

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 for Reporting Criminal Actions and Other Emergencies

The PFT has completed campus vetting for the new Policy for Reporting Criminal Actions and Other Emergencies and recommends it for Presidential review and approval. Please confirm your support for the approval of this revised policy by signing below.

JH
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Andrew Lawson, Interim Provost

07/07/2023

Date



California State University Monterey Bay

100 Campus Center · Seaside, CA 93955-8001

Policy for Reporting Criminal Actions and Other Emergencies

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 that the California State University, Monterey Bay (CSUMB) community may use to report Criminal Action or other emergencies.

2.00 Scope

This policy applies to all persons and entities accessing and using University facilities, buildings, and grounds, including students, faculty, staff, guests, and auxiliaries.

3.00 Definitions

Annual Fire Safety Report (AFSR): An annual fire safety report prepared by CSUMB while it maintains any On-Campus student housing facility that contains, at minimum, the information outlined in federal regulation,² including fire statistics for arson and other Fires that occurred in On-campus student housing facilities.

Annual Security Report (ASR): An annual security report prepared by CSUMB reflecting its current policies that contains, at minimum, the information outlined in federal regulation,³ including crime statistics reported to the U.S. Department of Education for the three most recent calendar years that occurred on or within CSUMB's Clery Geography.

Business Day: Monday through Friday, except for days when the institution is closed, including holidays or other scheduled breaks.

Campus Security Authority (CSA): Members of the University's campus police or security department; any individual who have responsibility for campus security who is not a member of the

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

² 34 C.F.R. § 668.49

³ 34 C.F.R. § 668.46

campus police or security department; 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.

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

Clery 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 C.F.R. § § 668.41 and 668.46.

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.

Criminal Action: 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 listed⁴ 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). The above-listed Criminal Actions are also referred to as Clery Act Crimes. Pursuant to the California State Education Code, Chapter 15.5, of the Donahoe Higher Education Act, Section 67380, Criminal Actions also include illegal drugs, theft, destruction of property, alcohol intoxication, and noncriminal acts of hate violence.

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. For compliance purposes, fires differ from arson because they are not willfully or maliciously started or attempted. Fires are only reported in the fire log and the AFSR for On-campus student housing facilities.

⁴ With the exception of arrests and referrals for disciplinary actions, including liquor law violations, drug law violations, and illegal weapons

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.

Reasonable, Good-faith effort: As thoroughly and as far in advance as practically possible to ensure accurate inclusion.

4.00 Reporting Criminal Actions and Emergencies

CSUMB encourages all members of its campus community (students, employees, and others) to contact UPD or the appropriate police agency when they have been the victim of or have witnessed Criminal Actions and when other in-progress suspicious or police, fire, or medical emergencies occur by dialing 9-1-1. The University encourages the complete, accurate, and prompt reporting of all crimes to UPD and/or other appropriate police agencies when a victim of a crime elects to, or is unable to make such a report because such a report is essential for successful investigation and prosecution. Prompt action can prevent the perpetrator from committing additional crimes.

Criminal investigations may be investigated by UPD and referred to the Office of the Monterey County District Attorney for prosecution.

Criminal matters and other forms of misconduct involving CSUMB students, employees, and residents on Clery Geography may also be referred to the appropriate University administrator for administrative review/conduct process, including Title IX/DHR, Student Conduct, University Personnel and University Corporation Human Resources.

Fires occurring in On-campus student housing facilities should be immediately reported local fire response by dialing 9-1-1 and to Student Housing and Residential Life (SHRL) Residential Life Coordinators (RLCs) for inclusion on the University's fire log and AFSR statistics.

4.10 Reporting to Campus Security Authorities

The University supports a reporting culture and understands that students, employees, and others may be more inclined to report Criminal Actions to other campus officials aside from UPD personnel. Although students and employees may report Criminal Actions to any CSA, individuals should promptly report Clery Act crimes occurring at CSUMB's Core Campus for inclusion in the

ASR and to help inform whether a timely warning or emergency notification to the campus community is warranted to UPD, the Associate Vice President (AVP) for Student Affairs/Dean of Students, Director of Student Housing and Residential Life, the Student Conduct Administrator, or the Clery Director. Individuals should report Clery Act crimes occurring at buildings and grounds leased/owned/controlled by CSUMB and/or its auxiliaries outside of the Core Campus for the purpose of making timely warning reports and the annual statistical disclosure to the program dean or a director who is a manager plan personnel (otherwise known as an MPP) employee.

CSAs shall follow CSUMB's Policy and Procedures for Mandated Clery Act and Campus Safety Reporting whenever they receive a report of a Criminal Action.

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

4.20 Voluntary Confidential Reporting

CSUMB provides voluntary confidential reporting options through UPD for inclusion in the ASR for its Core and separate campuses.⁵ Should anyone want to make a report confidentially through UPD, they 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.

Pastoral and Professional Counselors are exempt from reporting but may, if they choose, report an incident confidentially by calling the UPD Criminal Investigations office. The Campus Advocate shall not have significant responsibility for student and campus activities. The scope of their service to the campus community shall be limited to a support resource. All confidential sources (Pastoral and Professional Counselors and the campus advocate) are encouraged to inform individuals they are counseling of all options (including anonymous reporting) and support resources for reporting crimes on campus for administrative or criminal investigation and action.

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

4.30 Anonymous Reporting

Victims, witnesses, or third parties who want to inform UPD of Criminal Actions occurring on CSUMB's Core Campus on a voluntary, anonymous basis may do so under the direction of UPD.

⁵ Separate campus, as defined in CSU systemwide policy 1107.

Anonymously reporting criminal actions occurring at other buildings and grounds leased/owned/controlled by CSUMB and/or its auxiliaries may be completed through UPD or, if available, to local law enforcement.

Complaints filed in this manner may be counted and disclosed in the ASR.

4.40 Monitoring Criminal Activity at Noncampus Locations

CSUMB may, at any time, enter into or terminate agreements with local law enforcement to monitor and record criminal activity, through local police agencies, by students at Noncampus locations of student organizations officially recognized by the institution, including student organizations with Noncampus housing facilities.

4.50 Disciplinary Action for Criminal Activity at Off-campus and Non-campus Locations Involving Students

When a CSUMB student is involved in an off-campus offense, UPD officers may respond and may assist with the investigation in cooperation with local, State, or Federal law enforcement.

Any student who has been involved in, arrested for or found guilty of committing any crime off-campus, including at locations determined to be Noncampus, may be subject to the University's disciplinary process for violation of Title V of the California Code of Regulations. The Chief of Police may assist the AVP of Student Affairs/Dean of Students with reporting criminal activity involving students.

5.00 Crime of Violence Disclosures

The institution will, upon written request, disclose to the alleged victim of a crime of violence⁶ 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.

6.00 Preparation for Annual Disclosure of Crime

CSUMB is required to collect, classify, count, reconcile, annually publish, and submit statistics concerning the occurrence of Clery Act crimes in or on Clery Geography reported or known to the UPD, any other individuals identified by CSUMB as CSAs, and local law enforcement.

Clery Act Crime ASR disclosures must apply the FBI's UCR Hierarchy Rule, including applicable exceptions, and include crimes unfounded by sworn or commissioned law enforcement personnel pursuant to 34 C.F.R. § 668.46.

⁶ As defined by 18 U.S.C. § 16, including Appendix A to Part 99, Title 34

The Clery Director (or designee), shall disclose crime statistical data for inclusion in the ASR as prescribed in the Clery Act and its existing federal regulations under the supervision of the Campus Safety Survey Administrator (if different from the Clery Director), and submit those statistics to the U.S. Department of Education using the data collection tool administered by the Office of Postsecondary Education.

Members of the CCT, as defined in CSU systemwide policy 1107, shall produce the ASR in compliance with CSU systemwide policy 1107 and in concert with various campus departments, to include the required policy or procedure statements stipulated by the Clery Act and its existing federal regulations. Members of the CCT, or their designees, with direct responsibility for Criminal Action and student/employee conduct management shall assist the Clery Director in the collection of information and required crime statistics. This should include any hard and electronic case management database systems and the collection of confidential and anonymous reports, and be conducted in a manner that permits other Clery Act compliance components with time-based requirements.

The Director of Student Housing & Residential Life (or designee) shall assist the Clery Director with Clery Act compliance by:

- A. Compiling and publishing the AFSR as required by 20 U.S.C. § 1092(i) and as stated CSU systemwide policy 1107.
- B. Coordinating with the Clery Director to send a notice of availability of the AFSR in conjunction with the notice of availability of the ASR as required by 34 C.F.R. § 668.41.

The Director of Student Housing & Residential Life (or designee) shall produce the AFSR in concert with members of the CCT and other appropriate campus departments, if needed, to include the required policy or procedure statements stipulated by federal regulation and either directly submit or assist the Clery Director in submitting fire statistics to the U.S. Department of Education using the data collection tool administered by the Office of Postsecondary Education.

The ASR and AFSR may be published either collectively or as separate documents under the direction of the CSU Chancellor's Office, and shall meet publication requirements outlined in 34 C.F.R. § 668.41.

6.10 Crime and Fire Logs

UPD is responsible for maintaining a crime log that complies with the requirements of 34 C.F.R. § 668.46 and CSU systemwide policy 1107.

The Director of Student Housing & Residential Life (or designee) shall assist the Clery Director with Clery Act compliance by coordinating with the Clery Director and UPD to ensure that CSUMB maintains a fire log that complies with the requirements of 20 U.S.C. § 1092.

To ensure accessibility during normal business hours, crime and fire logs may be kept in digital format, as a hard copy, or both. In addition, the UPD and SHRL must make the crime and fire log (as appropriate) available, free of charge, for review/inspection immediately upon request during normal business hours for the most recent sixty (60) day period. Any portion of the crime or fire log older than the most recent sixty (60) days, and still retained under the records retention schedule, must be produced within two Business Days of a request.

Copies of calendar-year crime and fire logs shall be provided to the Clery Director, upon request.

6.20 Clery Geography Assessments & Determinations

At the direction of the Clery Director, departments across all University divisions shall provide information regarding memorandums of understanding and other written agreements for space use with third-parties upon request. They must also provide the Clery Director with information about off-campus student trips, including those that involve department student assistants.

Annually, and more frequently as needed, the Chief of Police (or designee) must correspond with the appropriate law enforcement agencies having jurisdiction over the institution's Clery Geography on a documented Reasonable, Good-Faith Effort, including encouraging them to share crime information and providing updates on changes to the status of CSUMB's Clery Geography. Requests for statistics from local law enforcement shall be made by the conclusion of the first quarter of each calendar year. However, UPD, in conference with the Clery Director, can extend this deadline as necessary and shall document the reason for any procedural changes. All received crime information must be included in the crime log pursuant to federal regulation and CSU systemwide policy 1107, and Clery Act crimes forwarded to the Clery Director for inclusion in the ASR. The Clery Director (or designee) is responsible for documenting any follow-ups in the event the original request does not result in a response.

Annually, and more frequently as needed, the Director of Student Housing & Residential Life (or designee) must correspond with the appropriate fire department/first responder agencies having jurisdiction over the institution's On-campus student housing facilities on a documented Reasonable, Good-Faith Effort for the purposes of including a fire in the AFSR statistics.

6.30 Notice of Disclosure and Report Distribution

The Clery Director (or designee) shall work with the Director of Student Housing and Residential Life (or designee) and University Communications to disseminate the annual notices of availability for any ASR and AFSR to current students and employees in compliance with CSU systemwide policy 1107.

The ASR and AFSR annual notices of availability for prospective students and employees shall, at a minimum, be housed on the Admissions, International Programs, and University Personnel

websites. Language for these notices shall reflect CSU systemwide policy 1107. University Personnel and University Corporation Human Resources shall also include the notice of availability for any ASR and the AFSR in all position descriptions posted, including University and third-party advertising platforms.

Any ASRs shall be housed on an appropriate and easily accessible location on the University's website. The AFSR shall be housed on an appropriate and easily accessible location under the SHRL webpage. All Clery Act compliance reports must be distributed in accordance with 34 C.F.R. § 668.41 and CSU systemwide policy 1107.

7.00 Records Retention

The Clery Director and members of the CCT or their designees who, as part of their operational duties under these procedures, create or maintain records substantiating reports of criminal action and emergencies 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 those records to the Clery Director, if requested.

8.00 Interdepartmental Procedures

Campus departments may develop written procedures for critical compliance activities including a description of processes and controls used surrounding this policy.

9.00 Continuous Renewal

This policy shall remain in effect until the campus approves a renewed or revised policy, or until the President determines the policy to be ineffective.



President Vanya Quiñones

Effective Date: 07/10/2023

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

Signature: *Jennifer Hinds*

Email: jhinds@csumb.edu