

Title IX Annual Report 2021-22



California State University
MONTEREY BAY

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Department Overview

California State University, Monterey Bay is committed to maintaining an inclusive community that values diversity and fosters mutual respect. We are committed to providing equal access to education and employment for all students and employees.

Part of that commitment is compliance with federal, state, and city laws and policies within the United States, the state of California, and California State University.

Title IX of the Education Amendments of 1972 is a federal law that prohibits discrimination on the basis of gender and sex at educational institutions. The Violence Against Women Act (VAWA) is a federal act that aims to prevent gender-based sexual violence and harassment and requires educational institutions to respond to it when it occurs.

Another law that shapes CSUMB's commitment to equity and inclusion is the Student Safety: Sexual Assault law, which defines the affirmative consent standard for California schools.

The CSU Non-Discrimination Policy, as well as CSU Executive Orders 1095, 1096 and 1097, detail how CSUMB prohibits discrimination, harassment and violence on the basis of sex or gender and promotes a safe and inclusive environment.

The Title IX Officer has been designated to: ensure prevention education, provide supportive resources, and handle inquiries regarding the non-discrimination policies, including reports of alleged policy violations.

Title IX provides a neutral avenue for students, employees and third parties to report concerns and to have those concerns addressed. CSUMB takes allegations of Title IX violations seriously and works diligently to:

- Stop the reported behavior
- Prevent the behavior from happening again
- Remedy the effects of the behavior

Title IX Staff

Raquel Bonilla

Interim Senior Director, Title IX Coordinator/DHR Administrator

Pronouns: she/her

As the Title IX coordinator/administrator for the CSUMB campus, Bonilla oversees and coordinates investigations, responses and resolutions to Title IX and Discrimination, Harassment and Retaliation complaints.

She develops and implements educational programs based on the protected categories and sexual harassment prevention, ensuring all employees, faculty, staff, students, and affiliated/non-affiliated parties understand their rights and, where applicable, responsibilities under CSU policies.

Amy Gessler

Training and Support Specialist

Pronouns: she/her

As the Training and Support Specialist, Gessler oversees training and programs for Title IX/DHR and Clery. She coordinates department programming efforts, including collaborating with campus partners, representing the office for tabling, and overseeing office administration.

Campus Partners

The Title IX office works with campus partners committed to creating an inclusive and safer community. These partnerships recognize and support the spectrum of individuals that co-exist in the campus community and in our lives.

- Campus Advocate
- Student Affairs
- Care Team
- Housing and Residential Life
- Human Resources
- Intercollegiate Athletics and Recreation
- University Police Department
- Student Conduct

Executive Order Definitions

The CSU Executive Orders provide the following definitions:

Affirmative consent means an informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that affirmative consent has been obtained from the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent.

Affirmative consent can be withdrawn or revoked. Affirmative consent cannot be given by a person who is incapacitated.

A person with a medical or mental disability may also lack the capacity to give consent.

Sexual activity with a minor (under 18 years old) is never consensual because a minor is considered incapable of giving legal consent due to age.

Dating violence is abuse committed by a person who is or has been in a social or dating relationship of a romantic or intimate nature with the victim. This may include someone the victim just met, i.e., at a party, introduced through a friend, or on a social networking website. For purposes of this definition, “abuse” means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to self or another. Abuse does not include non-physical, emotional distress or injury.

Domestic violence is abuse committed against someone who is a current or former spouse; current or former cohabitant; someone with whom the respondent has a child; someone with whom the respondent has or had a dating or engagement relationship; or a person similarly situated under California domestic or family violence law. Cohabitant means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. It does not include roommates who do not have a romantic, intimate, or sexual relationship.

Factors that may determine whether persons are cohabiting include, but are not limited to: (1) sexual relations between the parties while sharing the same living quarters; (2) sharing of income or expenses; (3) joint use or ownership of property; (4) whether the parties hold themselves out as spouses; (5) the continuity of the relationship; and, (6) the length of the relationship. For purposes of this definition, “abuse” means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to self, or another. Abuse does not include non-physical, emotional distress or injury.

Sexual misconduct is engaging in any sexual activity without first obtaining affirmative consent to the specific activity, whether or not the conduct violates any civil or criminal law. All sexual activity between members of the CSU community must be based on affirmative consent.

Sexual activity includes but is not limited to kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex. It also includes any unwelcome physical, sexual acts, such as unwelcome sexual touching, sexual assault, sexual battery, rape, and dating violence. When based on gender, domestic violence or stalking also constitute sexual misconduct.

Sexual misconduct may include using physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person's incapacitation (including voluntary intoxication) to engage in sexual activity. Men and women can be victims of these forms of sexual misconduct.

Sexual activity with a minor is never consensual when the complainant is under 18 years old, because the minor is considered incapable of giving legal consent due to age.

- **Sexual assault** - an attempt, coupled with the ability, to commit a violent injury on the person of another because of that person's gender or sex.
- **Sexual battery** - any willful and unlawful use of force or violence upon the person of another because of that person's gender or sex, as well as touching an intimate part of another person against that person's will and for the purpose of sexual arousal, gratification, or abuse.
- **Rape** - non-consensual sexual intercourse that may also involve the use of threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Any sexual penetration, however slight, is sufficient to constitute rape. Sexual acts including intercourse are considered non-consensual when a person is incapable of giving consent because: s/he is incapacitated from alcohol and/or drugs, is under 18 years old, or if a mental disorder or developmental or physical disability renders a person incapable of giving consent. The respondent's relationship to the person (such as family member, spouse, friend, acquaintance or stranger) is irrelevant. (See complete definition of affirmative consent above.)
- **Acquaintance rape** - a form of sexual misconduct committed by an individual known to the victim. This includes a person the victim may have just met (i.e., at a party, introduced through a friend, or on a social networking website). (See above for definition of rape)

Discrimination means adverse action taken against a student by the CSU, a CSU employee or another student because of a protected status.

Harassment means unwelcome conduct, based on the complainant's protected status, that is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the complainant, and is in fact considered by the complainant, as limiting her/his ability to participate in or benefit from the services, activities or opportunities offered by the university.

Protected status includes age, disability (physical or mental), gender (or sex), genetic information, gender identity (including transgender), gender expression, marital status, medical condition, nationality, race or ethnicity (including color or ancestry), religion or religious creed, sexual orientation, and veteran or military status.

Retaliation means adverse action taken against a party because the party has or is believed to have:

- Exercised rights under this executive order;
- Reported or opposed conduct which was reasonably and in good faith believed to be in violation of this executive order;
- Assisted or participated in a policy-related investigation/proceeding regardless of whether the complaint was substantiated; or,
- Assisted someone in reporting or opposing a violation of this executive order, or assisted someone in reporting or opposing retaliation under this executive order.

Response and Outreach

When an incident report is submitted to the Title IX Office, an outreach letter is sent to the affected party with the following Title IX Information:

- Title IX information and the CSU non-discrimination policy;
- Complainant options and support; including trauma-based interviewing;
- Campus resources and supportive measures.



Outreach Resources

Care Team - identifies students who may be experiencing distress or have concerns within the university community that could potentially impact students' well-being. Information is confidential.

CSUMB Student Disability and Accessibility Center (SDAC) - ensures that students with disabilities have full access to their educational, cultural, social, and physical facilities and programs. The Title IX Office may partner with the SDAC to ensure that students are provided the appropriate long-term academic accommodations or other adjustments.

University Police Department (UPD) - assists with reporting crimes including sexual assault, dating/ domestic violence, and stalking. Campus police respond to all emergency incidents on campus.

CSUMB Health and Student Services - the three units comprising Health and Wellness Services — the Campus Health Center, the Personal Growth and Counseling Center, and Student Disability and Accessibility Center — strive to assist members of the CSUMB community in achieving and maintaining physical, mental, emotional and spiritual wellness.

Additional Support - CSUMB offers a list of additional internal and external support to the CSUMB community.



Campus Resources



California State University
MONTEREY BAY
Title IX/Discrimination,
Harassment & Retaliation

Reporting Discrimination and Sexual Misconduct

Campus

Title IX / Discrimination, Harassment and Retaliation

Wendy Smith, Senior Director
wensmith@csumb.edu
Report concerning/discrimination behavior button on all csumb.edu pages

University Police

Non-Emergency
831-655-0268

Emergency

Call 911

Non-Campus

United States Department of Education Office of Civil Rights

800-421-3481
ocr@ed.gov

California Civil Rights Department

800-884-1684
calcivilrights.ca.gov

Off-Campus Confidential Support

Monterey County Rape Crisis Center

24/7
831-375-4357

YWCA

24/7
831-372-6200
831-757-1001

National Sexual Assault Hotline

800-656-HOPE (4673)
rainn.org

National Crisis Text Line

Text "HOME" to 741741

National Domestic Violence Hotline

800-799-SAFE (7233)
thehotline.org

National Suicide Prevention Hotline

800-273-8255
TTY 800-799-4889

Campus Confidential Support

Confidential means CSUMB officials will not be notified of allegations/concerns. Please remember that all other employees are mandated to report all known or suspected discrimination to the Title IX/DHR office.

Campus Advocate

Lorelei Ahlmeyer
831-402-9477
campusadvocate@csumb.edu

Union Representative

Must act in union representative capacity for providing advice to a member

Personal Growth and Counseling Center

831-582-3969
Building 80, Room 65
csumb.edu/pgcc

Well-Being Services

Personal Growth and Counseling Center

831-582-3969
Building 80, Room 65
csumb.edu/pgcc

Campus Health Center

831-582-3965
Building 80, Room 10
csumb.edu/health

Nightwalk Services

Provides safety escort on campus any time of day
831-582-3573

Employee Assistance Program

800-367-7474
csumb.edu/up/employee-assistance-program

Forensic Exams

For forensic exam (collecting evidence for criminal investigation), contact the campus advocate, Monterey County Rape Crisis Center, or law enforcement. Exams are initiated by law enforcement with confidential options.

Supportive Measures

Remember you can seek supportive assistance from the Title IX/DHR Office even if you don't wish to file a formal complaint or report.

More Helpful Resources

Otter Cross Cultural Center aka OC3

831-582-4685
Otter Student Union Room 301
9 a.m. to 5 p.m. M-F
csumb.edu/oc3

Student Veterans Services

831-582-5720
Building 47, Room H110
9 a.m. to 5:30 p.m. M-F
csumb.edu/veterans

Office of Inclusive Excellence and Sustainability

831-582-3936
csumb.edu/diversity

Student Disability Resources

831-582-3672
Building 80, Room 110
csumb.edu/sdr

Employee Disability Accommodation

831-582-3584
Tide Hall
csumb.edu/up/disabiity-accommodation

933420216-22

Complaints and Resolution Options

When a complaint is filed, the investigator relies on procedures within the CSU non-discrimination policy to determine findings of alleged policy violations. The standard of evidence used in investigations is called the “preponderance of the evidence,” or the greater weight of the evidence.

The preponderance of evidence definition means that the evidence presented must tip the scales in favor of the party with the burden of proof, showing that it is more probable than not that their claim is true.

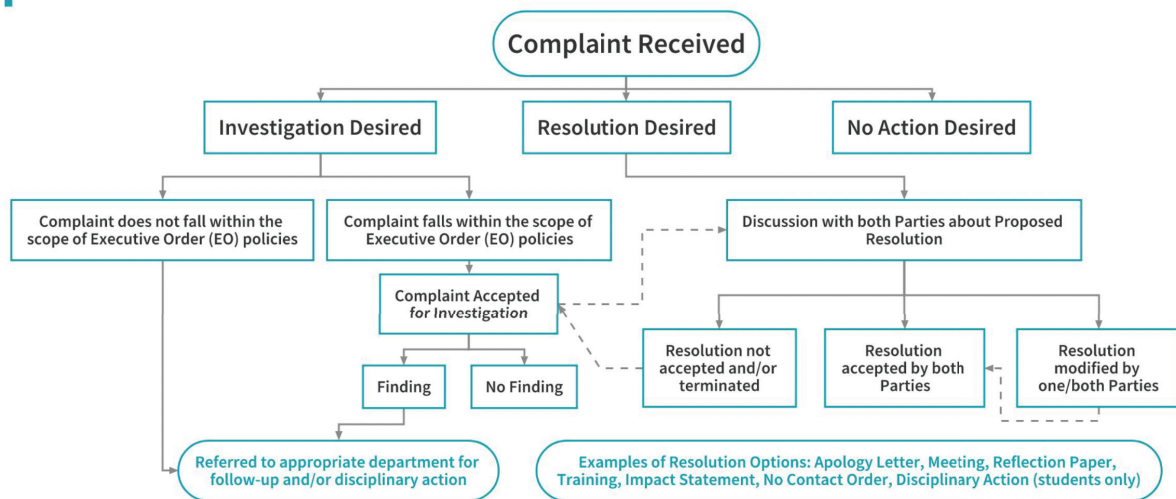
Sometimes reports can be resolved without a formal investigation. Complainants have the option to request supportive measures without filing a formal complaint.

In 2021-22, 29 reports were received:

- 6 complainants requested supportive measures
- 18 complainants were uncooperative, 1 was unidentifiable
- 1 had insufficient information
- 3 were non-jurisdictional with supportive services offered

In 2021-22, no investigations were conducted.

Title IX & Discrimination, Harassment, and Retaliation Resolution Options

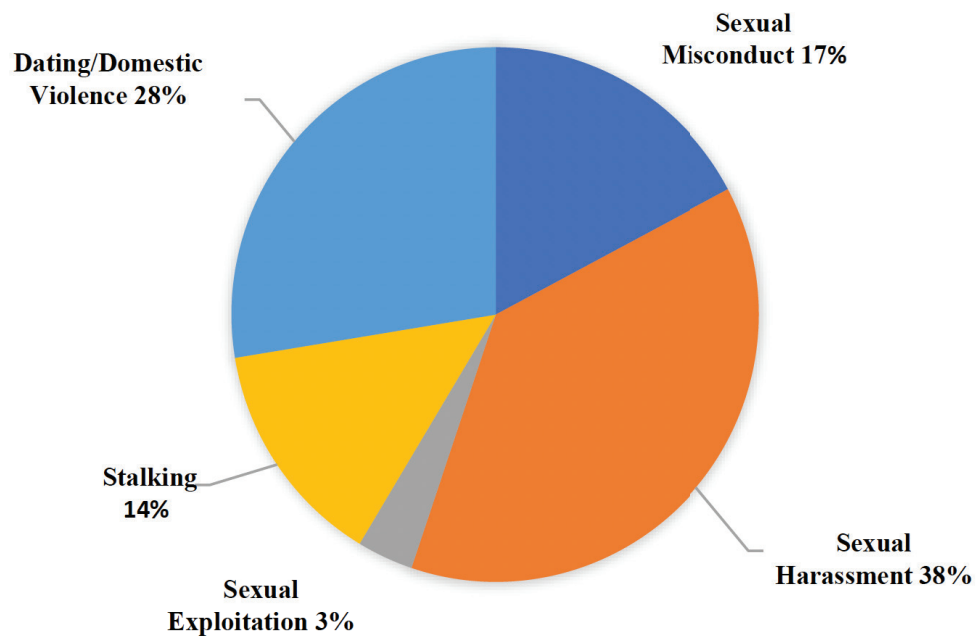


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Title IX Statistics

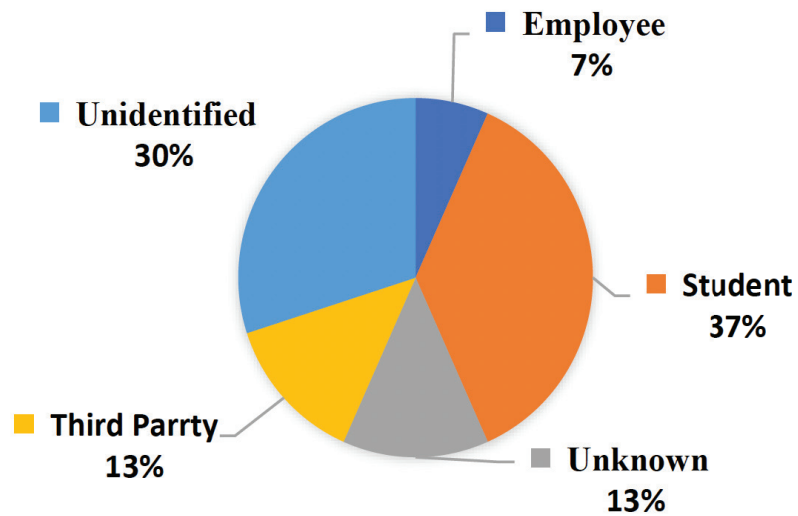
The Title IX Office received 29 reports in 2021-22:

- 0 resulted in an investigation
- 1 alleged sexual exploitation
- 4 stalking allegations, 5 sexual misconduct allegations
- 8 were dating/domestic violence allegations
- 11 sexual harassment allegations



Title IX Respondents

Respondents can be students, employees, third parties, unknown or unidentified. In 2021-22, there were 11 student respondents, 2 employee respondents, 4 third-party respondents, 4 unknown respondents, and 9 unidentified respondents.



Title IX Compliance Data 2021-22

1. Campus Monterey Bay

2. Title IX Coordinator's Name

Wendy Smith¹

3. Title IX Coordinator's email

wensmith@csumb.edu

4. Title IX Coordinator's Contact Number

831-582-3510

5. The total number **open reported matters** as of July, 2021. Please include all cases of: Discrimination and Non-Sexual Harassment (hereafter abbreviated to NSH) based on Sex, Gender (including sex, gender, gender identity, gender expression) and Sexual Orientation; Sexual Harassment; Sexual Exploitation; Stalking; Dating and Domestic Violence; and Sexual Misconduct/Sexual Assault.

0

1. Smith was CSUMB's Title IX Coordinator until Feb 2023.

6. The number of reports received during the reporting period in which a **Student, Employee, Third Party, Unknown, or Unidentified** is the Respondent.

	<u>Student Respondent</u>	<u>Employee Respondent</u>	<u>Third Party Respondent</u>	<u>Unknown Respondent</u>	<u>Unidentified Respondent</u>
Total	11	1	4	4	9
Sexual Misconduct/ Sexual Assault	4	0	0	1	0
Dating/Domestic Violence	2	0	1	0	5
Stalking	1	0	1	1	1
Sexual Exploitation	0	0	0	1	0
Sexual Harassment	4	1	2	1	3

Discrimination/NSH - Sex or Gender

Discrimination/NSH - Sexual Orientation

7. The number of allegations **investigated with a finding of violation or no violation** during July 1, 2021 to June 30, 2022.

	Finding	
	<u>Violation</u>	<u>No Violation</u>
Sexual Misconduct/Sexual Assault	No Investigations	No Investigations
Dating/Domestic Violence	No Investigations	No Investigations
Stalking	No Investigations	No Investigations
Sexual Exploitation	No Investigations	No Investigations
Sexual Harassment	No Investigations	No Investigations

Discrimination/NSH - Sex or Gender

Discrimination/NSH - Sexual Orientation

8. Indicate the total number of reports during July 1, 2021 to June 30, 2022 that were resolved without investigation and/or a finding; and how many reports were resolved in each of the following ways:

Type of Outcome

Number of Reports Resolved By:

Informal Resolution prior to investigation commencing	0
Informal Resolution while investigation in process (prior to a finding)	0
Complainant requested resources and/or supportive measures only	6
Complainant did not respond to outreach and insufficient information to move forward	18
Identity of Complainant is unknown so unable to send outreach	1
Insufficient information to move forward with investigation but sufficient to take other remedial action	1
Other Outcome (please specify)	No Jurisdiction Over Respondent, Support Services Offered = 3

Total

29

9. The number of allegations received during the reporting period resolved without an investigation and/or a finding for each type of misconduct.

Type of Misconduct

Total Number of

Allegations Resolved (not to include investigations with findings)

Sexual Misconduct/Sexual Assault	5
Dating and Domestic Violence	8
Stalking	4
Sexual Exploitation	1
Sexual Harassment	11

Discrimination/NSH - Sex or Gender

Discrimination/NSH - Sexual Orientation

* 10. **Looking only at Informal Resolution** where sanctions were imposed - For each type of misconduct, please indicate the number of times each sanction/discipline was imposed.

Sanction/Discipline Imposed	Type of						
	Sexual Misconduct/ Sexual Assault	IPV	Stalking	Sexual Exploitation	Sexual Harassment	Discrimination - Sex or Gender	Discrimination - Sexual Orientation
Expulsion (Students)	0	0	0	0	0	0	0
Suspension of one year or more (students)	0	0	0	0	0	0	0
Suspension of less than one year (students)	0	0	0	0	0	0	0
Disciplinary probation (students)	0	0	0	0	0	0	0
Termination of employment (employees)	0	0	0	0	0	0	0
Suspension without pay (employees)	0	0	0	0	0	0	0
Letter of reprimand (employees)	0	0	0	0	0	0	0
Education/Training (students/employees)	0	0	0	0	1	0	0
Other (Please specify)	0	0	0	0	0	0	0

* 11. **Looking only at allegations of misconduct** that were investigated AND the respondent was found responsible for some/all of the alleged misconduct, please indicate the number of times each sanction/type of discipline was imposed for each category of misconduct.

Sanction/Discipline Imposed Misconduct Found Responsible For	Type of						
	Sexual Misconduct/ Sexual Assault	Dating and Domestic Violence	Stalking	Sexual Exploitation	Sexual Harassment	Discrimination - Sex or Gender	Discrimination - Sexual Orientation
Expulsion (students)	0	0	0	0	0	0	0
Suspension of one year or more (students)	0	0	0	0	0	0	0
Suspension of less than one year (students)	0	0	0	0	0	0	0
Disciplinary probation (students)	0	0	0	0	0	0	0
Termination of employment (employees)	0	0	0	0	0	0	0
Suspension without pay (employees)	0	0	0	0	0	0	0
Letter of reprimand (employees)	0	0	0	0	0	0	0
Education/Training (students/employees)	0	0	0	0	0	0	0
Other (please specify)	0	0	0	0	0	0	0

12. The total number of **open reported matters** as of June 30, 2022. Please include all cases of: Discrimination and Non-Sexual Harassment (abbreviated to NSH) based on Sex, Gender (including sex, gender, gender identity, gender expression) and Sexual Orientation; Sexual Harassment; Sexual Exploitation; Stalking; Dating and Domestic Violence; and Sexual Misconduct/Sexual Assault.

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