant is incapable of giving Affirmative Consent because of their age or because of their temporary or permanent mental incapacity
  - c. **Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - d. **Statutory Rape** is sexual intercourse with a person who is under the age of 18 years, the California statutory age of consent. The definition of Affirmative Consent is that under Article VII.A.3 above.
4. **Dating Violence** means physical violence or threat of physical violence committed by a person:
  - I. who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
  - II. where the existence of such a relationship shall be determined based on a consideration of the following factors:
    - i. The length of the relationship.
    - ii. The type of relationship.

iii. The frequency of interaction between the persons involved in the relationship.

5. **Domestic Violence** means physical violence or threat of physical violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant.
6. **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
  - a. fear for their safety or the safety of others; or
  - b. suffer substantial emotional distress.

L. **Simultaneously** means at approximately the same time.

M. **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 without unreasonably burdening the other Party, including to protect the safety of all Parties or the educational environment.

Supportive Measures may include counseling, extensions of deadlines or other course-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 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.

1. **Review of Supportive Measures** - A Complainant or Respondent may request modification or reversal of a decision to provide, deny, modify, or terminate Supportive Measures applicable to them.
2. This request will be reviewed by an appropriate and impartial Employee:
  - a. If the original decision about Supportive Measures was made by a person with authority delegated by the Title IX Coordinator/DHR Administrator, the review will be conducted by the Title IX Coordinator/DHR Administrator.

- b. If the original decision about Supportive Measures was made by the Title IX Coordinator/DHR Administrator, the review will be conducted by a Systemwide Director for Civil Rights.
3. If the reviewer determines that the decision to provide, deny, modify, or terminate the Supportive Measure was inconsistent with the Nondiscrimination Policy's requirements, expectations, or standards for Supportive Measures, they may modify or reverse the decision. In making this determination, the reviewer should consider:
  - a. Do the Supportive Measures unreasonably burden a Complainant or Respondent?
  - b. Are the Supportive Measures punitive?
  - c. Are the Supportive Measures reasonably available and restore access to the CSU's programs, activities, or employment?
  - d. Are the Supportive Measures being offered or provided during the informal resolution process or formal complaint resolution process?
4. A Complainant or Respondent may also seek additional modification or termination of a Supportive Measure applicable to them if circumstances change materially by contacting the Title IX Coordinator / DHR Administrator.
5. The University will not share information about any Supportive Measures with anyone other than the person to whom they apply, including informing one Party of Supportive Measures provided to another Party, unless necessary to arrange or provide the Supportive Measure or restore or preserve a Party's access to the CSU's education programs, activities, or employment, or when otherwise required by state or federal law.

### Article III. Response to Report of Sexual Harassment

#### A. Response to a Report of Sexual Harassment

After receiving a report of Sexual Harassment, the Title IX Coordinator will contact the Complainant promptly to discuss the availability of Supportive Measures. This outreach to the Complainant will include the following:

1. A statement that the campus has received a report of Sexual Harassment as defined under Article V.B of the Nondiscrimination Policy.
2. A description of the role of the Title IX Coordinator.
3. Information regarding counseling and other support resources.
4. A statement regarding the importance of preserving evidence.
5. A statement that the Complainant may, but is not required to, report to law enforcement any allegations that could constitute criminal behavior.
6. A request for the Complainant to meet with the Title IX Coordinator, or other designated employee, to discuss the Complainant's options and next steps.

7. A statement that the Complainant can be accompanied by an Advisor of their choice during any meeting relating to the report and any subsequent Complaint process.
8. Information regarding potential Supportive Measures, where applicable.
9. A brief summary of the investigation procedures.
10. An explanation of how the campus responds to reports of Nondiscrimination Policy violations and a description of potential disciplinary consequences.
11. A statement that retaliation for making a Complaint or participating in a Complaint process is prohibited by the Nondiscrimination Policy.

**B. Written Information Regarding Rights and Options for Complainants Reporting Sexual Assault, Dating Violence, Domestic Violence, or Stalking** Along with the information provided in the outreach communication, the Title IX Coordinator will provide Complainants alleging Sexual Assault, Dating Violence, Domestic Violence or Stalking, with the information in Attachment D to the Nondiscrimination Policy - Rights and Options for Victims of Sexual Misconduct/Sexual Assault, Sexual Exploitation, Dating And Domestic Violence, And Stalking.

**C. Response to a Formal Complaint** In response to a Formal Complaint, the process described in this Track will be followed. In the absence of a Formal Complaint, the Title IX Coordinator will provide appropriate Supportive Measures as described above. A Formal Complaint must be investigated even if the Complainant does not know the Respondent's identity.

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 Nondiscrimination 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, and explain the process for filing a Formal Complaint.

**D. Reasonable Accommodations** Any person with a Disability who seeks reasonable accommodations to participate in the Formal Complaint submission or investigation process will be referred to the appropriate campus administrator (for Students, the services for students with disabilities administrator, and for Employees the appropriate human resources administrator) who may consult with the Title IX Coordinator to determine the reasonableness of a requested accommodation.

**E. Neutrality of Process** 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. A

Conflict of Interest exists if a person has a personal relationship with one of the Parties or witnesses, has a reporting employment relationship with a Party, or has demonstrated actual bias towards a Party or witness or towards Complainants or Respondents in general. Any party who seeks to disqualify the Title IX Coordinator due to bias or a Conflict of Interest will direct their request to the Chancellor's Office Appeals Unit at [CO-Appeals@calstate.edu](mailto:CO-Appeals@calstate.edu). Requests for disqualification shall be supported by evidence that the Bias or Conflict of Interest prevents the Title IX Coordinator from fairly performing their duties. Mere belief or opinion does not constitute evidence.

**F. Emergency Removal** A Student Respondent may be removed from an Education Program or Activity on an emergency basis before an investigation concludes or where no investigation or hearing is pending. Prior to the removal, an individualized safety and risk analysis will be conducted.

The removal is referred to as an "Emergency Removal," and has the effects of an Interim Suspension, as set forth in the [Student Conduct Process, Article VI](#), including that during the period of the Emergency Removal, the Student may not, without prior written permission from the Campus president or designee, enter any campus of the California State University other than to attend a hearing.

As with Interim Suspensions, as set forth in the [Student Conduct Process, Article VI](#), the president or vice president designee, in consultation with the Title IX Coordinator, will determine whether there is an immediate threat to the physical health or safety of any Student or other individual arising from the allegations of Sexual Harassment to warrant Emergency Removal. An assessment that the Respondent poses a threat of obstructing the Sexual Harassment investigation or destroying Relevant evidence does not justify Emergency Removal.

Where a determination is made that justifies Emergency Removal, the Respondent will be provided with notice and given an opportunity to challenge the decision immediately following the removal, in accordance with the procedures set forth in the [Student Conduct Process, Article VI](#), including the right to a hearing within **10 Working Days** of a request by the Respondent for such a hearing, to determine if there is an immediate threat to the physical health or safety of a Student or other individual arising from the allegations of Sexual Harassment. The hearing will be conducted under the [Student Conduct Process, Article III.D](#), and not this Track as it relates to hearings.

If it is determined that the alleged conduct does not arise from the Sexual Harassment allegation/s, the campus may address a Student Respondent's alleged conduct under the Student Conduct Code.

**G. Administrative Leave (Temporary Suspension)** A campus may place a non-student Employee on Administrative Leave (sometimes referred to as Temporary Suspension) in

accordance with applicable Collective Bargaining Agreements or CSU policies while the Formal Complaint process is pending.

#### Article IV. Dismissal/Referral of a Formal Complaint

When the Title IX Coordinator receives a Formal Complaint, or where new information or events arise, the Title IX Coordinator will assess whether the Formal Complaint meets the requirements of the Federal Regulations to move forward under the process in this Track. A determination that allegations in a Formal Complaint do not meet the requirements of the Federal Regulations will result in a 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 Federal Regulations require two types of dismissals: mandatory and discretionary.

##### **A. Mandatory Dismissal/Referral**

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 the CSU Nondiscrimination Policy – Student Respondent Procedures (Track 2 or Track 3) and the CSU Nondiscrimination Policy – Employee and Third-Party Respondent Procedures (Track 3), Student Conduct Process, or other applicable policies.

Under the Federal Mandated Hearing Process, a Formal Complaint will be dismissed as to any conduct alleged that:

1. Would not meet the definition of Sexual Harassment as defined under Article V.B of the Nondiscrimination Policy even if proved.
2. Did not occur in an Education Program or Activity.
3. Did not occur in the United States.

##### **B. Discretionary Dismissal**

At any time during the process, it is within the discretion of the Title IX Coordinator to dismiss a Formal Complaint, or any conduct alleged within a Formal Complaint, where:

1. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any part of it;
2. The Respondent is no longer a Student or Employee; or
3. If the specific circumstances prevent the campus from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

### **C. Notice Requirement**

Written notice of a mandatory or discretionary dismissal and reason(s) for the dismissal will be sent Simultaneously to the Parties when a Title IX Coordinator dismisses a Formal 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. This notice may be accompanied by a notice of allegations, as described in Article VI. below, where a notice of allegations has not already been provided.

### **D. Appeal after Mandatory or Discretionary Dismissal**

Either Party may appeal from a dismissal of a Formal Complaint or any part of the Complaint. The appeal must be filed within **10 Working Days** from the date of the notice of dismissal. The appeal will be in writing and will be based only on one or more of the following grounds:

1. A procedural irregularity occurred that affected the dismissal of the Formal Complaint.
2. New evidence that was not reasonably available at the time the dismissal decision was made that could affect the decision to dismiss the Formal Complaint.
3. The Title IX Coordinator (or designee) who dismissed the Formal Complaint, had a Conflict of Interest or Bias for or against the Complainant or Respondent in this case or Complainants or Respondents in general that affected the outcome of the matter.

Appeals will be filed with the Chancellor's Office (CO) and will be addressed to:

Civil Rights Appeals Unit  
Office of the Chancellor  
401 Golden Shore  
Long Beach, California 90802  
CO-Appeals@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.

The CO review will not involve a new assessment of the dismissal/referral or consideration of evidence that was not introduced during the campus review, unless the new evidence was not reasonably available at the time of the campus review.

If the CO review determines that the dismissal/referral should be reviewed to cure any defects, the matter will be remanded back to the campus to reassess within a timeframe specified by the CO. The Parties will be informed Simultaneously of the review and the timeframe. Once the review is complete the campus will provide the Parties and the CO with either a notice of dismissal/referral or notice of allegations, depending on the outcome, that reflects any changes to the determination. The notice will inform the Parties of their right to appeal, and the CO will contact the appealing Party to determine whether that Party wishes to continue with the appeal.

The CO appeal response is final and concludes the dismissal/referral process under Track 1. If there is a mandatory dismissal of a Formal Complaint, it does not preclude the campus from later identifying a relevant policy or policies that address the alleged conduct, notifying the Parties of the policy or policies, and moving forward under the procedures of those policies.

#### Article V. Consolidation of Formal Complaints

Where Parties assert Formal Complaints against each other, and they arise out of the same events or circumstances, the Title IX Coordinator may consolidate the Formal Complaints into one.

#### Article VI. 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.

The notice of allegations will be provided to both Parties regardless of whether the Formal Complaint must be dismissed under Article IV. If a Formal Complaint is dismissed at this stage of the process, the notice of allegations will also include the notice of dismissal and appeal rights.

The notice of allegations will include:

- A. A copy of, or web link to, the relevant procedures, including this Track.
- B. The identities of the Parties involved in the incident, if known.
- C. A summary of the Formal Complaint (e.g., "who," "what," "when," and "where").
- D. Reference to the specific definition of Sexual Harassment under Article V.B of the Nondiscrimination Policy that is implicated in the Formal Complaint.

- E. A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Formal Complaint process.
- F. A description of the Formal Complaint process (including the right to hearing and appeal).
- G. Information about the Parties' right to an Advisor (as defined below), and that an Advisor may be, but is not required to be, an attorney.
- H. A statement that if a Party has an Advisor (as defined below), a copy of evidence and a subsequent final investigation report will be Simultaneously sent to both the Party and their Advisor unless the Party notifies the Investigator or Title IX Coordinator in writing that they do not wish this information to be sent to their Advisor.
- I. A statement that reads as follows: "A Complainant shall proceed with a Formal Complaint in good faith and a Complainant who knowingly and intentionally files a false Formal Complaint or any individual who is determined to have provided false statements or information during the investigation/appeal review shall be subject to discipline in accordance with the Student Conduct Code, applicable collective bargaining agreements, CSU policies, or legal requirements (e.g., Education Code Section 89530 et seq.). Likewise, the Respondent and witnesses are required to cooperate with the investigation including being forthright and honest during the process. The mere fact that two individuals have different recollections, and one is later found to be more credible does not make the other person's statement false. Disciplinary action against an individual for knowingly filing a false Formal Complaint or for providing a knowingly false statement will not be deemed to be Retaliation".
- J. An explanation that the Complainant and Respondent will have equal opportunities to present Relevant witnesses and inculpatory and exculpatory evidence in connection with the investigation and at any hearing.
- K. A statement that the Parties may identify specific documents and information that they believe are Relevant and request that the Investigator attempt to collect such documents and other information that are not reasonably accessible to the requesting Party.
- L. The estimated timeline for completion of the investigation.
- M. A statement that upon request, the Complainant and Respondent will be advised of the status of the investigation.
- N. A description of the University's policy against Retaliation, as defined under Article V.A.10 of the Nondiscrimination Policy.

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.

#### Article VII. Informal Resolution

At any time prior to the issuance of the Hearing Officer's Report, if the Title IX Coordinator or either Party believes that it may be possible to resolve the Formal Complaint in a prompt, fair, and reasonable manner without a hearing, the Parties may consider an Informal Resolution that does not involve a full investigation and adjudication, subject to the following:

- A. Informal Resolution under Track 1 may only be offered where a Formal Complaint has been filed.
- B. The campus cannot offer or facilitate Informal Resolution under Track 1 to resolve allegations that an Employee sexually harassed a Student.
- C. The campus must obtain the Parties' voluntary, written consent before starting the Informal Resolution process.

Once the Title IX Coordinator determines that Informal Resolution is appropriate, the Parties should Simultaneously be provided written notice regarding Informal Resolution that includes the following:

- A. The allegations of Sexual Harassment, as defined under Article V.B of the Nondiscrimination Policy.
- B. The requirements of the Informal Resolution process including that once the Informal Resolution process is finalized neither Party is permitted to file another Formal Complaint arising from the same allegations.
- C. An explanation that at any time prior to agreeing to a resolution, any Party has the right to withdraw from the Informal Resolution process and resume the Formal Complaint process.
- D. An explanation of any consequences resulting from participating in the Informal Resolution process, including the records that will be maintained or could be shared.
- E. The Parties' right to consult with an Advisor, if any.

The Title IX Coordinator will oversee the Informal Resolution process 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 Formal Complaint.

The Informal Resolution process will be completed prior to any determination of responsibility being made, but no later than **60 Working Days** after both Parties provide voluntary, written consent to participate in the Informal Resolution process.

The campus may not require the Parties to participate in an Informal Resolution process Track 1, nor may a Party be required to waive their right to the investigation and adjudication of a Formal Complaint as a condition of enrollment or employment, or continuing enrollment or employment.

The terms of any Informal Resolution must be put in writing and signed by the Parties, and the Title IX Coordinator. Prior to signing the Informal Resolution, the Title IX Coordinator will consult with the student conduct administrator and/or other appropriate campus administrator responsible for the implementation of the terms. Use of electronic signatures is permitted.

Any agreed-upon Remedies and disciplinary sanctions will have the force and effect of sanctions imposed following a hearing.

The resolution will be final and not appealable by either Party.

#### Article VIII. 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 this Track.

##### **A. Gathering of Evidence**

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the campus and not on the Parties. 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.

Parties should be aware that **all** evidence Directly Related to the investigation will be provided to the other Party, subject to the exceptions described below.

The campus cannot access, consider, disclose, or otherwise use a Party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity,

or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the Party, unless the campus obtains that Party's voluntary, written consent to do so for a Formal Complaint process under this Track<sup>37</sup>.

The campus will not restrict the ability of either Party to discuss the allegations under investigation or to gather and present Relevant evidence (for example, contacting a potential witness).

## **B. Advisors**

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.

The Advisor may not answer questions regarding the subject matter of the investigation for the Complainant or the Respondent or speak on behalf of a Complainant or Respondent. However, the Advisor may observe and consult with the Complainant or Respondent.

### *Hearing Advisors*

The Complainant and Respondent must have a hearing advisor at the hearing. A hearing advisor will be responsible for asking the other Party and any witnesses all Relevant questions and follow-up questions, including those that challenge credibility, during the hearing. During a hearing, Parties may not ask questions of the other Party or any witnesses. Questioning at the live hearing will be conducted directly, orally, and in real time by the Party's hearing advisor of choice or a hearing advisor provided by the campus if the Party does not have a hearing advisor.

The hearing advisor may be the same person as the advisor. A Party may have both an Advisor and a hearing advisor present at a hearing. If a Party does not have a hearing advisor to perform questioning during the hearing, the campus shall provide the Party with a hearing advisor for this purpose.

### *Advisors Generally*

The Title IX Coordinator or Investigator will explain to the Complainant and Respondent that they may request that their advisor, if any, be copied on communications during the

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<sup>37</sup> If a Party is not an "eligible student," as defined in 34 CFR 99.3 ("Eligible' student means a student who has reached 18 years of age or is attending an institution of postsecondary education"), then the University must obtain the voluntary, written consent of a "parent," as defined in 34 CFR 99.3 ("Parent' means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian").

Formal Complaint process. Any such request will be in writing to the Title IX Coordinator or Investigator and should include the Advisor's name and contact information.

The Title IX Coordinator or Investigator will also explain that Advisors will receive a copy of the evidence and Final Investigation Report, unless the Party specifically directs in writing that this information should not be sent to their Advisor.

Although reasonable efforts will be made to accommodate hearing advisors and Advisors, undue delays affecting the complaint resolution timeline will not be permitted. Disruptive, abusive, or disrespectful behavior also will not be tolerated. At the discretion of the investigator or Title IX Coordinator during meetings or interviews and of the hearing officer during hearings, a hearing advisor or Advisor who engages in disruptive, abusive, or disrespectful behavior will not be permitted to participate. If a hearing advisor is excused during a hearing, the campus will either provide a Party with another hearing advisor or allow the Party to obtain another hearing advisor. It is within the hearing officer's discretion to proceed with or postpone the hearing in order to address the situation.

### **C. Notice of Meetings, Interviews and Hearings**

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 this Track.

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.

### **D. Review of Evidence**

Before issuing a final investigation report, the investigator will send to the Complainant and Respondent, and their respective advisors,<sup>38</sup> 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). This includes inculpatory or exculpatory evidence whether obtained from a Party or other source, redacted if required by law.

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<sup>38</sup> Unless the Party informs the Investigator or Title IX Coordinator in writing that they do not wish for this information to be sent to their Support Advisor.

The requirement to provide all Directly Related evidence does not include illegally obtained evidence (e.g., conversations recorded without the consent of the participants). Neither the preliminary nor final investigation report will include information protected by a legally recognized privilege, the Complainant's sexual history, or a Party's treatment records if the Party has not given voluntary, written consent to the disclosure of those treatment records.

The preliminary investigation report will: (a) describe the allegations; (b) identify the material facts—undisputed and disputed—with explanations as to why any material fact is disputed; and (c) describe the evidence presented and considered. Where not contained within the preliminary investigation report itself, evidence should be attached to the preliminary investigation report as exhibits.

The preliminary investigation report and any exhibits must be sent 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 Investigator may use discretion in determining how to send the preliminary investigation report to the Parties and their advisors, if any, in light of the particular circumstances and any Party or witness privacy concerns.

This process is collectively referred to as the "review of evidence."

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:

1. Meet again with the investigator to further discuss the allegations.
2. Identify additional disputed facts.
3. Respond to the evidence in writing.
4. Request that the investigator ask additional specific questions to the other Party and other witnesses.
5. Identify additional relevant witnesses.
6. 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.

## **E. 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.

As part of an Informal Resolution, at the request of both Parties, campuses will provide a written preliminary assessment of the evidence by the Title IX Coordinator. Neither the fact nor the substance of the assessment will be shared with the hearing officer or considered Relevant at the hearing.

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. Campuses will inform Parties not to include any reference to the preliminary assessment and that any such references will be redacted.

The written response will be attached to the final investigation report and provided to the hearing officer, if appropriate, and the Parties. Any references to a preliminary assessment, assuming one was requested, will be redacted from this written response. No documentation should be provided to the hearing officer if an Informal Resolution is reached.

## **F. Timeframe for Completion of Investigation**

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 in Article IX 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.

## Article IX. Hearing

1. A hearing coordinator, (either the student conduct administrator, Title IX Coordinator, or other appropriate administrator) will be responsible for coordinating the hearing process. The hearing coordinator's duties will include: scheduling the hearing; notifying witnesses of the hearing; ensuring that the hearing officer is provided with appropriate materials including a copy of the report and any exhibits; coordinating videoconferencing; and securing a location for the hearing (if necessary). The hearing coordinator will also act as liaison between the Parties and the hearing officer on procedural matters.
2. 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.
3. Timelines:

### **Objection to Hearing Officer**

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.

The objection may only be based on an actual Conflict of Interest. A Conflict of Interest exists if the hearing officer has a personal relationship with one of the Parties or witnesses or has demonstrated actual bias towards a Party or witness.

The fact that a hearing officer has previously served as a hearing officer in a campus proceeding will not constitute a Conflict of Interest. The hearing coordinator will determine if a Conflict of Interest exists. In that event, the Parties will be notified in writing of the name of the new hearing officer. The date for the hearing may need to be rescheduled. Any objection to the new hearing officer will be made in accordance with this section.

### **Pre-Hearing Process**

No later than **15 Working Days** before the hearing, each Party may:

- a. 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:

- a. Share a final witness list with the Parties;
- b. 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 officer will make all determinations regarding pre-hearing matters, including which witnesses have Relevant testimony and will participate and which questions, if submitted, are Relevant and will promptly notify the hearing coordinator who, in turn, will promptly notify the Parties.

The hearing is closed to all persons except the Parties; the Parties' respective hearing advisors; one Advisor for each Party; appropriate witnesses while they are testifying; the student conduct administrator or human resources officer; Title IX Coordinator; Title IX Investigator; hearing officer; hearing coordinator; and any person necessary to create a formal record of the proceeding (including a technological support, videographer, or similar role.) A CSU administrator may also be present but will not participate in the hearing. Campus police or a security officer may also be present if deemed appropriate or necessary by the appropriate campus administrator, hearing coordinator, or hearing officer.

4. The campus will direct witnesses who are CSU Employees to attend the hearing. Any Employees, including those in bargaining units, who fail to comply with any such directive may be subject to discipline under the applicable provisions of their collective bargaining agreement or other CSU policy. The campus will take reasonable steps to arrange for Employee witnesses to be available to attend, provided that such Employee witnesses are timely identified to the hearing coordinator in accordance with this Track.

5. The campus will direct Student witnesses to attend the hearing, provided that such Student witnesses are timely identified to the hearing coordinator in accordance with this Track. Students who fail to comply may be subject to discipline, depending on the circumstances. The campus will take reasonable steps to accommodate Student witnesses including arranging for them to be excused from class attendance, if necessary.
6. The campus will make all evidence provided during the investigation, including during review of evidence available at any hearing to give each Party and the hearing officer the opportunity to refer to such evidence during the hearing. This includes evidence upon which the campus does not intend to rely in reaching a determination regarding the Respondent's responsibility.

### **Hearing Process**

7. Live hearings will be conducted using videoconferencing technology unless circumstances are such that videoconferencing would not be appropriate. Neither Party will be required to be physically present in the same room as the hearing officer, each other, or witnesses. The campus will utilize technology that ensures that Parties will be able to Simultaneously see and hear all of the proceedings and testimony.
8. 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.
9. Each Party is required to have a hearing advisor for purposes of questioning the other Party and witnesses during the hearing. If a Party does not have a hearing advisor prior to the hearing or at the start of the hearing, one will be provided to that Party for the purposes of asking the other Party and any witnesses all Relevant questions and follow-up questions, including those questions challenging credibility. If a Party's hearing advisor does not appear or is excused for conduct that causes a material disruption, a hearing advisor will be provided. In either case, the hearing officer has discretion to proceed with or postpone the hearing.

### **Questioning**

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.

10. The hearing officer may ask questions of any Party or witness who participates in the hearing.
  - a. The Complainant and Respondent may be present (physically or virtually) at all times during the hearing.
  - b. Parties themselves may not directly ask questions of each other and witnesses.
  - c. Each Party's hearing advisor is permitted to ask all Relevant questions of the other Party, the Investigator, and any witnesses, and is also permitted to ask follow-up questions, including those questions challenging credibility. A Party may not be directly questioned by their own hearing advisor. The hearing officer controls the hearing and determines whether a question is Relevant.
  - d. A question is not considered Relevant if it relates to the Complainant's sexual predisposition or prior sexual behavior, unless such question about the Complainant's prior sexual behavior is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the question concerns specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and is asked to prove consent.
  - e. Even if a question relates to a Relevant subject or issue, the hearing officer may determine that the Party or witness being asked the question is not required to answer if the question is repetitive or duplicative of prior questions.
  - f. The hearing officer has the discretion to request information from the Parties or hearing advisors regarding questions prior to making a determination about the relevancy of the question. Neither the Parties nor hearing advisors may assert objections to questions.
  - g. Immediately after each question is asked by the hearing advisor, and before the question is answered, the hearing officer will indicate whether the question is Relevant, and if it is not, provide an explanation as to why the question is excluded as not Relevant. A Complainant, Respondent, or witness will only answer questions posed by a hearing advisor that the hearing officer determines are Relevant.
  - h. In addition to the relevance requirement, all questions must be asked in a respectful, non-abusive manner. The hearing officer determines whether a question satisfies this requirement and may require that the hearing advisor rephrase a relevant question or repeat the question in a respectful manner when the hearing officer determines that the question was asked in a disrespectful or abusive manner.

- i. Abusive or otherwise disorderly behavior that causes a material disruption will not be tolerated. The hearing officer may excuse from the hearing anyone (including either Party or their hearing advisor or Advisor) whose behavior causes a material disruption. Should a hearing advisor be removed from a proceeding, the campus will provide a hearing advisor. The hearing officer, in their discretion, may postpone the hearing. In making a determination whether to postpone the hearing, the hearing officer will consider the equity of postponement as to both Parties.
11. Formal rules of evidence applied in courtroom proceedings (e.g., California Evidence Code) do not apply in the hearing. All Relevant information is considered.
12. Hearsay may be considered but will only be given the weight appropriate under all of the circumstances, with due consideration given to the importance of credibility assessment. Absent extenuating circumstances, the hearing officer will not rely on prior statements made by the Parties or witnesses during the investigation whose credibility is central to the determination unless those Parties or witnesses make themselves available for examination by the hearing officer.

### **Other Procedural Matters**

13. The hearing officer will not, prior to preparing the hearing officer's report (described below), have substantive communications about the facts of the case with either Party or the investigator unless in the presence of both Parties and a campus official (e.g., hearing coordinator, Title IX Coordinator, or student conduct administrator).
14. The campus will make or arrange for an official audio recording of the hearing. The recording is campus property. No other recording of the hearing is permitted. The audio recording will be retained by the hearing coordinator or designee in accordance with the campus records/information retention and disposition schedule. Parties may request to inspect and review the recording.
15. Absent good cause, the Parties may not introduce evidence, including witness testimony, at the hearing that the Party did not identify during the investigation and that was available at the time of the investigation. The hearing officer has discretion to accept or exclude new evidence offered at the hearing.
16. If either Party fails to appear at the hearing without good cause the hearing will nevertheless proceed. Whether good cause exists is determined by the hearing officer. If a Party fails to appear at the hearing, the hearing advisor for the non-appearing Party will question the other Party.
17. The hearing officer controls the hearing, is responsible for maintaining order during the hearing, and makes whatever rulings are necessary to ensure a fair hearing. The hearing officer's decisions in this regard are final.

### [Article X. Determination Regarding Responsibility](#)

After the hearing, the hearing officer will make written findings of fact and conclusions about whether the Respondent violated the Nondiscrimination Policy with respect to the definition of Sexual Harassment under Article V.B of the Nondiscrimination Policy (hearing officer's report).

The standard of proof the hearing officer will use is whether each allegation is substantiated by a Preponderance of the Evidence. The Title IX Coordinator will review the hearing officer's report to ensure procedural compliance with this Track.

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.

The hearing officer's report must include:

1. Identification of the allegations potentially constituting Sexual Harassment as defined under Article V.B of the Nondiscrimination Policy – this should include the factual allegations and the corresponding alleged Nondiscrimination Policy violations.
2. The Preponderance of the Evidence standard.
3. A description of the procedural steps taken from the receipt of the Formal Complaint through the determination incorporated by reference to the Final Investigation Report, including any notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and hearings held.
4. The factual findings and the evidence on which the factual findings are based.
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility.
6. An explanation as to how the determination concerning the relative credibility or lack of credibility of the Parties or witnesses was reached.
7. Conclusions regarding the application of the policy violations defined under Article V.B of the Nondiscrimination Policy to the facts, including a determination of whether the Nondiscrimination Policy was violated and an analysis of the basis for that determination.
8. A summary of the procedural issues raised by the Parties during the pre-hearing or hearing processes.
9. A list of all questions proposed by the Parties at the hearing, and if any questions were not asked, why.
10. A statement as to whether Remedies designed to restore or preserve equal access to the campus's education program or activity will be provided by the campus to the Complainant.

If no violation of the Nondiscrimination 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 Nondiscrimination 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.

Discipline means any disciplinary action taken to correct a violation of the Nondiscrimination Policy, as follows:

1. Discipline for Employees includes, but is not limited to, suspension, demotion, and termination of employment.
2. Discipline for Students includes, but is not limited to, probation, suspension and expulsion and other Sanctions as defined in the Student Conduct Process, Article V.

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 Nondiscrimination 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) may impose the recommended sanctions or discipline, adopt a different sanction or discipline or sanctions or discipline, or reject sanctions or disciplines altogether. If the president (or designee) adopts a sanction or discipline other than what is recommended by the hearing officer, the president (or designee) must set forth the reasons in the decision letter.

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 also be sent to the student conduct administrator or other appropriate campus administrator responsible for Employee discipline and the hearing officer.

The decision letter will include:

1. The outcome of the hearing, including any sanction imposed, and the name of the Respondent(s).
2. Information regarding the procedures and permissible bases for the Complainant and Respondent to appeal to the Chancellor's Office.
3. 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.
4. 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.

The president will also send the decision letter to the Title IX Coordinator so that they may determine whether any additional Remedies (or other supportive measure) will be provided or undertaken in order to maintain a safe and nondiscriminatory campus environment.

The determination regarding responsibility and any sanctions become final either on the date that the Chancellor's Office provides the Parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely (**11 Working Days** after the date of the decision letter).

The Title IX Coordinator is responsible for effective implementation of any Remedies.

## Article XI. Appeals

### **Filing an Appeal to the Chancellor's Office**

A written appeal may be submitted to the Chancellor's Office no later than **10 Working Days** after the date of the decision letter. All arguments and/or evidence supporting the

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<sup>39</sup> The copy of the decision letter issued to the Complainant will be redacted as to findings regarding conduct that does not constitute a "crime of violence," Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking (34 C.F.R. § 99.31 et seq.).

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:

Civil Rights Appeals Unit  
Office of the Chancellor  
401 Golden Shore  
Long Beach, California 90802  
CO-Appeals@calstate.edu

**Electronic submission to the email address listed above is the preferred method of submitting appeals.**

### **Bases for Appeal**

An appeal will be based only on one or more of the appeal issues listed below:

- a. There was no reasonable basis for the findings or conclusions that resulted in the investigation or hearing outcome.
- b. Procedural errors occurred that would have likely changed the outcome of the hearing.
- c. New evidence that was not reasonably available at the time of the hearing and would have likely affected the hearing officer's decision about whether the Respondent violated the Nondiscrimination Policy.
- d. The Title IX Coordinator, Investigator, or hearing officer had a Conflict of Interest or Bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.
- e. The sanction(s) imposed was objectively unreasonable, or arbitrary based on substantiated conduct.

### **Issues and Evidence on Appeal**

The issues and evidence raised on appeal will be limited to those raised and identified during the hearing, unless new evidence that was not reasonably available at the time of the hearing and that could change the hearing outcome becomes available after the campus hearing was completed and is submitted by the appealing Party. The Chancellor's Office may conduct an interview, at the Chancellor's Office discretion, with the appealing Party to clarify the written appeal.

### **Appeal Review**

## **I. Acknowledgement of Appeal**

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.

## **II. Reasonable Accommodation**

The Chancellor's Office will provide reasonable accommodation(s) to any Party or witness in the appeal process with a qualified Disability upon request by the person needing the accommodation. A reasonable accommodation may include an extension of time under these procedures. The timeframe for the Chancellor's Office appeal response will automatically be adjusted for the time needed, if any, to provide reasonable accommodation(s).

## **III. Scope of Chancellor's Office Review**

The Chancellor's Office will not conduct a new investigation or hearing; however, the Chancellor's Office may make reasonable inquiries to determine if the new evidence could have affected the 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 hearing officer about the credibility or reliability of witnesses and the Parties.

## **IV. Chancellor's Office Appeal Response**

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.

## **V. Reopening a Campus Investigation or Hearing**

If the Chancellor's Office review determines that an issue raised on appeal would have affected the hearing outcome, the hearing will be remanded back to the campus and the 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 hearing must be completed. The Chancellor's Office will notify the Parties of the reopening of the hearing and the timeline for completion of the reopened hearing. The campus will complete the reopened hearing and provide the Chancellor's Office with an amended hearing officer's report. The campus will also provide the Parties with amended notices of hearing outcome, and such notices will provide the opportunity to appeal. Upon receipt of the amended hearing officer's report, 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 hearing officer, the Parties will be given an opportunity to appeal.

#### **VI. Reversal by Chancellor's Office**

If the Chancellor's Office determines that no reasonable fact finder (hearing officer) could have made the findings as determined by the hearing officer, the Chancellor's Office may vacate and reverse the hearing outcome, but only with respect to whether the Nondiscrimination Policy was violated (and not with respect to factual findings). If the Chancellor's Office vacates and reverses the outcome, it will notify the Parties Simultaneously in writing, as well as the Title IX Coordinator. Following a reversal of a 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.

#### **VII. Timeline for Chancellor's Office Response to Appeal**

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 pursuant to Article XI.D.viii, below.

#### **VIII. Timelines and Extensions**

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 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.

## Article XII. Retaliation

Retaliation, including intimidation, coercion, or discrimination against any individual for the purpose of interfering with an individual exercising any rights under this Track, for reporting or filing a Formal Complaint of Sexual Harassment (as defined under Article V.B of the Nondiscrimination Policy), or for participating or refusing to participate in any manner in any policy-related investigation or proceeding, including a hearing, is prohibited.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited under this Article.

Complaints of Retaliation that arise from this Track may be filed with the Title IX Coordinator in accordance with the procedures set out in the **CSU Nondiscrimination Policy – Student Respondent Procedures or the CSU Nondiscrimination Policy – Employee and Third-Party Respondent Procedures.**

Individuals should not be deterred from reporting any incidents of Sexual Harassment or participating in an investigation as a Complainant or witness out of a concern that they might be disciplined for related violations of drug, alcohol, or other university policies. The campus' primary concern is the safety of the campus community; therefore, a person who participates in investigations or proceedings involving Sexual Harassment shall not be subject to discipline for related violations of the Student Conduct Code at or near the time of the incident unless the campus determines the conduct places the health and safety of another person at risk or is otherwise egregious. The campus may, however, have an educational discussion with the person or pursue other educational Remedies regarding alcohol or other drugs.

The campus will keep confidential (except as may be permitted by the FERPA statute or FERPA regulations, or as required by law, or to carry out the purposes of this Track, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder) the identity of:

- a. Any Individual who has made a report or Formal Complaint of sex discrimination, including any individual who has made a report or filed a Formal Complaint of Sexual Harassment, as defined under Article V.B of the Nondiscrimination Policy.
- b. Any Complainant.
- c. Any Individual who has been reported to be the perpetrator of sex discrimination.
- d. Any Respondent.
- e. Any Witness.

## Article XIII. Recordkeeping

- A. Records relating to the Investigation and Hearing Process

The campus shall maintain records of the following for a period of seven years (from the date of a record's creation), or the timeframe in accordance with the campus records/information retention and disposition schedule, whichever is later:

1. Each Sexual Harassment investigation including any determination regarding responsibility (this includes records created in relation to Formal Complaints that are dismissed).
2. Any audio or audiovisual recording or transcript pertaining to the Formal Complaint process.
3. Any disciplinary sanctions imposed on the Respondent.
4. Any Remedies provided to the Complainant designed to restore or preserve equal access to the campus's education program or activity.
5. Any appeal and the result therefrom (including appeals pertaining to mandatory and discretionary dismissal of Formal Complaints).
6. Any Informal Resolution and the result therefrom.
7. All materials used to train Title IX Coordinators, investigators, hearing officers, and any person who facilitates an Informal Resolution process. The campus shall make these training materials publicly available on its website.

B. Records relating to Supportive Measures

The campus must create, and maintain the following for a period of seven years or the timeframe in accordance with the campus records/information retention and disposition schedule, whichever is later:

1. Records of any actions, including any Supportive Measures, taken in response to a report or Formal Complaint of Sexual Harassment, as defined under Article V.B of the Nondiscrimination Policy;
2. In each instance, the campus must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the campus's Education Program or Activity; and
3. if the campus does not provide a Complainant with Supportive Measures, the campus must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.