

Memorandum from Policy Facilitation Team

To: VP Andrew Lawson

Subject: Policy for final Presidential approval

From: Policy Facilitation Team

Date: July 7, 2023

Policy: Policy and Procedures for Mandated Clery Act and Campus Safety Reporting

The PFT has completed campus vetting for the new Policy and Procedures for Mandated Clery Act and Campus Safety Reporting and recommends it for Presidential review and approval. Please confirm your support for the approval of this revised policy by signing below.

JH
JH



Andrew Lawson, Interim Provost

07/07/2023

Date



California State University Monterey Bay

100 Campus Center Seaside, CA 93955-8001

Policy and Procedures for Mandated Clery Act and Campus Safety Reporting

1.00 Purpose

This policy is pursuant to the California State University's policy addressing the implementation of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act").¹ It outlines the process under which California State University, Monterey Bay (CSUMB) Campus Security Authorities (CSAs) are identified and notified of their responsibility. It also establishes the circumstances and procedures CSAs shall use for reporting crimes and criminal incidents under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C § 1092(f), also known as the Clery Act) and the California State Education Code, Chapter 15.5, of the Donahoe Higher Education Act, Section 67380. This policy is applicable to CSUMB's Core Campus and any additional separate campuses and/or auxiliary locations.²

2.00 Definitions

Campus Security Authority (CSA): Members of the University's Police Department; any individual who has responsibility for campus security who is not a member of the campus police; any individual or organization specified in CSUMB's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses; or any official of an institution who has significant responsibility for student and campus activities. The Campus Clery Director maintains the list of individuals identified as CSAs; this list is updated on an annual basis.

Clery Compliance Team (CCT): A cross-departmental team led by the Clery Director that is composed of various positions at CSUMB, pursuant to CSU systemwide policy 1107.

Core Campus: Buildings and grounds leased/owned/controlled by CSUMB and/or its auxiliaries within the footprint of the CSUMB Campus located at 100 Campus Center, Seaside, CA, including Main and East campus buildings and grounds.

¹ <https://calstate.policystat.com/policy/9938606/latest>, Referred to as CSU systemwide policy 1107 throughout these procedures

² Separate campus, as defined in CSU systemwide policy 1107.

Crime or Criminal Incident: Primary crimes including murder and nonnegligent manslaughter, negligent manslaughter, rape, robbery, aggravated assault, burglary, motor vehicle theft, and arrests and referrals for disciplinary actions, including liquor law violations, drug law violations, and illegal weapons as defined by the “Summary Reporting System (SRS) User Manual” from the FBI’s Uniform Crime Reporting (UCR) Program; primary crimes including fondling, incest, and statutory rape as defined by the “National Incident- Based Reporting System User Manual” from the FBI’s UCR Program and hate crimes, including the crimes previously listed³ and larceny-theft, simple assault, intimidation and destruction/damage/vandalism of property as defined by the “Hate Crime Data Collection Guidelines and Training Manual” from the FBI’s UCR Program; and domestic violence, dating violence, and stalking as defined by 34 C.F.R. §668.46(a). Also included are illegal drugs, theft, destruction of property, alcohol intoxication, and noncriminal acts of hate violence as defined by the California State Education Code, Chapter 15.5, of the Donahoe Higher Education Act, Section 67380.

CSA report: A written report submitted to the University’s reporting structure by a CSA other than sworn University Police Department (UPD) personnel, or by the Clery Director on behalf of a CSA, that substantially documents crime and criminal incident information brought to their attention. For the purpose of this policy, any mention of a CSA report does not refer to UPD crime and incident reports. While UPD reports undergo review and assessment for Clery Act disclosure requirements, they are developed and maintained in a separate, confidential records management system.

Fire: Any instance of open flame or other burning in a place not intended to contain the burning or in an uncontrolled manner. Sparks or smoke where there is no open flame or other burning, regardless if a fire alarm is triggered, does not constitute a fire. Fires are disclosed in the Fire Safety Report (FSR) for on-campus student housing facilities.⁴

Geography: For the purpose of collecting statistics on the crimes and criminal incidents listed in this policy for submission to the U.S. Department of Education and inclusion in CSUMB’s annual security report(s), geography includes—(a) buildings and property that are part of the institution’s campus (i.e., on-campus); (b) the institution’s noncampus buildings and property; and (c) public property within or immediately adjacent to and accessible from the campus. The definitions for On-campus, Noncampus, and Public property shall meet 34 CFR 668.41 and 34 CFR 668.46.

Indirect manner: overheard or otherwise not reported directly to a CSA by a victim, witness, third-party, or the alleged via direct communication (e.g., written or verbal including email, telephone/voicemail, social media direct message, and other messaging platforms).

³ All except arrests and referrals for disciplinary actions for liquor law violations, drug law violations, and illegal weapons

⁴ 34 CFR 668.41(a) “On campus student housing facility:”

Immediate community threat: an immediate or impending threat (e.g. bomb threat or armed intruder) or serious or dangerous criminal occurrence where the campus's students or employees are at risk of becoming a victim of a similar crime.

Pastoral counselor: a person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor for the University.

Professional counselor: a person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of the counselor's license or certification for the University. This definition applies to professional counselors who are not employees of, but are under contract to provide counseling at, the institution.

3.00 Identifying and Notifying CSAs

It is the responsibility of the Clery Director to identify who, as a result of their job duties and function, is a CSA. University Personnel and University Corporation Human Resources shall provide the Clery Director with relevant position and personnel information to make these determinations, and otherwise assist with CSA identification as directed by the Clery Director. Department heads shall provide personnel and duty information at the direction of the Clery Director, if requested, regarding the identification of CSAs.

To maintain the integrity of a reporting culture, student leader positions that are designated as CSAs (e.g. resident advisor, orientation leaders, and student disciplinary board members) shall adhere to this policy. Other student leader positions will be assessed on a case-by-case basis. Any position identified as a CSA shall comply with this policy. Any position not identified as a CSA is encouraged to report known crimes and criminal incidents to a CSA immediately.

The owner of any University or auxiliary event, service or event held at a facility leased by the University to another that is determined to require security or other personnel that meet the definition of a CSA shall contact the University's Clery Director in a manner that permits the temporary CSA to receive notification of their designation and to complete their training in a timely manner.

Subject to 34 C.F.R. § 668.46(a), contractors, volunteers, or other persons identified as CSAs by the Clery Director shall be informed of their reporting responsibilities by the University when they are first identified and may receive additional notifications anytime thereafter.

4.00 Training CSAs

The University shall provide CSA training annually through its learning management system. The training may include, but not be limited to, the definition of a CSA; the role of a CSA, including information CSAs are responsible for reporting; compliance and referral resources; explanation of the University's reporting structure and CSA reporting form; and a responsibility/training acknowledgment. The Clery Director shall determine the appropriate frequency of training.

The Clery Director may assign custom training modules to address the specific needs of certain CSA groups.

CSAs must complete training as directed by the Clery Director. The Clery Director shall coordinate with CSAs' supervisors and may report completion information to University administration to ensure timely completion of training. Any volunteer student organization advisor CSA who does not meet their training requirement shall be removed as advisor until their training requirement is met. University club councils and Greek life councils may replace the advisor with a CSA who has completed their training as to not affect the student organization's good-standing.

5.00 CSA Roles and Responsibilities

If a student, employee, or other person is more inclined to report victimization to someone other than to UPD and that person is a CSA, that CSA has specific obligations under the Clery Act.

CSAs must promptly report allegations of crimes and criminal incidents that occur within CSUMB's 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:

- A. The crime that was reported and the information provided
- B. The exact location where the reported crime occurred
- C. The date and time the reported crime occurred
- D. Any witness and perpetrator information
- E. Victim information, unless the victim requests confidentiality (Employees may be required to share this information with other offices if they have responsibilities under other laws and policies including, but not limited to, Mandatory Reporting of Child Abuse and Neglect, and the Interim 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. CSAs should also inform the reporting party that confidentiality cannot be ensured, as

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.⁵

CSAs may explain to a reporting party that their role requires them to forward any information shared using CSUMB's reporting structure for statistical purposes.

5.10 Sworn CSAs

Nothing in this policy and procedures preclude sworn personnel with the UPD from exercising its law enforcement and investigation authority as provided by California Penal Code §§ 830.2, 836, and Section 89560 of the California Education Code or any written agreements regarding the department's investigation/operational authority entered into under CSU systemwide policy.⁶

5.20 CSAs with Student Housing and Residential Life (SHRL)

SHRL CSAs should use the reporting protocols designed by its department and the Clery Director, which may be different from the direction given to most CSAs, given the nature and function of the department.

SHRL CSAs should forward reports of fires that occurred in any student housing residential facility to the Director of Student Housing and Residential Life or their designee.

6.00 Procedures for Reporting

CSAs shall submit reports of all crimes and criminal incidents reported directly to them using the reporting structure described below, established by CSUMB.

CSAs shall submit a report regardless of: (1) the reporting party's involvement or lack thereof; (2) the affiliation of the involved parties to the University; (3) or when the crime or criminal incident occurred.

CSAs should complete the following steps when submitting a report:

1. Report any in-progress incidents or incidents posing a possible immediate community threat to UPD without delay by dialing 9-1-1.
2. Ask (without attempting to convince) the reporting party if they wish to report the crime to UPD, and if so, coordinate reporting with UPD as follows:
 - a. If a UPD officer arrives on-scene at the Core Campus and takes a report, a CSA report is not required, as the UPD officer will generate an incident report detailing the crime or criminal incident. Otherwise (at CSUMB locations outside of the Core Campus such as CSUMB at North Salinas), CSAs shall submit a CSA report and

⁵ The ability to guarantee confidentiality is reserved for the sworn personnel, the Title IX Coordinator/DHR Administrator, and other privileged/confidential persons as outlined in the Interim CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation.

⁶ Campus Enforcement Policies, <https://calstate.policystat.com/policy/10952377/latest>

- indicate when the local law enforcement report, if applicable, was filed, the name of the agency to which the report was made, and the report number, if known.
- b. If the reporting party indicates they will report it to UPD at a later time, CSAs shall complete a CSA report.⁷
 - c. If the reporting party is unwilling or unable to decide whether to report the crime or criminal incident to UPD, CSAs shall complete a CSA report.
 - d. If the reporting party indicates they have already filed a police report with UPD or an outside agency, the CSA shall complete a CSA report form submitting all the information provided to them. CSAs should indicate when the report was filed, the name of the agency to which the report was made, and the report number, if known.
3. CSAs should make the victim or third party they are in contact with aware that UPD and Title IX/DHR make both confidential and non-confidential resources available that may be helpful to victims or witnesses of a crime and encourage them to utilize the resources available.
 4. If a CSA is unsure whether information they received about an incident is Clery Act- or Donahoe Higher Education Act-reportable, they should submit a CSA report and leave the determination to the Clery Director.

6.10 General Provisions

CSAs are not responsible for reporting incidents they overhear in a hallway conversation; that is mentioned during an in-class discussion; that a victim mentions during a speech, workshop, or any other form of group presentation; or that the CSA otherwise learns about in an indirect manner.

Non-sworn CSAs are not responsible for determining authoritatively whether a crime took place and are not to apprehend the accused. Both are the responsibilities of law enforcement.

CSAs, except the Title IX Coordinator/DHR Administrator, Title IX/DHR investigators, Student Conduct Administrator, or Student Housing and Residential Life (SHRL) Residential Life Coordinators (RLC) and Coordinator of Community Standards, as appropriate, shall not conduct investigations. CSAs may ask clarifying questions to ensure they are documenting the incident as described by the reporting party and to provide the Clery Director with sufficient detail to determine that a Clery Act- or Donahoe Higher Education Act-reportable crime has occurred. Clarifying questions shall follow the practice of active listening. They shall be asked in a neutral, unbiased tone and not performed in any manner that is offensive, intrusive, or otherwise revictimizes the reporting party. The University considers active listening a communication skill that involves a listener's undivided attention accompanied by attentive body language (e.g., posture and gestures showing involvement and engagement, appropriate body movement, facial expressions and eye contact, a non-distracting environment), following skills (e.g., giving the reporting party space to tell their story

⁷ The function of a CSA is to report (to the official or office designated by the institution to collect crime report information) those allegations of crimes that they receive. A reporting party indicating that they have or will contact UPD to file a criminal complaint does not absolve a CSA from meeting their responsibility under the law.

in their own way) and reflecting skills (e.g., paraphrasing at the conclusion of the reporting party's account of the incident to make sure you've understood).

Making Clery Act-related determinations is generally not the responsibility of CSAs. Information provided by CSAs shall be reviewed thoroughly and determined by the Clery Director and, when appropriate, members of the University CCT to be a Crime or Criminal Incident that meets Clery Act and other required campus safety disclosures. Determinations may consider incomplete or absent information and misclassifications on behalf of the CSA. Any CSA that receives follow-up from the Clery Director and, if applicable, UPD or the Title IX/DHR Administrator to gain clarification on a submitted report shall respond promptly.

6.20 Exemptions

If a campus official is a Pastoral or Professional Counselor, the official is not considered a CSA when acting in the role of Pastoral or Professional Counselors for the University.

7.00 Records Retention

The Clery Director and members of the CCT or their designees who, as part of their operational duties under this policy, create or maintain records substantiating CSA identification, notification, and training shall preserve those records pursuant to the Systemwide Records Information Retention and Disposition Schedules Implementation Policy, applicable retention and disposal schedules, and campus procedures established by the CCT. Members of the CCT shall consult with the Clery Director prior to destruction of records and provide copies of records to the Clery Director when requested.

8.00 Continuous Renewal

This policy shall be reviewed five years from its effective date to determine its effectiveness and appropriateness. This policy may be reviewed before that time or until federal legislation requires otherwise.



President Vanya Quiñones

Effective Date: 07/10/2023

Reviewed by: CSUMB Clery Compliance Team, the Director of Systemwide Clery and Campus Safety Compliance, Enrollment Services & Student Affairs, Academic Affairs, Administration & Finance, University Advancement, Academic Senate

Revision History:

The following documents are superseded as of the effective date of this Standard Operating Procedure and are no longer applicable:

- Procedures for Campus Security Authorities, dated January 30, 2019
- Procedures for Campus Security Authorities, dated September 7, 2018
- Procedures for Campus Security Authorities, dated February 12, 2018
- Procedures for Campus Security Authorities, dated August 7, 2017
- Procedures for Campus Security Authorities, dated September 14, 2016
- Procedures for Campus Security Authorities, dated August 4, 2016
- Procedures for Campus Security Authorities, dated January 7, 2016
- Procedures for Campus Security Authorities, dated August 21, 2015
- Procedures for Campus Security Authorities, dated August 10, 2015
- Procedures for Campus Security Authorities, dated May 27, 2015

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