

# California State University, Monterey Bay



2023

## Annual Security Report

Jeanne Clery Disclosure of Campus Security Policies and  
Campus Crime Statistics Act (20 U.S.C. §1092(f))  
**Clery Crime Statistics 2020-2022**

**Cuesta College**



California State University  
**MONTEREY BAY**

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# California State University, Monterey Bay Annual Security Report

## Message from the President



Dear campus community:

At California State University, Monterey Bay, we pride ourselves on providing a safe and welcoming environment for all students, faculty and staff. As part of that responsibility, we publish an annual Fire Safety Report to ensure you are informed of the proactive work we have done to provide training and infrastructure to prevent fire incidents on campus as well as how 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 can all do our part by being alert for potentially dangerous situations.)

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

## Preparing the Annual Security Report

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

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

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

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

All students and employees receive annual notice by University-wide email that informs them of the Annual Security Report (ASR), a brief description of its contents, information regarding the availability of the report on the campus website, the electronic address to access the report, and a statement on how to obtain a paper copy, if desired.

Additionally, similar notices are provided to prospective students and employees on the Admissions and Human Resources web pages, respectively.

## **Compiling Crime Statistics**

Under the Clery Act, counting and disclosing criminal offenses (including sex offenses), hate crimes, and arrest and disciplinary referral statistics are based on definitions<sup>1</sup> provided by the Federal Bureau of Investigation's (FBI) Uniform Crime Reporting (UCR) Program; and the following categories are counted and disclosed based on the definitions provided by the Violence Against Women Act of 1994 (VAWA)<sup>2</sup> and repeated in the Department of Education's Clery Act implementing regulations at 34 C.F.R. Section 668.46: Dating Violence, Domestic Violence, and Stalking.

The statistics provide an overall picture of crime at CSUMB and CSUMB at North Salinas from January 1 to December 31 for 2020, 2021, and 2022.

Crime statistics are collected annually from law enforcement agencies with concurrent law enforcement jurisdiction(s) surrounding CSUMB and CSUMB at North Salinas, and off-site properties or facilities owned or controlled by either campus.<sup>3</sup>

These law enforcement agencies provide crime statistics they have collected for crimes occurring on non-campus properties or public property immediately adjacent to CSUMB or CSUMB at North Salinas's properties or facilities. The University does not have any off-campus properties owned by student organizations.<sup>4</sup>

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

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

- On-campus;
- On-campus student housing facilities;<sup>5</sup> (Cuesta College does not have student housing)

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<sup>1</sup> For a full list of definitions, visit <http://csumb.edu/clery>

<sup>2</sup> The name VAWA is delegated per federal law (Title IV, sec. 40001-40703 of the Violent Crime Control and Law Enforcement Act, H.R. 3355); however, reports of this nature are taken regardless of the victim's gender or identity

<sup>3</sup> Including but not limited to Marina Police Department, Seaside Police Department, Presidio of Monterey Police Department, Monterey County Sheriff's Office, California Highway Patrol, and Salinas Police Department.

<sup>4</sup> Non-campus locations are defined as (1) any building or property owned or controlled by a student organization that is officially recognized by CSUMB or CSUMB at North Salinas; or (2) any building or property owned or controlled by CSUMB or CSUMB at North Salinas that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the campus. Although no University recognized student organization owns any statistics regarding specific violations of law resulting in student disciplinary actions are collected from but not limited to the offices of Title IX/Discrimination, Harassment & Retaliation Administration (Title IX/DHR), Student Housing and Residential Life (SHRL), and Student Conduct. Clery Act statistics are also collected from individuals with significant responsibility for students and/or their campus activities.

<sup>5</sup> CSUMB has a residential community that operates three apartment communities: Frederick Park I, Frederick Park II and Schoonover Park. Frederick Parks I and II are advertised and operated for student housing, whereas Schoonover Park typically houses Cal State Monterey Bay faculty and staff and educational partners. Although these are considered 'East Campus' by students, faculty and staff; for

- On public property (within and immediately adjacent to CSUMB or CSUMB at North Salinas); and
- In or on non-campus property (either owned or controlled by CSUMB or CSUMB at North Salinas in direct support of or in relation to its educational purposes; or a building or property owned or controlled by an officially recognized student organization not reasonably contiguous to the core campus).

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

### **Counting Hierarchy**

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

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

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

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

- Always count Arson regardless of the nature of any other offenses that were committed during the same incident.
- Include incidents in which persons are killed as a direct result of Arson as Murder and Non-negligent Manslaughter and Arson or Negligent Manslaughter and Arson.
- Include a Sexual Assault as Fondling only if it is the only Sexual Assault.
- Count both the Sexual Assault and the Murder if Rape, Fondling, Incest or Statutory Rape occurs in the same incident as Murder.

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

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

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statistical purposes, each community is considered on-campus since they are operated by the University and are within the same reasonably contiguous geographic area as the Seaside campus. Frederick Parks I and II have always been included in the Residential Facilities category. However, Schoonover may or may not be included in the student housing disclosure for any given year. As such, if a student lived in Schoonover Park during a calendar year, Clery reportable crimes that occurred in any building structure that housed a student, whether or not it involved a student, have been included. Any crimes that occurred in Schoonover Park that did not occur in a building structure that housed a Cal State Monterey Bay student was only included in the on-campus geographical category.

## Unfounded Crimes

In accordance with 34 C.F.R. §668.46, Cal State Monterey Bay may only exclude a reported crime from an upcoming ASR, or remove a reported crime from its previously reported statistics, after a full investigation by sworn or commissioned law enforcement personnel have made a formal determination that the report was false or baseless and the crime report was therefore “unfounded.” This does not include a District Attorney who is sworn or commissioned. A Campus Security Authority (CSA) who is not a sworn or commissioned law enforcement authority cannot “unfound” a crime report either.

The recovery of stolen property, the low value of stolen property, the refusal of the victim to cooperate with law enforcement or the prosecution, or the failure to make an arrest does not “unfound” a crime. The findings of a coroner, court, jury (either grand or petit), or prosecutor do not “unfound” crime reports of offenses or attempts. Crime reports can be properly determined to be false only if the evidence from full investigation establishes the crime reported was not, in fact, completed or attempted in any manner. Crime reports can only be determined to be baseless if the allegations reported did not meet the elements of the offense or were improperly classified as crimes in the first place. A case cannot be designated “unfounded” if no investigation was conducted by sworn law enforcement personnel or the investigation was not completed, nor can it be designated “unfounded” merely because the investigation failed to prove the crime occurred; this would be an inconclusive or unsubstantiated investigation.

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

Crime statistics concerning this campus and others can also be found on the U.S. Department of Education website.<sup>6</sup>

## Clery Crime Statistics 2020 to 2022

### Murder/NonNegligent Manslaughter

Year	Campus Residential	Campus Total	Non-Campus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

### Negligent Manslaughter

Year	Campus Residential	Campus Total	Non-Campus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

### Rape

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<sup>6</sup> <https://ope.ed.gov/campussafety/#/>

Year	Campus Residential	Campus Total	Non-Campus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

Fondling

Year	Campus Residential	Campus Total	Non-Campus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

Incest

Year	Campus Residential	Campus Total	Non-Campus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

Statutory Rape

Year	Campus Residential	Campus Total	Non-Campus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

Robbery

Year	Campus Residential	Campus Total	Non-Campus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

Aggravated Assault

Year	Campus Residential	Campus Total	Non-Campus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

Burglary

Year	Campus Residential	Campus Total	Noncampus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0



Motor Vehicle Theft

Year	Campus Residential	Campus Total	Noncampus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

Arson

Year	Campus Residential	Campus Total	Noncampus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

Domestic Violence

Year	Campus Residential	Campus Total	Noncampus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

Dating Violence

Year	Campus Residential	Campus Total	Non-Campus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

Stalking

Year	Campus Residential	Campus Total	Non-Campus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

Arrests for Weapons Law Violations

Year	Campus Residential	Campus Total	Noncampus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

Arrests for Drug Law Violations

Year	Campus Residential	Campus Total	Noncampus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

**Arrests for Alcohol Law Violations**

Year	Campus Residential	Campus Total	Noncampus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

**Referrals to Disciplinary Action for Weapons Law Violations**

Year	Campus Residential	Campus Total	Noncampus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

**Referrals to Disciplinary Action for Drug Law Violations**

Year	Campus Residential	Campus Total	Noncampus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

**Referrals to Disciplinary Action for Liquor Law Violations**

Year	Campus Residential	Campus Total	Noncampus	Public Property
2020	0	0	0	0
2021	0	0	0	0
2022	0	0	0	0

**Unfounded**

Year	Total
2020	0
2021	0
2022	0

**Hate Crimes**

2020 – There were no reported hate crimes.

2021 – There were no reported hate crimes.

2022 – There were no reported hate crimes.

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

Bias is a preformed negative opinion or attitude toward a group of persons based on their race, gender, gender identity, religion, disability, sexual orientation, ethnicity, or national origin. Hate crime reporting is considered for all Clery geography.

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

### **Emergencies on Campus**

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

Suspected criminal or suspicious activity and other emergencies that occur on campus should be immediately reported to the CCPD. This ensures that the CCPD can take prompt action to provide or restore a safe learning environment for the college community. The CCPD responds to all on-campus reports of fire, police, and medical emergencies, as well as any emergency or other suspicious incident close to campus property. Emergencies and/or crimes can be reported in the following ways:

- 3911 from any on-campus telephone
- Pushing the red button on (blue light) emergency phones
- Calling the police department directly at 805-546-3205 • If you are off-campus or unsure of location, dial 9-1-1
- Through the CCPD's Campus Safety App, Rave Guardian

The CCPD has primary law enforcement jurisdiction for most criminal incidents that occur on the campus, including incident investigation, follow-up and resolution. Police officers will be dispatched to all crimes in progress and other emergencies along with the appropriate fire and medical personnel. The CCPD Police Dispatcher will route your call to the appropriate law enforcement agency. You can also call the appropriate local law enforcement agency at the following numbers:

San Luis Obispo Police Department:	805-781-7317
San Luis Obispo County Sheriff's Department:	805-781-4550

When dialing 911 from a cellular phone, you will be connected to the California Highway Patrol Dispatch Center or the closest police department to your location. Be prepared to provide the police dispatcher with the city, county, specific location, your name, telephone number, the nature of the emergency, and any pertinent information regarding the emergency (such as suspect and vehicle description, direction of travel, nature of the medical emergency needing assistance, etc.). Always stay on the line until the dispatcher ends the call.

There are seven “blue light” campus emergency phones located throughout the San Luis Obispo campus. These telephones allow anyone to contact a Police Dispatcher when classes are in session by pushing a large red button on the face of the tower. Calls go directly to CCPD Dispatch. These telephones do not provide access to general telephone services. If the phone is not answered, it will be automatically routed to the San Luis Obispo County Sheriff’s Department. All emergency telephones are painted blue with the word “Emergency” in white lettering across both sides. Emergency Information about various types of incidents and other important contact numbers are located on the Cuesta College website at the following address: <https://www.cuesta.edu/emergency/>.

## **To a Campus Security Authorities**

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

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

At CSUMB at Cuesta College, in addition to Cuesta PD officers, CSAs include the Cal State Monterey Bay Associate Dean for the College of Extended Education and International Programs and the Cuesta College Nursing Director for the Nursing Allied Health Division. For contact information regarding personnel in these two positions, visit the Cal State Monterey Bay’s Directory at [csumb.edu/directory](http://csumb.edu/directory) and Cuesta College’s Directory at <https://www.cuesta.edu/directories/edirectory.html>.

## **Voluntary and Confidential Reporting**

Cal State Monterey Bay does not provide voluntary, confidential reporting options for inclusion in the CSUMB at Cuesta College annual security report nor encourage professional and pastoral counselors to inform individuals they are counseling about the voluntary, confidential options available to them.

## **Student Incident and Well-Being Reports**

Student Incident and Well-Being Reports Cuesta College provides a format for written documentation of observed criminal acts, suspicious activity, or concerns about the well-being of a Cuesta College student. The Student Incident and Well-Being report is available at the Office of the Vice President for Student Services, in room 3172

on the SLO campus, and at the following website address:

<https://www.cuesta.edu/about/leadership/vpss/Student-Support-Resolution-and-Resources/studentCodeOfConduct.html>.

A fillable version that can be submitted electronically is also available to Cuesta College staff through the My Cuesta login under the work life tab, in “Cuesta Forms.” This report allows anyone to document and report observations directly to the 5 CSU system-wide Clery Act implementation policy, Code 1107: <https://calstate.policystat.com/policy/9938606/latest/> 11 Student Incident Response Team (SIRT), which includes the Vice President of Student Services, the Chief of Police, a faculty representative, and the Director of the Student

Health Center. Cuesta College encourages those who report these incidents to provide their name and information on the report in order to assist SIRT in developing an ongoing dialogue and resolution with those affected by these incidents.

### **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 non-campus 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 Warnings Issued by Cuesta College**

Cuesta College may also issue timely warnings for their buildings and property that are outside of the CSUMB at Cuesta College campus. Cal State Monterey Bay students who attend CSUMB at Cuesta College can also stay informed about Cuesta College timely warnings by accessing their [cuesta.edu](mailto:cuesta.edu) email account, which remains activated for two consecutive years, while they also have an active [csumb.edu](mailto:csumb.edu) email account.

### **Emergency Notifications Issued by Cuesta College**

Cuesta College may also issue emergency notifications for their buildings and property that are outside of the CSUMB at Cuesta College campus. Cal State Monterey Bay students who attend CSUMB at Cuesta College can also stay informed about Cuesta College emergency notifications through their My Alert system. Cuesta College provides a mass message distribution system that is available to all students, staff, and faculty, who sign up via their “My Cuesta” login page. The My Alert system allows CCPD authorities to send out emergency notifications to all enabled cellular telephones and emails of those who elect to sign up for this system. The notifications can include text and email notifications. CCPD maintains responsibility and authority for this system, with technical support from the Cuesta College department of Information Technology. Information about My Alert 2.0 can be found here: <https://www.cuesta.edu/about/depts/publicsafety/myalerts> Cal State Monterey Bay students who attend CSUMB at Cuesta College will have their [cuesta.edu](mailto:cuesta.edu) email account activated for two consecutive years while they also have an active [csumb.edu](mailto:csumb.edu) email account.

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

The CCPD maintains overall responsibility for the security, access, and security-related maintenance of all Cuesta College owned facilities and properties. Cuesta College is a public institution and, as such, academic and administrative buildings are open to the public during normal business hours. Most buildings have individual hours, which are based on the operational and academic schedules of each building. Building business hours may vary at different times of the year (e.g., weekends, holidays, nonacademic periods). Although buildings may be open to the public, access within the building may be restricted to members of the general public, based on the use of the space. Access to classrooms, administrative and academic offices, laboratories, event spaces, and other indoor spaces is restricted to persons with a valid academic or business purpose. Police officers and public safety officers conduct

route patrols of the campus properties to ensure the safety and security of the college, as well as identify any repairs or maintenance to the security infrastructure that is needed. The CCPD unlocks campus buildings in the morning prior to business hours, and checks to make sure that buildings are locked in the evening hours prior to campus closure. The CCPD also maintains control and records for all keys provided to employees of Cuesta College for authorized building access. The Facilities department assists the Police Department with maintenance and installation of all locking mechanisms, including updated keypad access locks on certain buildings. Keys are issued to authorized personnel on a need-to-enter basis and should never be loaned to other staff members or students. Alarm codes should never be given out. Duplication or unauthorized possession of college keys is a violation of California Penal Code Section 469, and is punishable as a misdemeanor. Lost keys must be reported immediately to CCPD. It is the responsibility of those who use classrooms, offices, and computer labs to close windows, turn off lights, turn on alarms, and secure access doors. The primary responsibility for security is the user. A building security alarm system is active at critical locations throughout campus during evening hours when the campus is closed. The Facilities department maintains the contract and assures maintenance of those alarms. The Chief of Police and designated members of the CCPD are on a call out list and will respond to building alarms during all hours of the evening if needed. 17 During hours when the campus is closed, the San Luis Obispo County Sheriff will provide security and emergency response.

## **Law Enforcement Authority**

The CCPD is a full-service, certified police agency within the State of California staffed by sworn police officers and nonsworn professional staff. Officers of the CCPD are California Peace Officers per Penal Code Section 830.32 and possess the same authority and powers, including the authority to arrest, as do police officers and deputy sheriffs in other areas of the State. Each CCPD officer receives ongoing training in compliance with state of California P.O.S.T. mandates that include firearms, defensive tactics, first aid/CPR, legal updates, and other specialty training as needed. Officers are responsible for reporting and investigating all crimes, issuing traffic and parking citations, responding to medical and fire emergencies, handling traffic accidents, and handling other incidents requiring law enforcement assistance on all Cuesta College controlled property. This includes the main campus located in San Luis Obispo, the North County Campus located in Paso Robles, and 75 acres of property adjacent to the San Luis Obispo campus on the opposite side of Hwy 1. All crimes or activity reported regarding our south county center in Arroyo Grande will be handled by to the Arroyo Grande Police Department.

The CCPD maintains an excellent working relationship with neighboring law enforcement agencies and has several standing agreements. They include the following:

- San Luis Obispo County Sheriff's Office: Major crimes occurring on campus property may exhaust the resources of the CCPD. By agreement, the San Luis Obispo Sheriff's Department shall be asked to provide appropriate law enforcement or investigative assistance in those cases. The CCPD is able to access state law enforcement databases through this agreement. The Sheriff's department also has jurisdictional authority on the San Luis Obispo Campus for calls involving Rape, Homicide, and reports of missing children and adults. In addition, the Sheriff's department assumes responsibility for the SLO campus and response during times where Cuesta College does not have a sworn officer available. This includes all evenings after the last class is over, on certain weekend days, and during district holidays when the CCPD is closed.
- Paso Robles Police Department: By agreement, the Paso Robles Police Department has jurisdictional authority over calls on the North County Campus (NCC) located in Paso Robles that include reports of Rape, Homicide, and reports of missing children and adults. In addition, the Paso Robles Police Department assumes responsibility for the NCC campus and response during times where Cuesta College does not have a sworn officer available. This includes all evenings after the last class is over, on Saturdays and Sundays, and during district holidays when the CCPD is closed.
- Arroyo Grande Police Department: By agreement, the Arroyo Grande Police Department has jurisdictional authority over all law enforcement activities on the Arroyo Grande High School campus,

where the Cuesta College south county center is located. The Arroyo Grande Police Department will notify the CCPD of any such crime involving the Cuesta College south county center.

- California Highway Patrol: By agreement, the California Highway Patrol aids Cuesta College in cases of major and/or fatal traffic collisions, where such investigations are beyond the scope of resources for the CCPD. The CHP also responds to and takes over investigations from Cuesta College related to driving under the influence or alcohol and/or drugs.

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

The following programs are designed to inform students and employees about campus security procedures and practices, and encourage students and employees to be responsible for their own security and the security of others. They are virtually available to CSUMB at Cuesta College students and employees.

### **Active Shooter Presentations**

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

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

This training is done upon request. CSUMB at Cuesta College students and employees 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>.

### **Violence in the Workplace**

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

### **Online Training Faculty**

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

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

### **Crime Prevention Programs**

UPD personnel present programs on a variety of topics to students, employees and residents as requested 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.

### **Violence in the Workplace**

UPD conduct workplace violence prevention training sessions to campus departments upon request. The following are provided by Cuesta College but are made available to CSUMB at Cuesta College students and employees: Online Training The department of Human Resources provides ongoing mandated training to address important issues on college campuses. This has included recent training regarding Sexual Violence Awareness and Child Abuse/Neglect.

### **Drug and Alcohol Abuse Prevention Program**

The Office of the Vice President of Student Services (VPSS) is responsible for coordination of the drug and alcohol abuse prevention program, which includes a cooperative effort by the Deans of SLO and NCC Campuses, the Student Health Center, and the CCPD. The program includes ongoing information posted on the CCPD website concerning the program and laws relating to drug and alcohol abuse. The program also includes ongoing educational material provided to students through the Student Health Center website, which offers current and free issues of “Student Health 101”.

Additionally, each involved department dedicates a representative to meet on a weekly Student Incident Response Team (SIRT) which evaluates reported student incidents and provides resources related to Alcohol and Drug abuse prevention when appropriate, as well as review the overall impact of prevention efforts.

Educational Materials The CCPD provides educational fliers and other materials to students during public events (such as the fall semester Student Success Festivals) at the main lobby of the Public Safety Office on SLO campus (building 6600A), and through website links on the CCPD webpage:

<https://www.cuesta.edu/about/depts/publicsafety/StudentDrugandAlcoholAbuseProgram> and  
<https://www.cuesta.edu/about/depts/publicsafety/SexualAssaultandViolenceAwarenessInformation>.

### **Campus Safety 101**

The Chief of Police and Police Sergeant provide an interactive safety presentation entitled “Campus Safety 101” to both student and staff groups at Cuesta College. This presentation includes a comprehensive review of current emergency communication methods, emergency procedures, the availability of the Student Incident and Well-Being report, and training on methods for surviving an armed intruder “Active Shooter” incident. The presentations occur at scheduled staff meetings based on requests from those departments, at the rate of several per school year.

### **Social Media**

The CCPD maintains an active social media presence on Facebook, Twitter, and Instagram. Each week, their social media postings feature public safety information and campus safety tips.

## **Monitoring and Recording Crime Activity at Non-campus Locations of Student Organizations**

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

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. 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<sup>7</sup>, the Clery Compliance Office or University Police will request the record of any criminal activity that may have occurred at those locations.

For a complete copy of the University's student conduct procedures and codes, see CSU Executive Order 1098<sup>8</sup> and the Cal State Monterey Student Conduct web page<sup>9</sup> respectively.

### **Cuesta College's Alcohol and Drug Policy**

The use of illegal drugs and the abuse of alcohol are at cross-purposes to Cuesta College's mission and are not tolerated on

its San Luis Obispo campus. Cuesta College is fully committed to achieving an alcohol- and drug-free environment for its

students and employees, and the Cuesta College Police Department will enforce all local state, and federal laws related to

drug and alcohol abuse in compliance with the Drug-Free Schools and Communities Act.

Alcohol:

- Cuesta College prohibits the use, possession, or sales of alcohol on college property.
- Persons under the age of 21 may not consume, possess, or distribute alcohol.
- It is unlawful for any person to sell, furnish, or give any alcoholic beverage to anyone under the age of 21.
- Minors who use false identification in order to obtain alcoholic beverages are guilty of a misdemeanor.

Other Drugs

- Cuesta College prohibits the possession, use, sale, and/or distribution of illegal drugs<sup>10</sup> on college property.
- Prescription medication may only be used and possessed by those with a prescription from a licensed health care provider.
- Federal and state statutes specify that persons involved in the use, sale, or distribution of illegal drugs are liable to criminal action, including arrest, fine, and imprisonment.

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

Cal State Monterey Bay complies with the Drug Free Workplace Act,

<https://www.govinfo.gov/content/pkg/USCODE-2011-title20/html/USCODE-2011-title20-chap70-subchapIV.htm> and the Higher Education Act, Section 120(a) <https://www.govinfo.gov/content/pkg/COMPS-765/pdf/COMPS-765.pdf> and is committed to creating a safe and healthy learning/working/living environment for all members of the campus community. Alcohol and other drugs cannot be allowed to interfere with the mission of Cal State Monterey Bay.

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

The Business and Professions Code<sup>10</sup> and related statutes control the sale, consumption, and possession of alcoholic beverages. The California Alcoholic Beverage Control (ABC) Board is responsible for the interpretation and enforcement of the laws regarding the consumption, sale, or possession of alcoholic beverages.

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<sup>7</sup> For the purposes of this ASR, reasonably good-faith effort is defined as thoroughly and as far in advance as practically possible to ensure accurate inclusion.

<sup>8</sup> <https://calstate.policystat.com/policy/8453518/latest>

<sup>9</sup> <https://csumb.edu/studentconduct>

<sup>10</sup> See Division 9 Alcoholic Beverages of the Business and Professions Code for more detail.

Except as indicated by campus policy or California state law, it is prohibited for any person to sell, offer for sale, give away, or furnish another person in any manner, or consume any alcoholic beverage on the CSUMB or CSUMB at North Salinas campus. California state law imposes criminal penalties for the possession or use of alcoholic beverages by persons less than 21 years of age and for persons who furnish, give, sell, or cause to be sold, furnished or given away, any alcoholic beverage to a person under the age of 18<sup>11</sup>.

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

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

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

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

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

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

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

All incoming first-year and transfer students are required to complete alcohol awareness training online. The training is designed for students entering college. This interactive online program uses evidence-based prevention

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<sup>11</sup> [California Alcoholic Beverage Control Act, Business and Professions Code sections 25658 – 25665](#)

methods to create an engaging user experience, inspiring students to make healthier decisions related to alcohol and other drugs.

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

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

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

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

## **California State Laws Concerning Alcohol**

The following are legal sanctions for alcohol violations commonly reported.

### **Minors in Possession of Alcohol:**

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

### **Furnishing Alcoholic Beverages to a Minor:**

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

person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. A second or subsequent violation shall be punished by a fine of not more than five hundred dollars (\$500), or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court.

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

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

**Driving Under the Influence (DUI):**

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

**Type of California DUI Penalties**

1st offense misdemeanor DUI	<ul style="list-style-type: none"> <li>Up to 6 months in county jail; \$390-1000 in fines; driver's license suspension for 4 to 10 months (but the defendant may be able to drive immediately if he/she gets an IID for 6 months); 3 or 9 months of DUI school</li> </ul>
2nd offense misdemeanor DUI	<ul style="list-style-type: none"> <li>96 hours to 1 year in county jail; \$390-1000 in fines; driver's license suspension for 2 years (or instead the defendant can drive with an IID for 1 year); 18 or 30 months of DUI school</li> </ul>
3rd offense misdemeanor DUI	<ul style="list-style-type: none"> <li>120 days to 1 year in county jail; \$390-1000 in fines; driver's license suspension for 3 years (or instead the defendant can drive with an IID for 2 years); 30 months of DUI school</li> </ul>
DUI with injury (misdemeanor)	<ul style="list-style-type: none"> <li>5 days to 1 year in county jail; \$390-5000 in fines plus restitution to injured parties; driver's license suspension for 1 to 3 years (or instead the defendant can drive with an IID for 6 months); 3, 18 or 30 months of DUI school</li> </ul>
1st offense DUI with injury (felony)	<ul style="list-style-type: none"> <li>16 months to 16 years in state prison; \$1015-5000 in fines plus restitution to injured parties; driver's license suspension for 1 year (or instead the defendant can drive with an IID for 1 year); 18 or 30 months of DUI school</li> </ul>
Felony DUI	<ul style="list-style-type: none"> <li>16 months, 2 years or 3 years in state prison; \$390-1000 in fines; driver's license suspension for up to 5 years; 18 or 30 months of DUI school</li> </ul>

### **Open Alcohol Container in a Vehicle**

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

## **Federal Laws Concerning Illicit Drugs**

### **Summary of Drug Schedules**

Controlled substances are classified into one of five numerical designation schedules in accordance with standards and procedures<sup>12</sup> under the federal Controlled Substances Act. The following provides a brief overview of the schedules<sup>13</sup> of controlled substances.

#### **Schedule I**

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

#### **Schedule II**

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

#### **Schedule III**

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

#### **Schedule IV**

- The drug or other substance has a low potential for abuse relative to the drugs or other substances in relative to the drugs or other substances in Schedule III.

#### **Schedule V**

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

### **Federal Penalties**

The following tables are not representative of all possible penalties in all circumstances. Tables of federal trafficking penalties are derived from the 2022 Edition of the Drug Enforcement Administration<sup>14</sup>

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<sup>12</sup> [21 U.S.C. 811](#)

<sup>13</sup> [21 U.S.C. 812](#)

<sup>14</sup> See p.38-39 of the [2022 Edition of the Drug Enforcement Administration Drugs of Abuse Resource Guide](#)

## Drugs of Abuse

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

Offense	Penalties (Fine/Imprisonment)
Simple Possession <sup>15</sup>	<b>First Offense:</b> At least \$1000 / 1 year maximum <b>Second Offense:</b> At least \$2500 / Up to 2 years <b>T</b> <b>Third Offense:</b> At least \$5000 / Between 90 days and 3 years
Use of Controlled Substance to Commit Crime of Violence <sup>16</sup>	\$250,000 / 20 years maximum
Endangering Human Life While Illegally Manufacturing a Controlled Substance <sup>17</sup>	\$250,000 / 10 years maximum
Attempt and Conspiracy <sup>18</sup>	Same as penalties prescribed for the underlying offense
Robberies and Burglaries Involving Controlled Substances <sup>19</sup>	Robberies involving Controlled Substances: Up to \$250,00 / Up to any number of years or life Burglaries involving Controlled Substances: Up to \$250,00 / Up to any years or life Conspiracy to Commit Robber or Burglary Involving Controlled Substances: Up to \$250,000 / Up to 10 years

### Federal Trafficking Penalties - Other Drugs

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

<sup>15</sup> [21 U.S.C. 844](#)

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

<sup>17</sup> [21 U.S.C 858](#)

<sup>18</sup> [21 U.S.C. 846](#) and [21 U.S.C. 963](#)

<sup>19</sup> [18 U.S.C. 2118](#)

Substance / Quantity	Schedule	Penalty
Cocaine / 5 kilograms or more mixture	II	<p><b>First Offense:</b> Not less than 10 yrs and not more than life. If death or serious injury, not less than 20 yrs or more than life. Fine of not more than \$10 million if an individual, \$50 million if not an individual.</p> <p><b>Second Offense:</b> Not less than 15 yrs.,not more than life. If death or serious injury, life imprisonment. Fine of not more than \$20 million if an individual, \$75 million if not an individual.</p> <p><b>2 or More Prior Offenses:</b> Not less than 25 yrs. Fine of not more than \$20 million if an individual, \$75 million if not an individual.</p>
Cocaine Base / 280 grams or more mixture	II	
Fentanyl / 400 grams or more mixture	II	
Fentanyl Analogue / 100 grams or more mixture	I	
Heroin / 1 kilogram or more mixture	I	
LSD / 10 grams or more mixture	I	
Methamphetamine / 50 grams or more pure or 500 grams or more mixture	II	
PCP / 100 grams or more pure or 1 kilogram or more mixture	II	

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



**Federal Trafficking Penalties – Marijuana**

	<b>Schedule</b>	<b>Quantity</b>	<b>First Offense Penalty</b>	<b>Second Offense Penalty<sup>20</sup></b>
Marijuana	I	1,000 kg or more marijuana mixture; or 1,000 or more marijuana plants	Not less than 10 yrs. or more than life. If death or serious bodily injury, not less than 20 yrs., or more than life. Fine not more than life. Fine not more than \$10 million if an individual, \$50 million if other than an individual.	Not less than 20 yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$20 million if an individual, \$75 million if other than an individual.
Marijuana	I	100 kg to 999 kg marijuana mixture; or 100 to 999 marijuana plants	Not less than 5 yrs. or more than 40 yrs. If death or serious bodily injury, not less than 20 yrs., or more than life. Fine not more than life. Fine not more than \$5 million if an individual, \$25 million if other than an individual.	Not less than 10 yrs. or more than life. If death or serious bodily injury, life imprisonment. Fine not more than \$8 million if an individual, \$50 million if other than an individual.
Marijuana	I	More than 10 kg hashish; 50 to 99 kg marijuana mixture  More than 1 kg of hashish oil; 50 to 99 marijuana plants	Not less than 20 yrs. If death or serious bodily injury, not less than 20 yrs., or more than life. Fine \$1 million if an individual, \$5 million if other than an individual.	Not less than 30 yrs. If death or serious bodily injury, life imprisonment. Fine \$2 million if an individual, \$10 million if other than an individual.
Marijuana	I	Less than 50 kgs marijuana (except 50 or more marijuana plants regardless of weight)  1 to 49 marijuana plants;	Not less than 5 yrs. Fine not more than \$250,000, \$1 million if other than an individual.	Not more than 10 yrs. Fine \$500,000 if an individual, \$2 million if other than individual
Hashish	I	10 kg or less		

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

Hashish Oil	I	1 kg or less		
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## **State of California Laws Concerning Illicit Drugs**

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

### **Possession of Marijuana**

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

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

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

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

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

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

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

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

## **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, 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.

Campus programs must include primary prevention and awareness training: (1) for all new Students<sup>21</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).

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 Programs**

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. 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.

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<sup>21</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.

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.
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.
8. Information about reporting, 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 Programs**

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

## **Campus Awareness and On-going Information Campaigns**

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

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

## **Title IX/DHR General Sessions**

The Director of the Title IX/DHR Department is available to all campus organizations, divisions, departments, etc. to conduct facilitated sessions to address dating violence, domestic violence, sexual assault, and stalking prevention. The sessions are upon request, and are focused on providing information about risk factors for sexual violence, followed by question and answer periods to ensure campus affiliates are able to inquire in a safe space to understand risk and prevention aspects.

## **Title IX/DHR Ambassador Program**

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

## **Health Promotion and Education**

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

As a component of the Health Promotion and Education Program, the POWER Peer Education program trains students to provide primary prevention education and health promotion to fellow students. The

program provides an array of outreach activities and events, in collaboration with other departments and student groups, and includes a component on sexual health and resources to prevent and respond to sexual assault.

### **Mental Health Screenings**

Provides confidential mental health screenings to students and promotes awareness of mental health resources. Licensed professionals from the Personal Growth and Counseling Center (PGCC) provide screenings for depression, generalized anxiety disorder, PTSD, bipolar disorder, substance use disorder, and eating disorders, as well as recommendations for accessing mental health resources as indicated by screening results. Screenings are held year-round and available through the PGCC website.

### **Suicide Prevention and Awareness Week**

Suicide Prevention and Awareness Week is an annual event, held with the goal of providing information and resources to help the campus community identify mental health crises and increase knowledge of available mental health resources in the campus and community. Suicide Prevention and Awareness week generally takes place during the second week of September.

### **Mental Health Awareness Week**

Mental Health Awareness Week is an annual event held to promote mental health awareness, reduces stigma associated with accessing mental health services, and provide information on campus and community mental health resources. Events also include opportunities for students to build stress management skills and engage in conversations about mental health. Mental Health Awareness Week takes place in early October.

### **National Collegiate Alcohol Awareness Week (NCAAW)**

NCAAW is an annual event held with the goal of assisting students in making decisions regarding alcohol use in a manner that promotes their health and safety. NCAAW generally takes place during the third week of October.

### **Sexual Assault Awareness Month**

Sexual Assault Awareness Month, which is observed in April, encompasses a series of events held yearly. A variety of programs are conducted throughout the month of April to educate the Cal State Monterey Bay community on sexual violence and the campus' many resources, with the goal of increasing awareness of sexual violence and prevention strategies, and to provide those who have been affected by sexual violence a chance to express themselves in a variety of ways. These programs may include, but are not limited to:

- Every 98 Seconds (formerly Flag Day) - A commemorative day for the members of the LGBTQ+ community.
- Denim Day- A campaign in honor of Sexual Assault Awareness Month where supporters wear jeans to protest against the misconceptions about sexual assault.
- SlutWalk- A rally and march protesting outdated ideas of victim blaming (e.g., assigning responsibility of an assault to the survivor because of a person's past sexual history/experiences or what they were wearing at the time of the assault) where participants are invited to reclaim the word "slut."
- Take Back the Night-A public protest purposed to unite women to voice their desire to end the fear and perceived responsibility women experience regarding sexual violence.
- Documentary Screening - Students are invited to a virtual Netflix Party to discuss the topic of "rape culture," and its' devastating effects on society. Individuals can discuss the film, as well as receive information about support services and resources that are available on campus.
- 30 Facts for 30 Days of SAAM - A public awareness campaign where sexual violence statistics and facts are posted through various platforms of social media to bring activism, awareness, and prevention to the topic of sexual violence.
- Make Art Not Violence- A public art campaign where students, faculty, and staff come together to make art and bring awareness about sexual violence. Campus resources are provided to students.

- Sexual Assault Resource Fair - Students are invited to partake in an annual "SAAM" Resource Fair where they are encouraged to know their community resources, receive giveaways, participate in activities, and volunteer in community agency events.

### **Domestic Violence Awareness Month**

Embodies a series of events held every October to increase awareness around intimate partner violence, prevention work primarily focusing on healthy relationships, as well as increasing knowledge of resources available on campus and in the community.

### **Public Awareness Video-Media**

Made by the Campus Advocate and CSUMB students to promote sexual assault awareness, discuss intimate partner violence and sexual assault statistics, and provide campus resources.

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

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

#### **Safe Zone Training – Virtual**

Faculty and staff - Offered during the Fall, this 6-hour training is available to up to 50 people and highlights contemporary topics related to LGBTQ+ communities: language and vocabulary, pronouns, activism, and advocacy. The facilitator team consists of various campus departments and is co-sponsored by the Office of Inclusive Excellence and Sustainability. The purpose of the training is to increase campus inclusion as well as provide support and resources for faculty and staff to support LGBTQ+ identifying students and campus community members.

Students - Offered during the Fall semester for all students who are interested, this is a four-week program that dives deep into various LGBTQ+ topics such as racism, activism, history, vocabulary, and advocacy. The student coordinator who oversees educational training is the main facilitator for this program. The purpose of the training is to increase campus inclusion as well as provide support and resources for students to support fellow LGBTQ+ identifying students and campus community members.

#### **International Womxn's Day Celebration**

The Otter Cross Cultural Center hosts an event that recognizes and celebrates womxn who have made significant contributions towards gender equity, feminist practices and intersectional approaches to their work and activism. The International Womxn's Day Celebrations hosts a keynote speaker every year. The topics are aimed at current social and cultural relevance. Past topics have included reproductive justice, racism, and intersectionality. A standard element of the program is to enable participants to discuss the event, related topics, and to learn from the keynote address. This event usually takes place during the first week of March.

## **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 of 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>22</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 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**

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<sup>22</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.

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.

### **CSU Policy Definitions**

Definitions of conduct that is prohibited under CSU policy are found in Article VII 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.

### **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.

### **Sexual Exploitation**

Sexual Exploitation means a person taking sexual advantage of another person for the benefit of anyone other than that person without that person's consent, including, but not limited to, and of the following acts:

- The prostituting of another person;
- The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor of services, through force, fraud, or coercion;
- The recording of images, including video or photographic, or audio of another person's sexual activity or intimate parts, without that person's consent;
- The distribution of images, including video or photographic, or audio of another person's sexual activity or intimate parts, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to the disclosure;
- The viewing of another person's sexual activity or intimate parts, in a place where that other person would have a reasonable expectation of privacy, without that person's consent, for the purpose of arousing or gratifying sexual desire.

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<sup>23</sup>. 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 – 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.

This training is presented in the annual online refresher course required for all students.

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<sup>23</sup> The preceding definition is provided by 34 C.F.R. §668.48.

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

### **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:

- 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. A formal complaint does not have to be filed 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 with information about and a referral to these and additional resources on and off campus for support. campus and local area.

### **Supportive Measures**

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

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

<b>Personal Growth and Counseling Center (PGCC)</b>	Counseling and mental health services for CSUMB students, including individual counseling, support groups, workshops, educational outreach programs Students can set up an appointment by phone or by completing a service interest form found on our website. Tele-Health and in person appointments are available.	Phone: 831-582-3969 Website: <a href="http://csumb.edu/health">csumb.edu/health</a>
<b>Campus Health Center</b>	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>
<b>Employee Assistance Program (EAP)</b>	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 Resources On-Campus

Resource Name	Type of Services	Contact Information
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.	Name: Raquel Bonilla Main Office: (831) 582-4089 Email: raqbonilla@csumb.edu Website: <a href="https://csumb.edu/titleix/">https://csumb.edu/titleix/</a> File a report: <a href="#">online</a>
Student Conduct Office	Supports 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="https://csumb.edu/studentconduct/">https://csumb.edu/studentconduct/</a>
Financial Aid Office	Assists Students with financial aid products and services, including enrollment of financial aid, withdrawals, etc.	Phone: 831- 582-5100 Website: <a href="https://csumb.edu/financialaid/">https://csumb.edu/financialaid/</a>

### Community National Global Resources

Resource Name	Types of Services	Contact Information
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<b>Monterey County Rape Crisis Center (MCRCC)</b>	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="https://www.mtryrapecrisis.org/">https://www.mtryrapecrisis.org/</a>
<b>National Domestic Violence Hotline</b>	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>
<b>National Crisis Text Line</b>	Crisis Text Line provides free, 24/7, high-quality text-based mental health support and crisis intervention by empowering a community of trained volunteers to support people in their moments of need.	Text HOME to <a href="https://www.crisistextline.org/">741741</a> Website: <a href="https://www.crisistextline.org/">https://www.crisistextline.org/</a>
<b>National Suicide Prevention Hotline</b>	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="https://988lifeline.org/">https://988lifeline.org/</a> Text: 988
<b>United States Department of Education Office of Civil Rights (OCR)</b>	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>  <b>California Civil Rights Department</b> 800-884-1684  Website: <a href="http://calcivilrights.ca.gov">calcivilrights.ca.gov</a>
<b>RAINN (Rape, Abuse, and Incest National Network)</b>	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="https://www.rainn.org/">https://www.rainn.org/</a>
<b>U.S. Department of State – Office of Overseas Citizens Services</b>	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: 1-(888)-407-4747 From overseas: +1-(202)-501-4444 Website: <a href="http://Travel.State.Gov">Travel.State.Gov</a>



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.

If you wish to request an accommodation please contact the campus Title IX Coordinator, Raquel Bonilla, [raqbonilla@csumb.edu](mailto:raqbonilla@csumb.edu).

## **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>24</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 University will protect the privacy of everyone involved in a report to the greatest degree possible under applicable law and University policy. 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.

### **Importance of preserving evidence**

Victims/survivors of sexual misconduct, sexual assault, sexual exploitation, stalking, dating violence and domestic violence 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.

To preserve evidence:

- Do not wash your face or hands;
- Do not shower or bathe;
- Do not brush your teeth;
- Do not change clothes or straighten up the area where the assault took place;
- Do not dispose of clothes or other items that were present during the assault;
- Do not use the restroom.
- Seek a medical exam immediately.

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<sup>24</sup> See page #78 below for disciplinary procedures and making a complaint to Title IX/DHR

If you have already cleaned up from the assault, you can still report the crime, as well as seek medical or counseling treatment.

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.

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

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. 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. A confidential victim advocate 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 6254 (f)(2)(A)] 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.

## **Protective Orders**

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

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

### **Contact information: Raquel Bonilla, CSUMB Title IX Coordinator/DHR Administrator**

Students and employees should go to the Title IX/DHR page and select its “Report Discrimination” button to file a disciplinary complaint. You may also use this URL:

<https://cm.maxient.com/reportingform.php?CSUMontereyBay>

Complaints against a Chancellor's Office employee, or a campus Title IX Coordinator/ Discrimination, Harassment, and Retaliation Administrator ("DHR Administrator") will be made to the Chancellor's Office at [eo-wbappeals@calstate.edu](mailto:eo-wbappeals@calstate.edu).<sup>25</sup>

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

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

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

All persons involved in implementing these procedures (e.g., the campus Title IX Coordinator and any Deputy Title IX Coordinator(s), Investigators, Human Resource Directors and Hearing Officers presiding over hearings) shall have relevant annual training on issues related to Sex Discrimination, Sexual

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<sup>25</sup> Complaints against a President should be made to the Chancellor's Office, but only if it is alleged that the president directly engaged in conduct that violates the Policy. Any other Complaints against a president (for example, that the president had no substantial involvement other than to rely on or approve a recommendation made by another administrator) will be made to and addressed by the campus.

Harassment, Sexual Misconduct, Sexual Exploitation, Dating and Domestic Violence, and Stalking. Such annual training shall include the CSU complaint processes, as well as the handling, investigation, and analysis of complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Sexual Exploitation, Dating and Domestic Violence, and Stalking. The annual training shall also address applicable confidentiality issues, especially with respect to the Title IX Coordinator’s duty to weigh any victim’s request for confidentiality against the duty to provide a safe and nondiscriminatory environment for all members of the campus community. For matters involving Sexual Misconduct, Sexual Exploitation, Dating and Domestic Violence, and Stalking, the training shall also include how to conduct an investigation and hearing process that protects the safety of the person(s) involved and promotes accountability.

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

### **Applicable Procedures**

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

- occurred on campus; or
- involved or impacted a campus program or activity (including campus employment); or
- affected a student’s or Employee’s ability to participate in a program, activity, or employment;

AND

- The alleged misconduct was committed by a person who at the time of the alleged misconduct was a student.

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

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

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

## **The Track System**

There are three possible sets of procedures (“tracks”) for formal resolution of Complaints against a Student<sup>26</sup>(Track 1, Track 2, Track 3) as required by federal and state law. There are two sets of procedures (“Tracks”) for formal resolution of Complaints against an Employee or a Third-Party (Track 1 or Track 3) as required by federal and state law. The remaining track, track 2: State Mandated Hearing Process, is not applicable to Complaints against Employees or Third-Parties, as it applies only to certain Complaints against Students. Which procedure applies to any given Complaint will depend on a variety of factors described below. Questions about which procedures apply to any specific case should be directed to the campus Title IX Coordinator and/or the Discrimination, Harassment, and Retaliation Administrator (“DHR Administrator”).

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

- Track 1 applies when the alleged conduct:
  - Meets the definition of Sexual Harassment as defined in Article VII.C of the Policy; and
  - Occurred in the United States; and
  - Occurred in an education program or activity at the university, as defined in Track 1.
- Track 2 applies when:
  - The Complaint is against a student; and
  - The Complaint is one of Sexual Misconduct, Dating Violence, or Domestic Violence; and
  - The credibility of one (or both) of the Complainant and the Respondent (“the Parties”), or any witness is central to the determination as to whether the student violated the policy; and
  - The student is facing a severe disciplinary sanction (expulsion or suspension) if found to be in violation of university Policy.
- Track 3 applies to all other Complaints under these procedures that allege a Policy violation.

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

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

## **Standard of Evidence**

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

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<sup>26</sup> A Complaint against a Student-Employee where the alleged conduct arose out of the Respondent's status as an Employee and not their status as a student, should be made using the Procedures for Complaints of Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation Made Against an Employee or Third-Party.

## Dismissal/Referral

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

At any time after a Complaint has been accepted for investigation, it is within the discretion of the Title IX Coordinator/DHR Administrator to dismiss a Complaint, or any part of a Complaint, if the Complainant notifies the Title IX Coordinator/DHR Administrator in writing that they would like to withdraw the Complaint or any part of it, or if the specific circumstances prevent the campus from gathering evidence necessary to reach a determination as to the Complaint or part of the Complaint.<sup>27</sup>

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

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

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

Systemwide Title IX Unit

Systemwide Human Resources

Office of the Chancellor

[TIX-Dismissal-Appeals@calstate.edu](mailto:TIX-Dismissal-Appeals@calstate.edu)

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

Equal Opportunity and Whistleblower Compliance Unit

Systemwide Human Resources

Office of the Chancellor

401 Golden Shore

Long Beach, California 90802

[eo-wbappeals@calstate.edu](mailto:eo-wbappeals@calstate.edu)

If a Party is unable to file an appeal or a response to an appeal electronically, they should contact the campus Title IX Office for assistance. When an appeal is submitted, the other Party as well as the campus Title IX

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<sup>27</sup> Formal complaints under Track 1 may be discretionarily dismissed for the additional reason that the Respondent is no longer a student or Employee

Coordinator will be notified in writing. In response to the appeal, the other Party will be given 5 Working Days from their receipt of notice of the appeal to submit a written

statement in support of or challenging the dismissal. Within 10 Working Days of the CO's receipt of the appeal, the Parties will simultaneously receive (via email) a written decision with explanation.

### **Informal resolution**

The CSU recognizes some Parties may desire resolution of their matter through an Informal Resolution process ("Informal Resolution"), instead of through the formal resolution process (described below). Accordingly, Parties may mutually agree, with the agreement of the Title IX Coordinator, to resolve a Complaint through an Informal Resolution process, instead of undergoing the formal resolution process<sup>28</sup>. The Informal Resolution process is entirely voluntary and will not occur unless both Parties agree in writing to participate in an Informal Resolution process.

The Title IX Coordinator/DHR Administrator will oversee the Informal Resolution process, conduct an initial and on-going assessment as to whether the Informal Resolution process should continue, and make the final determination on all Informal Resolutions facilitated by the Title IX Coordinator or designee regarding whether the terms agreed to by the Parties are appropriate in light of all of the circumstances of the Complaint. In some circumstances, depending on the nature and/or severity of the allegations, an Informal Resolution may not be appropriate, and the Title IX Coordinator/DHR Administrator will not approve an Informal Resolution. Prior to approving an Informal Resolution, the Title IX Coordinator/DHR Administrator will consult with the appropriate administrator in human resources or faculty affairs<sup>29</sup>

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

- 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 investigation process.
- The Parties' right to consult with an Advisor.
- Any resolution must be in writing and signed by both Parties and the Title IX Coordinator/DHR Administrator.
- Once the Informal Resolution process is finalized, neither Party is permitted to file another Complaint arising from the same allegations.

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

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

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

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<sup>28</sup> Track 1, a Formal Complaint must be filed before the informal resolution process may take place and that under Track 1, informal resolution cannot be used to resolve allegations that an employee sexually harassed a student

<sup>29</sup> For matters involving students, this consultation will be with the student conduct administrator



## **Supportive Measures**

After receiving a report of Sexual Harassment, the Title IX Coordinator will contact the Complainant promptly to discuss the availability of Supportive Measures. The Title IX Coordinator will conduct an intake meeting with any Complainant who responds to outreach communication, or otherwise makes a report of a potential Policy violation to discuss the Complainant's options, explain the process, and provide information about Supportive Measures. During the discussion, the Title IX Coordinator will consider the Complainant's wishes with respect to Supportive Measures, inform the Complainant of the availability of Supportive Measures with or without the filing of a Formal Complaint<sup>30</sup>, and explain the process for filing a Formal Complaint.

## **Notice of Allegations**

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

## **Investigation of a Formal Complaint**

The Title IX Coordinator will either promptly investigate the Formal Complaint or assign this task to another Investigator. If assigned to another Investigator, the Title IX Coordinator will monitor, supervise, and oversee all such delegated tasks, including reviewing all investigation draft reports before they are final to ensure that the investigation is sufficient, appropriate, impartial, and in compliance with Track 1.

The investigator will take reasonable steps to gather all relevant evidence from the Parties, other witnesses, or other sources. The investigator will document the steps taken to gather evidence, even when those efforts are not successful.

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

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

If a Party requests to meet with the Title IX Coordinator sooner than 3 Working Days after receipt of written notice of an investigative interview or meeting, they should verbally confirm at the start of the interview or

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<sup>30</sup> Formal Complaint means a document or electronic submission filed by a Complainant that contains the Complainant's physical or digital signature<sup>15</sup> or a document signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting an investigation of the allegation of Sexual Harassment. At the time that the Formal Complaint is filed, a Complainant must be participating in or attempting to participate in an Education Program or Activity of the CSU.

meeting that they are aware that they were provided notice of at least 3 Working Days and this confirmation should be documented by the Title IX Coordinator or Investigator.

### **Review of Evidence**

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

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

- Meet again with the investigator to further discuss the allegations.
- Identify additional disputed facts.
- Respond to the evidence in writing.
- Request that the investigator ask additional specific questions to the other Party and other witnesses.
- Identify additional relevant witnesses.
- Request that the investigator gather additional evidence.

The investigator will share with the Parties the answers to questions posed during the review of evidence. If additional disputed material facts are identified or evidence is gathered, it will be included in the preliminary investigation report (or in a separate

addendum) and shared with all Parties, who will be given a reasonable opportunity to respond to the new evidence and submit additional questions to the other Party and other witnesses about the new evidence only. The investigator determines when it is appropriate to conclude the review of evidence.

### **Final Investigation Report**

After the review of evidence phase is concluded, the Parties will receive a final investigation report that will summarize all Relevant evidence (inculpatory and exculpatory), including additional Relevant evidence received during the review of evidence. Any Relevant documentary or other tangible evidence provided by the Parties or witnesses, or otherwise gathered by the Investigator will be attached to the final investigation report as exhibits. The final investigation report shall be sent to the Parties and their respective advisors, if any, in electronic format (which may include use of a file sharing platform that restricts the Parties and any Advisors from downloading or copying the evidence) or hard copy. The Parties and their advisors will be provided 10 Working Days to review and provide a written response to the final investigation report.

### **Timeframe**

Absent a determination of good cause made by the investigator or Title IX Coordinator (of which the Parties will receive written notice): (i) the investigation should be concluded within 100 Working Days from the date that the notice of allegations is provided to the Parties; and (ii) the final investigation report should be completed and provided to the Parties within 10 Working Days after the review of evidence has concluded. Extensions may be granted for good cause as determined by the Title IX Coordinator. The Parties will receive written notice from the Title IX Coordinator or designee if an extension is necessary and why. The notice will indicate if the extension alters the timeframes for the major stages of the Formal Complaint process.

Within 10 Working Days after the Parties have been provided the final investigation report, the Parties will be informed of the timelines that will apply to the pre-hearing and hearing processes described below. The Parties will be required to provide the name and contact information for their hearing advisor within 5 Working Days after notice of the hearing timeline.

### **Track 1 Hearing**

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

No later than 15 Working Days before the hearing, each Party may provide to the hearing coordinator a proposed witness list that includes the names of, and current contact information for, that Party's proposed witnesses as well as an explanation of the relevance of each proposed witness's testimony and the disputed issue to which the witness's testimony relates. The hearing officer may also identify witnesses from the final investigation report.

No later than 10 Working Days before the hearing, the hearing coordinator will share a final witness list with the Parties, and notify each witness of the date, time, and location of the hearing. Witnesses will be directed to attend the hearing and to promptly direct any questions or concerns about their attendance at the hearing to the hearing coordinator.

No later than 5 Working Days prior to the hearing, the Parties may submit a list of proposed questions to the hearing coordinator. The questions will be provided to the hearing officer. Parties are strongly encouraged to provide questions in advance of the hearing in order to streamline the hearing process and provide the hearing officer an opportunity to resolve relevancy concerns prior to the hearing. The proposed questions will not be shared with the other Party.

The hearing will begin with an overview of the hearing process given by the hearing officer, after which the Parties will be given an opportunity to ask questions about the hearing process. Each Party will be given an opportunity to make an opening statement that may not last longer than 10 minutes. Only the Parties themselves will be permitted to make opening statements. The hearing advisor and any advisor are not permitted to make the opening statement. The advisor may not speak during the hearing. Closing arguments will not be made.

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

### **Determination and Notification Regarding Responsibility Under Track 1**

After the hearing, the hearing officer will make written findings of fact and conclusions about whether the Respondent violated the Policy with respect to the definition of Sexual Harassment<sup>31</sup>. The hearing coordinator will Simultaneously send the hearing officer's report promptly to the Parties, the Title IX Coordinator, and the appropriate campus administrator, usually within 15 Working Days of the close of the hearing.

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<sup>31</sup> See definition of Sexual Harassment in the [CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation](#)

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

If a violation of the Policy is found, within 5 Working Days of receiving such finding the Parties may submit to the hearing coordinator an impact statement or other statement regarding discipline that is no more than 2000 words in length. The document is an opportunity for the Parties to suggest disciplinary outcomes and to provide information that they believe is important for the hearing officer to consider. The student conduct administrator and/or appropriate campus administrator responsible for discipline and Title IX Coordinator may also submit a written statement regarding aggravating and mitigating factors that provides a recommendation regarding the disciplinary outcome, including information regarding prior disciplinary outcomes for similar conduct and whether the Respondent was previously found to have violated university policy.

Within 5 Working Days after receiving and considering any impact or other statements submitted by the Parties and other statements described above, the hearing officer will submit the hearing officer's report to the president (or designee). The hearing officer's report will be amended to include a statement of, and rationale for, any recommended disciplinary sanctions to be imposed on the Respondent ("final hearing officer's report"). The final hearing officer's report will attach the final investigation report.

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

The president (or designee) will simultaneously send the decision letter electronically to the Respondent and Complainant at the campus-assigned or other primary email address linked to their campus accounts.<sup>32</sup> The decision letter will include:

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

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).

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

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

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<sup>32</sup> Communication with Parties who are neither Students nor Employees will be sent to an email address that they designate.

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

During the investigation, the Investigator will take reasonable steps to gather all relevant evidence from the Parties, other witnesses, or other sources. The Investigator will document the steps taken to gather evidence, even when those efforts are not successful. Before finalizing the investigation, the Investigator will share with the Complainant and Respondent a preliminary investigation report, along with all relevant evidence gathered. Each Party will be given a reasonable opportunity to respond to the preliminary investigation report and any attached evidence and ask questions.

In matters where a hearing is not required (Track 3 cases)<sup>33</sup>, a final investigation report will be provided to the Parties along with a notice of investigation outcome. The final investigation report will include a summary of the allegations, the investigation process, the Preponderance of the Evidence standard, a detailed description of the evidence considered, analysis of the evidence including relevant credibility evaluations, and appropriate findings. Relevant exhibits and documents will be attached to the written report. The final investigation report will be attached to a notice of investigation outcome and include the following: a summary of the allegations and the investigative process, that the Preponderance of the Evidence standard was employed, a summary of the findings of fact, a determination as to whether the Nondiscrimination Policy was violated, and if so, any Remedies to be afforded to the Complainant, and notice of Parties' right to appeal under these procedures. The notice may be delivered to the Parties electronically. If the notice includes a determination that the Policy was violated, the Title IX Coordinator/DHR Administrator will notify the campus student conduct administrator (where the Respondent is a student)/appropriate campus administrator (where the Respondent is an employee) of the investigation outcome and provide a copy of the final investigation report.

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

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

### **Track 2 Hearing process:**

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

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<sup>33</sup> Under Track 2, the process will proceed to a hearing, as outlined below, and the final investigation report will include all of the information included in the preliminary investigation report as well as additional relevant evidence received during the review of evidence. Any relevant evidence provided by the Parties or witnesses, or otherwise gathered by the Investigator, will be attached to the final investigation report, or made available for review by the Parties. Evidence offered by the Parties or any other witnesses that the Investigator concluded is not relevant will be noted but not included in the final investigation report and should be available at the time of the hearing such that it can be provided to the hearing officer if requested.

**Prior to a hearing:**

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

No later than 15 Working Days before the hearing, each Party will provide to the hearing coordinator a proposed witness list that includes the names of, and current contact information for, that Party's proposed witnesses as well as an explanation of the relevance of each proposed witness' testimony. The hearing officer may also identify witnesses from the Final Investigation Report.

Where there is more than one Respondent or Complainant in connection with a single occurrence or related multiple occurrences, the hearing officer and the Parties may agree to a single hearing. A Party may request consolidation with other cases, or the Title IX Coordinator, may initiate the consolidation (subject to FERPA and other applicable privacy laws). Request for consolidation will be made no later than 15 Working Days before the hearing. The hearing officer makes consolidation decisions.

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

No later than 10 Working Days before the hearing, the hearing coordinator will share a final witness list with the Parties, and notify each witness of the date, time, and location of the hearing. Witnesses will be instructed to attend the hearing and to promptly direct any questions or concerns about their attendance at the hearing to the hearing coordinator. No later than 5 Working Days before the hearing, the Parties will submit to the hearing coordinator any objections to, or questions about, the witness list.

**At the hearing:**

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

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

1. Seek information about the Complainant's sexual history with anyone other than the Respondent (unless such evidence about the Complainant's sexual behavior is offered to prove that someone other than the Respondent committed the alleged misconduct).
2. Seek information about the Respondent's sexual history with anyone other than the Complainant, unless such information is used to prove motive or pattern of conduct.
3. Seek information that is unreasonably duplicative of evidence in the hearing officer's possession.
4. The hearing officer determines are not relevant to material disputed issues, are argumentative or harassing or unduly intrude on a witness' privacy

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

The hearing officer has the authority and duty to decline or rephrase any question that the hearing officer deems to be repetitive, irrelevant, or harassing. Formal rules of evidence applied in courtroom proceedings

(e.g., California Evidence Code) do not apply in the hearing. However, the hearing officer may take guidance from the formal rules of evidence.

### **After the hearing:**

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

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

If a violation is found, the Parties may submit to the hearing coordinator an impact statement or other statement regarding discipline. The statement may not be more than 2000 words in length and will be submitted no later than 5 Working Days after the hearing officer's report is sent to the Parties. The statement is an opportunity for the Parties to suggest disciplinary outcomes and to provide information that they believe is important for the hearing officer to consider. The student conduct administrator and the Title IX Coordinator may also submit a written statement regarding aggravating and mitigating factors no later than 5 Working Days after the hearing officer's report is sent to the Parties.

Within 5 Working Days after receiving and considering the statements described above, the hearing officer will submit the hearing officer's report to the president (or designee), including recommended sanctions (as defined in Executive Order 1098 Student Conduct Procedures<sup>34</sup>) if a Respondent has been determined to have violated university Policy.

Within 10 Working Days of receipt of the hearing officer's report, the president (or designee) will review the Investigation Report and the hearing officer's report and issue a decision concerning the appropriate sanction. The president may impose the recommended sanctions, adopt a different sanction or sanctions, or reject sanctions altogether. If the president adopts a sanction other than what is recommended by the hearing officer, the president must set forth the reasons in the Decision Letter. The president will simultaneously send the decision letter electronically to the Respondent and Complainant. The decision letter will include: the outcome of the hearing, including any sanction imposed, and the name of the Respondent(s), a copy of the hearing officer's Report, and information regarding the procedures and permissible bases for the Complainant and Respondent's right to appeal to the Chancellor's Office. The decision will also be sent to the student conduct administrator and the hearing officer. Unless the campus and Parties are notified that an appeal has been filed, the president's (or designee's) sanction decision becomes final 11 Working Days after the date of the decision letter. Any communications relating to the outcome of an investigation or hearing, including any changes to the outcome or when the outcome becomes final, will be provided in writing simultaneously to the Complainant and the Respondent.

### **Sanctions**

Discipline for Employees includes, but is not limited to, suspension, demotion, and termination of employment. Employees disciplined by the university may be entitled to additional processes as required by law and/or collective bargaining agreements, including in some cases the right to a hearing before an independent arbitrator or a state agency where the employee may contest the discipline.

The following sanctions may be imposed for violation of the Student Conduct Code:<sup>35</sup>

- **Restitution.** Compensation for loss, damages or injury. This may include appropriate service and/or monetary material replacement.

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<sup>34</sup> See Sanctions, below

<sup>35</sup> [Found in Article V, Executive Order 1098 Student Conduct Procedures](#)

- **Loss of Financial Aid.** Scholarships, loans, grants, fellowships and any other types of state financial aid given or guaranteed for the purposes of academic assistance can be conditioned, limited, canceled or denied.<sup>8</sup>
- **Educational and Remedial Sanctions.** Assignments, such as work, research, essays, service to the University or the community, training, counseling, removal from participation in recognized student clubs and organizations (e.g., fraternities and sororities), and/or University events, or other remedies intended to discourage similar misconduct or as deemed appropriate based upon the nature of the violation.
- **Denial of Access to Campus or Persons.** A designated period of time during which the Student is not permitted: (i) on University Property or specified areas of Campus,<sup>9</sup> or (ii) to have contact (physical or otherwise) with the Complainant, witnesses or other specified persons.
- **Disciplinary Probation.** A designated period of time during which privileges of continuing in Student status are conditioned upon future behavior. Conditions may include the potential loss of specified privileges to which a current Student would otherwise be entitled, or the probability of more severe disciplinary sanctions if the student is found to violate the Student Conduct Code or any University policy during the probationary period.
- **Suspension.** Temporary separation of the student from active Student status or Student status.

A Student who is suspended for less than one academic year shall be placed on inactive Student (or equivalent) status (subject to individual Campus policies) and remains eligible to re-enroll at the University (subject to individual Campus enrollment policies) once the suspension has been served. Conditions for re-enrollment may be specified.

A Student who is suspended for one academic year or more shall be separated from Student status but remains eligible to reapply to the University (subject to individual Campus application policies) once the suspension has been served. Conditions for readmission may be specified.

Suspension of one academic year or more, withdrawals in lieu of suspension, and withdrawals with pending misconduct investigations or disciplinary proceedings shall be entered on the student's transcript permanently without exception; this requirement shall not be waived in connection with a resolution agreement.

**Expulsion.** Permanent separation of the Student from Student status from the California State University system. Expulsion, withdrawal in lieu of expulsion, and withdrawal with pending misconduct investigation or disciplinary proceeding shall be entered on the student's transcript permanently, without exception; this requirement shall not be waived in connection with a resolution agreement.

## Appeals

A written appeal may be submitted to the Chancellor's Office no later than 10 Working Days after the date of the decision letter (Tracks 1& 2) or notice of investigation outcome (Track 3). All arguments and/or evidence supporting the appeal must be submitted by the deadline to file the appeal. Evidence/arguments submitted after the appeal submission deadline will not be considered by the Chancellor's Office. A written appeal may not exceed 3,500 words, excluding exhibits.

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



The Chancellor's Office will provide prompt written acknowledgement of the receipt of the appeal to the appealing Party, and will provide written notification of the appeal, including a copy of the appeal, to the non-appealing Party and the campus Title IX Coordinator/DHR Administrator. The notice will include the right of the non-appealing Party and the campus to provide a response to the appeal within 10 Working Days of the date of the notice. The appeal response will be limited to 3,500 words, excluding exhibits. Any response to the appeal received by the Chancellor's Office will be provided to the appealing Party for informational purposes only.

The Chancellor's Office will not conduct a new investigation; however, the Chancellor's Office may make reasonable inquiries to determine if the new evidence could have affected the investigation or hearing determination. A copy of the final Chancellor's Office appeal response will be forwarded to the Complainant, the Respondent, and the Title IX Coordinator/DHR Administrator.

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

If the Chancellor's Office determines that no reasonable fact finder (Investigator or hearing officer) could have made the findings as determined by the Investigator or hearing officer, the Chancellor's Office may vacate and reverse the investigation or hearing outcome, but only with respect to whether the Policy was violated (and not with respect to factual findings). If the Chancellor's Office vacates and reverses the investigation or hearing outcome, it will notify the Parties simultaneously in writing, as well as the Title IX Coordinator/DHR Administrator. Following a reversal of an investigation or hearing outcome by the Chancellor's Office, the Chancellor's Office decision is final and is not subject to further appeal.

The Chancellor's Office will respond to the appealing Party no later than 30 Working Days after receipt of the written appeal unless the timeline has been extended<sup>36</sup>

## **Registered Sex Offenders**

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

## **Missing Student Notification Procedures for On-campus Student Housing Facilities**

Missing student notification policies only apply to campuses that have on-campus student housing. CSUMB at Cuesta College does not have on-campus student housing.

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<sup>36</sup> The Chancellor's Office has discretion to extend the timelines for the appeal process for good cause or for any reasons deemed to be legitimate by the Chancellor's Office. This includes the time for filing an appeal, the time for a reopened investigation or hearing to be completed, and the time for the Chancellor's Office to respond to the appeal. The Chancellor's Office will notify the Parties and the Title IX Coordinator of any extensions of time granted pertaining to any portion of the appeal process.

## **Fire Safety Report**

CSUMB at Cuesta College does not have on-campus student housing, and is therefore not required to publish an annual fire safety report

## Appendix A: Jurisdictional Definitions<sup>37</sup>

(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.

(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:

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<sup>37</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.

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

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

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

### **Statutory Rape (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 at least 18 years of age.

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

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

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

### **Incest (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)**

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

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

- (1) The offender’s spouse or former spouse.
- (2) The offender’s cohabitant or former cohabitant.
- (3) The offender’s fiancé or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship.
- (4) The mother or father of the offender’s child.

**CA Penal Code 243(e)**

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

**Stalking 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 his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking, punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment, or by imprisonment in the state prison.

**Stalking 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)**

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.

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

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.

