

# CALIFORNIA STATE UNIVERSITY, LONG BEACH



2021

## ANNUAL SECURITY REPORT

JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICIES & CAMPUS CRIME STATISTICS ACT (20 U.S.C. § 1092(F))

Clery Crime Statistics 2018-2020

Long Beach main campus and Antelope Valley Engineering Campus

## TABLE OF CONTENTS

MESSAGE FROM THE PRESIDENT OR THEIR DESIGNEE.....	4
PREPARING THE ASR .....	4
CLERY CRIME STATISTICS 2018 - 2020.....	6
HATE CRIMES.....	9
REPORTING CRIMINAL ACTIONS & EMERGENCIES .....	10
VOLUNTARY CONFIDENTIAL REPORTING .....	10
CALIFORNIA EDUCATION CODE SECTION 67380(A)(6)(A).....	10
TIMELY WARNING POLICY .....	11
SECURITY OF AND ACCESS TO CAMPUS FACILITIES .....	13
LAW ENFORCEMENT AUTHORITY .....	13
SECURITY PROCEDURES AND PRACTICES .....	14
CRIME PREVENTION PROGRAMS .....	16
CRIMINAL ACTIVITY AT NONCAMPUS LOCATIONS OF STUDENT ORGANIZATIONS .....	17
ALCOHOL AND DRUGS .....	17
SEXUAL VIOLENCE .....	24
DEFINITIONS PER EXECUTIVE ORDERS 1095-1097 .....	27
PROCEDURES FOR REPORTING A CRIME OF SEXUAL VIOLENCE/SEXUAL MISCONDUCT.....	43
PRIVILEGED AND CONFIDENTIAL REPORTS .....	45
EXCEPTIONS TO CONFIDENTIALITY .....	45
PRESERVATION OF EVIDENCE .....	46
REPORTING OPTIONS .....	46
NON-REPORTING .....	50
CIVIL LAWSUIT .....	50
RESTRAINING ORDERS.....	50
DISCIPLINARY PROCEDURES.....	51
SUPPORTIVE MEASURES .....	53
COMPLAINT PROCEDURES.....	53
INVESTIGATIVE PROCEDURES.....	57

HEARING PROCEDURES .....	59
DETERMINATION REGARDING RESPONSIBILITY .....	62
INFORMAL RESOLUTION.....	63
EMPLOYEE DISCIPLINE.....	65
STUDENT SANCTIONS .....	65
APPEALS.....	67
REGISTERED SEX OFFENDERS .....	70
EMERGENCY NOTIFICATION POLICY .....	70
MISSING STUDENT NOTIFICATION .....	72
FIRE SAFETY ACT.....	72

# California State University, Long Beach

## ANNUAL SECURITY REPORT

### MESSAGE FROM THE PRESIDENT OR THEIR DESIGNEE

California State University, Long Beach (CSULB) is committed to maintaining a safe and secure environment for our students, faculty, staff and guests. The Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (20 USC § 1092(f)) is the landmark federal law that requires colleges and universities across the country to disclose information about crime on campus and around their campuses. The “Clery Act” is named in memory of 19-year-old Lehigh University freshman Jeanne Ann Clery who was raped and murdered while asleep in her residence hall room in April 1986. This Annual Security Report is intended to provide notice of campus crime statistics and distribute safety and prevention information to the community.

### PREPARING THE ASR

This document has been prepared by the CSULB Police Department, the Office of Equity & Diversity, and the Clery Compliance Team. Crime statistics are collected for Clery Act reportable crimes, hate crimes, and violations of state and local drug, liquor, and weapons laws occurring within Clery geography where arrests or referrals for discipline were made. Campus Security Authorities (CSA) are designated employees within the University who are identified and trained through the Clery Director to assist with the collection of crime statistics for the campus and report these statistics forward for annual reporting purposes. The Clery Director conducts outreach and establishes collaborative relationships with local and state law enforcement agencies to encourage statistical Clery reporting by those agencies serving the public property areas as well as identified non-campus properties that UPD does not patrol or provide primary law enforcement service.

Campus crime, arrests and referral statistics include those reported to the CSULB Clery Director, designated campus officials (including but not limited to Campus Security Authorities), and local law enforcement agencies (i.e., Long Beach Police Department). Crime statistics are collected from public property immediately adjacent and accessible to campus and all off campus locations either owned or controlled by the University. The CSULB PD Records Manager and the Clery Director collate the various data submissions and compare them with internal CSULB data to remove duplicate information and create a single compilation of Clery Crimes/Incidents, arrests and referrals for alcoholic beverages, drugs and weapons.

This report contains statistics for the previous three years concerning reported crimes that occurred on campus; in certain off-campus buildings or property owned or controlled by CSULB, and on public property within or immediately adjacent to and accessible from the campus. An email notice is sent to students, faculty and staff by October 1st of each year by the VP of the Division of Administration and Finance informing them of the availability of the ASR with a hyperlink directly to it. Notice to prospective students is

made with information included with application materials by the Admissions and Records office. Notice to prospective employees is made by the Human Resources Management department in the form of a disclosure at the end of each job description posted on the application website. Copies of this report may be obtained from the Office of Equity & Diversity at 6300 State University Dr., Foundation Building suite 220, Long Beach, CA 90815. An online copy of the report is available at: [www.csulb.edu/CleryASR](http://www.csulb.edu/CleryASR)

## CLERY CRIME STATISTICS 2018 - 2020

OFFENSE	YEAR	ON-CAMPUS TOTAL	CAMPUS RESIDENTIAL	NON-CAMPUS	PUBLIC PROPERTY
Murder and Non-Negligent Manslaughter	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Manslaughter by Negligence	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Rape	2018	1	1	0	0
	2019	1	0	0	0
	2020	1	1	2	0
Fondling	2018	3	2	1	0
	2019	3	1	1	0
	2020	0	0	0	0
Incest	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Statutory Rape	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Robbery	2018	2	0	1	0
	2019	2	0	0	0
	2020	3	0	0	0
	2018	1	0	0	0

Aggravated Assault	2019	1	0	1	0
	2020	0	0	0	0
Burglary	2018	7	1	0	0
	2019	0	0	2	0
	2020	11	1	2	0
Motor Vehicle Theft	2018	14	0	1	3
	2019	13	0	0	0
	2020	9	0	0	0
Arson	2018	2	0	0	0
	2019	0	0	1	0
	2020	1	0	0	0

OFFENSE	YEAR	ON-CAMPUS TOTAL	CAMPUS RESIDENTIAL	NON-CAMPUS	PUBLIC PROPERTY
Dating Violence	2018	3	1	0	0
	2019	1	1	0	0
	2020	2	0	0	0
Domestic Violence	2018	2	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
Stalking	2018	1	0	0	0
	2019	3	0	0	0
	2020	0	0	0	0

OFFENSE	YEAR	ON-CAMPUS TOTAL	CAMPUS RESIDENTIAL	NON-CAMPUS	PUBLIC PROPERTY
Liquor Law Arrests	2018	0	0	0	0
	2019	1	0	0	0
	2020	0	0	0	0
Liquor Law Referrals for Disciplinary Action	2018	0	4	8	0
	2019	18	18	0	0
	2020	0	0	0	0
Drug Law Arrests	2018	0	0	0	0
	2019	3	2	2	2
	2020	3	1	0	0
Drug Law Referrals	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0



Weapons Law Arrests	2018	2	1	1	0
	2019	1	0	0	0
	2020	1	0	0	0
Weapons Law Referrals for Disciplinary Action	2018	1	1	0	0
	2019	3	0	0	0
	2020	0	0	0	0

OFFENSE	YEAR	TOTAL
Unfounded Crimes	2018	5
	2019	2
	2020	0

## 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 non-negligent 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 including on-campus, residential facilities, non-campus buildings or property, and public property.

2018 (Main Campus) – There were no reported hate crimes.

2019 (Main Campus) – There were no reported hate crimes.

2020 (Main Campus) – There were no reported hate crimes.

2018 (Lancaster Campus) – There were no reported hate crimes.

2019 (Lancaster Campus) – There were no reported hate crimes.

2020 (Lancaster Campus) – There were no reported hate crimes.

## REPORTING CRIMINAL ACTIONS & EMERGENCIES

Criminal actions and other emergencies occurring on campus should be reported immediately to the University Police Department by calling (562) 985-4101 or dialing 911 from campus or cellular phone, you may be able to send a text message to 9-1-1 (Text-to-911 is not available in all areas or on all carriers. Support for texting is made on a “best- effort” basis and is not as reliable as voice calls made to 9-1-1. Please be prepared to provide your location as the carriers do not always provide accurate or reliable location information with text messages). Other methods include “blue light” emergency telephones, or red phones throughout campus. Visit the Main Station on the south end of parking E5, or by calling (562) 985-4101. A confidential "We Tip" line is also available at (562) 986-5131 or on the CSULB PD website with a web fillable form. All crimes or suspicious activity/persons should be reported to CSULB PD immediately.

The department will respond by taking the following action(s) as necessary:

- Dispatch police and/or Long Beach Fire Department to the scene of a reported incident
- Investigate the incident
- Take appropriate action(s) to identify, apprehend and prosecute the person(s) responsible
- Notify or request the assistance of other law enforcement and/or other agencies and university resources when necessary
- Take action(s) and/or make appropriate notifications

## VOLUNTARY CONFIDENTIAL REPORTING

### VOLUNTARY CONFIDENTIAL REPORTING

No effort is made/no process exists to request disclosures about reported crimes from confidential counselors, such as those in the student counseling center.

Confidential Counselors are not encouraged to give any information about reporting crimes to persons seeking confidential counseling. To report crimes for inclusion in the annual security report, a person should seek the assistance of a sexual violence victim advocate, Campus Security Authority, or Title IX Coordinator as described on page 46 of this document or submit the crime report anonymously using the tab on the University Police website ([csulb.edu/university-police](http://csulb.edu/university-police)).

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

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 WARNING POLICY

The primary intent of this policy is to provide members of the community with information to aid in preventing them from becoming victims of crimes posing a serious or ongoing threat to the campus communities. Additionally, it is intended to provide faculty, staff, and students with timely information about Clery reportable crimes occurring within the defined Clery geography of their campuses, and to comply with the Timely Warning requirements of the Jeanne Clery Act. The systemwide Timely Warning Policy shall serve as the authoritative statement of policy on Timely Warning for each campus. Lastly, the intent of this policy is to provide uniformity in the manner in which CSU campuses evaluate and communicate the occurrence of these crimes.

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

- Upon receipt of a Campus Security Authority (CSA) report of a Clery Crime on Clery Geography, a Timely Warning analysis shall be completed and documented by the Clery Director. The Clery Director shall have authority to delegate this responsibility as appropriate. It is not necessary to complete and document a Timely Warning analysis for referrals to disciplinary action.
- If it is determined that the report includes a Clery Crime on Clery Geography, the Clery Director and Chief of Police (or management designees) will confer to **analyze** the known pertinent facts to determine whether they constitute a serious or ongoing threat to the campus community. The unavailability of the Clery Director shall not unduly delay the issuance of a timely warning.
- If a CSA report includes 1) a Clery Crime 2) on Clery Geography and 3) a discernable serious or ongoing threat, a timely warning as described below shall be issued expeditiously.
- In the absence of any of these three elements, no timely warning will be issued.
- The Chief of Police (or management designee) shall have ultimate authority and responsibility for determining whether to issue a Timely Warning issuance.

Each reported incident must be analyzed on a case-by-case basis. All known factors shall be considered in the case-by-case analysis to determine whether a timely warning should be issued. No single factor should govern the decision regarding the issuance of a timely warning. Campuses are prohibited from circumventing a case-by-case analysis by issuing a blanket rule that timely warnings will be issued for all reports of any given Clery reportable crime. Requests from an outside law enforcement agency to refrain from issuing a timely warning is insufficient grounds on its own for not issuing or delaying the issuance of a timely warning, unless the Chief of Police concurs that by issuing a timely warning, an identified risk can be articulated that would compromise the law enforcement efforts of the outside agency investigating the crime to gather evidence and/or apprehend suspect(s).

The case-by-case analysis will involve reviewing relevant factors including, but not limited to, the following, if known:

- The timing of the report: shortly after the occurrence of the crime vs. days or weeks after the occurrence of the crime, i.e., a "cold report"
- Physical injury to the victim
- Use of weapons
- Forced entry used and/or tools used in commission of the crime
- A suspect arrested or incapacitated by injury
- A suspect that is identified or otherwise can be located by law enforcement
- A suspect that is out of the area
- A victim who fears for their safety from the suspect
- A clear modus operandi and/or pre-planning indicated
- Multiple suspect(s) involved
- A pattern of similar crimes established
- The possible risk of compromising law enforcement efforts, such as to gather evidence and/or apprehend suspect(s), if a warning was issued

#### ADDITIONAL CONSIDERATIONS

The Clery Director (or management designee) shall notify the campus president, as soon as practicable, that a timely warning will be or has been issued.

The Chief of Police (or management designee) is responsible for collaborating with surrounding law enforcement agencies to encourage them to share information with UPD about crimes reported to local law enforcement that occur in Clery geography.

Nothing in this policy precludes campuses from maintaining a campus policy about informing, re-publicizing and/or sharing with the campus community crimes or other informational notices, (e.g., traffic advisories, events, prevention information) the campus deems may be of interest to the campus community. Such a policy is separate and distinct from this timely warning policy. Such notices must differ in appearance or be distributed in a manner that assures that members of the community understand such notices are different from a timely warning notification required by the Clery Act; members of the campus community should not be misled to believe such notices are timely warnings.

#### CONTENTS OF A TIMELY WARNING

When a Timely Warning is issued it shall be entitled "Timely Warning Crime Bulletin" and contain the following:

- A statement that reads, "This Timely Warning Crime Bulletin is being issued in compliance with the Jeanne Clery Act and the purpose is to provide preventative information to the campus community to aid members from becoming the victim of a similar crime."
- Identify the Clery crime that occurred (i.e. rape, burglary, motor vehicle theft, arson, etc.)
- The date, time, and location the crime occurred

- The date the Timely Warning is issued
- Description of the suspect when deemed appropriate, and only if there is sufficient detail. Only include a description of the suspect when the descriptors provided by the reporting party could reasonably lead to conclusive identification of the perpetrator(s).
- At least three preventative tips or points of information specifically related to the circumstances of the crime which occurred that could help others from becoming the victim of a similar crime
- The phone number of UPD and a statement encouraging community members to report all information about crimes to UPD
- If appropriate, the phone number of support services

The Timely Warning shall not include, under any circumstances, the name of the victim, or information so specific (i.e. specific address or dorm room number or floor) that would, or likely could, identify the victim of the crimes of sexual violence, rape, dating violence, domestic violence, or stalking. Timely Warnings should use gender-inclusive and culturally appropriate language and avoid victim blaming and bias language.

### METHODS OF DISTRIBUTION

Timely Warnings will be distributed as quickly as possible in a manner that will likely reach the entire campus community. Distribution methods vary from campus to campus and include, but are not limited to, any of the following:

- All employee and student e-mail distribution
- University website
- Public area video display monitors
- Hard copies posted on campus building entrance doors
- Press Release

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

## SECURITY OF AND ACCESS TO CAMPUS FACILITIES

The University Police Department provides 24-hour patrol of university property including academic and administrative buildings, parking lots, and residence halls. All state laws and applicable federal codes are enforced on the campus. Security and safety conditions on campus are continually evaluated by members of the University Police.

Security is the entire community's responsibility. No police department can function effectively without the assistance of a responsible community. All suspicious activity should be reported immediately to CSULB PD at (562) 985-4101. All academic buildings are secured by CSULB PD or electronically in some cases; on weekdays generally by 11:00 p.m. and on weekends generally by 9:30 p.m. During business hours, the university, with the exception of housing, is open to students, parents, employees, contractors, and guests. During non-business hours' access to all facilities is by key, if issued, or by admittance via CSULB PD. Some

facilities may have individual hours, which may vary at times of the year. These facilities will be secured according to schedules developed by the department responsible for the facilities. Students, faculty, and staff working on campus during non-business hours are required to have their photographic identification card with them. Holiday access scheduling is treated as weekend access. Emergencies may necessitate changes or alterations to any posted schedule.

Residence halls are secured 24 hours a day and access is limited to residents, escorted guests and university staff. Entry is monitored through a combination of keys, electronic access cards and on-duty Housing and Residential Life personnel. 24-hour camera surveillance systems are in place throughout the campus. Police patrols of the campus, in vehicles and on foot are conducted regularly. The campus facilities are maintained by Facilities Management and patrolled by CSULB PD 24 hours a day. Regular bi-monthly checks are conducted by CSULB PD to identify security concerns such as poor lighting or phones in need of repair. Repair requests are sent directly to Facilities Management and University Telecommunications to expedite repairs.

## LAW ENFORCEMENT AUTHORITY

The University Police Department has statewide law enforcement authority to enforce federal and state laws under Penal Code § 830.2, and primary concurrent jurisdiction within a mile of campus under the California Education code § 89560.

CSULB PD has a Memorandum of Understanding (MOU) with the Long Beach Police Department which defines and details operational authority pursuant to the Kristin Smart Campus Safety Act of 1998, Education Code SB 1729. Refer to the Kristin Smart Act in its entirety in the Education Code § 67381 for details. This agreement designates which law enforcement agency has operational responsibility for the investigation of violent crimes (Part 1 crimes) and defines the specific geographical boundaries of each agency's operational responsibility. The bill further requires that these agreements be made available to the public and that copies of these agreements be transmitted to the Legislative Analyst.

CSULB PD and the Long Beach Police Department have a mutual aid agreement. Each department augments the other within their jurisdiction during mutual investigations, arrests and prosecutions. CSULB PD personnel attend monthly meetings with local law enforcement agencies and other city agencies to exchange ideas and share information. Problems which may be of concern for the University community are addressed.

CSULB PD prepares and submits a monthly Uniform Crime report to the California Department of Justice and the Federal Bureau of Investigation. CSULB PD also enters reported stolen vehicles and property with serial numbers into the National Crime Information Center computer, allowing for recovery throughout the United States.

As an active member of the criminal justice system, CSULB PD interacts with other state and local law enforcement agencies. Cases are filed with both the Long Beach City Prosecutor's office and the Los Angeles County District Attorney. Information may also be given to the Office of the Vice President for Student Affairs for internal judicial processes involving students.

The university encourages that all crimes or suspected crimes occurring on or near campus be reported accurately and promptly to CSULB PD and/or the appropriate law enforcement agency. Such reporting includes when the victim of a crime elects to or is unable to make such a report.

## SECURITY PROCEDURES AND PRACTICES

Members of the CSULB community must take responsibility for their own personal safety, the safety of others, and their property (when possible), as they do when away from the University. Members of the community are strongly encouraged and constantly reminded by the University Police throughout the year to:

- Promptly report all crimes and suspicious persons or activity to University Police.
- Always be aware of your personal safety and your surroundings.
- Never leave your property unattended and lock bicycles and doors and windows to your car, office, and residence.
- Always double check your doors and windows to ensure they are completely closed and locked before you go to sleep or leave your room or residence.
- Keep all valuables with you or leave them at home.
- Walk on well-traveled pathways and in well-lit and populated areas. Walk with friends or groups when possible.
- Call the University Police for a safety escort if you feel afraid or need to walk in isolated areas or at times when areas are unpopulated or closed.
- Get to know people in and around your place of residence. Do not invite or let unknown people into your residential building, nor go with them to an unfamiliar place. If you know someone by their first name only or met them on the internet, consider them a stranger.
- Engrave owner identification numbers onto electronics and items of value, keep a list of serial numbers and description of property, and provide it to the Police in the event your property is stolen.
- Use the internet wisely and never send money or provide personal identifying information, credit card information, or bank information to someone you do not know or to a company or person you did not initiate contact with on your own (such as Airlines, Department Stores, etc.).
- Use good bicycle theft prevention measures. Use a combo or flat key U-lock. Most cable locks can be and are easily cut. Lock both the front and rear wheels when possible and make sure to put your lock(s) through a closed part of the bike frame. Wheels can easily be taken off. Register your bike with the Department of Police Services and use the campus bicycle compounds. Although all bikes are prone to theft, the newer and more expensive a bike is, the more of a target it will be.
- CSULB, through the University Police Department, offers a Personal Safety Escort Program – Personal Safety escorts are provided to locations on campus during hours of darkness. For a night safety escorts, please call 562-985-4101.

Tip: To enhance personal safety, and especially after an evening class, walk with friends or someone from class that you know well, or call the CSO Safety Escort Service for an escort.

A common theme of all awareness and crime prevention programs is to encourage students and employees to be aware of the responsibility for their own security and the security of others. In addition to these seminars, information may be disseminated to students and employees through Public Safety Notices posted in the

affected area(s), website alerts, and/or articles and advertisements in university and student newspapers. When time is of the essence, information may also be released to the university community through emails.

A member of CSULB PD serves as part of the campus Title IX committee as well as the Coordinated Community Response Team, a program of prevention and intervention activities, including support and advocacy, to reduce the incidence of sexual assault, relationship violence and stalking on the CSULB campus.

## CRIME PREVENTION PROGRAMS

Employees and students at CSULB are provided with numerous opportunities during the academic year to attend seminars about crime prevention, personal safety, theft prevention, identity theft, sexual assault and many other topics offered by CSULB PD and in collaboration with other departments. See the below Crime Prevention Programs section for information on both security and public safety programming provided to the campus community.

Program	Type of Program	Frequency	Audience	Name of Speaker/Prevention Group
Campus Safety	Crime Prevention	By Request	International Students	UPD
RAD Womens Self-Defense	Sexual Assault Prevention	2x/year	Students, Staff, Faculty	UPD
New Faculty Safety Training	Crime Prevention	4x/year	Faculty	UPD
New Employee Safety Training	Crime Prevention	Monthly	Staff	EH&S / UPD
Active Shooter Training	Crime Prevention	By Request	Students, Staff, Faculty	UPD
Safety Walkthroughs	Crime Prevention	By Request	Students, Staff, Faculty	UPD
Women's Safety Workshop	Crime Prevention	1x/year	Student Athletes	UPD
Safety Escort Program	Crime Prevention	daily	Students, Staff, Faculty	UPD
Beach Watch	Crime Prevention	Nightly	Student on-campus Housing	UPD
Foot Patrol	Crime Prevention	daily	All	UPD
Bicycle Licensing	Crime Prevention	daily	Students, Staff, Faculty	UPD
Coffee with a Cop	Crime Prevention	Twice a semester	Students, Staff, Faculty	UPD
Pizza with a Cop	Crime Prevention	Once a Year	Students, Staff, Faculty	UPD



## CRIMINAL ACTIVITY AT NONCAMPUS LOCATIONS OF STUDENT ORGANIZATIONS

Development are required to comply with the guidelines set in the Code of Conduct for Fraternities and Sororities and/or the CSULB Regulations for Campus Activities, Organizations, and the University Community.

Student Life and Development maintains contact with recognized fraternity and sorority organizations through the efforts of the Greek Life Coordinator(s). CSULB PD does not provide law enforcement service to off-campus residences of recognized fraternity and sorority organizations. Fraternity and sorority off campus events are not recognized by university authorities unless they pertain to recruitment functions. Criminal activity at off campus sites and officially recognized fraternity and sorority residences is monitored and reported to CSULB PD by the Long Beach Police Department. Crimes occurring on the leased CSULB Technology Park should also be reported to the Long Beach Police Department. Crimes at off- campus addresses are reflected in the Non-Campus Property category in the ASR. CSULB PD enjoys a close working relationship with the Long Beach Police Department when violations of federal, state, or local laws surface. This cooperative team approach addresses situations as they arise as well as future concerns.

During the 2020 calendar year, the officially recognized Greek organizations holding property designated as Non-campus property included:

### Fall 2020 Official Fraternity & Sorority Chapter Houses

Chapter	Street Address	City	Zip
Alpha Omicron Pi	3980 8th Street	Long Beach	90804
Alpha Phi	3017 E. 4th Street	Long Beach	90814
Delta Delta Delta	3831 E. 10th Street	Long Beach	90804
Delta Gamma	773 Redondo Ave	Long Beach	90804
Delta Zeta	148 Molino Ave	Long Beach	90804
Gamma Phi Beta	2929 E. Broadway	Long Beach	90803
Zeta Tau Alpha	1211 Newport Ave	Long Beach	90804
Delta Chi	1067 Grand Ave.	Long Beach	90804
Kappa Sigma	730 Atlantic Ave.	Long Beach	90813
Phi Kappa Tau	745 Elm Ave.	Long Beach	90813
Sigma Pi	4121 E. 4th Street	Long Beach	90814
Theta Chi	686 Redondo Ave.	Long Beach	90814

## ALCOHOL AND DRUGS

Consistent with its mission of enabling students to reach their educational goals, California State University, Long Beach (CSULB) is committed to maintaining a safe and healthy environment for the university community. CSULB complies with the Drug Free Workplace Act of 1990 and the Higher Education Act § 120a. CSULB PD officers enforce laws regulating the use of alcoholic beverages and underage drinking. This University is committed to maintaining a safe and healthy environment for the campus community. Alcohol and other drugs should not interfere with the University's educational mission. All CSULB students, faculty members, staff

members, and administrators are subject to local, state, and federal laws regarding the unlawful possession, distribution, or use of alcohol or illegal drugs.

In accordance with the Drug-Free Schools and Campuses Act, the Alcohol, Tobacco and Other Drug Program (ATOD) is provided for by Student Health Services. Access to the program can be made by calling 562-985-5859 or by visiting the health center. ATOD provides information about alcohol and other drugs to our diverse campus community; involves a collective of students and faculty who assist in creating a campus environment which reinforces healthy lifestyles; provides support services for students who are experiencing problems with substances; and educates students about the impact of both alcohol and other drug abuse.

Excessive use of alcohol and other drugs is a serious health problem in itself, but alcohol and drug abuse can also contribute to a host of other physical and mental health problems such as unwanted pregnancy, violent behavior, HIV infection and other sexually transmitted diseases and psychological depression. The use of alcoholic beverages must be in compliance with California State Law. The term "alcoholic beverage" includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of 1 percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances (B&P§23004). Alcoholic beverages generally may not be consumed on campus except at sponsored events and with specific approval from the Director of Student Life and Development. Alcoholic beverages may only be consumed on university premises that have been licensed by the Department of Alcohol Beverage Control or on other university premises at "approved group sponsored events". The sponsors of such events must obtain prior written approval from the Office of Student Life and Development. The use of alcoholic beverages in any of the Residential Halls, to include individual rooms, is strictly prohibited. For complete information regarding Student Discipline Visit Campus Standards of Conduct.

In accordance with the Drug-Free Schools and Communities Act, CSULB PD strictly enforces Federal and State laws, as well as the University's zero tolerance policy, for the use and sale of illegal drugs. Students and University employees are notified of the (1) standards of conduct; (2) possible legal sanctions and penalties; (3) statements of the health risks associated with AOD abuse; (4) the AOD programs available to students, staff, and faculty; and (5) disciplinary sanctions for violations of the standards of conduct. Notice to students and University employees is provided annually in the University Catalog.

Violators of these university policies are subject to university discipline, criminal prosecution, and removal from University housing. Students engaging in the sale of illegal drugs may be expelled. Students found in violation of University alcohol, drug and weapons policies may be subject to academic probation, suspension, or expulsion. Parents or guardians may be notified about any disciplinary violation involving alcohol or a controlled substance which has been committed by a student who is under the age of 21. Medical Marijuana Cards (CA Prop. 215) have no bearing on campus or in the residential colleges; no exemption is granted to cultivate, possess, or use marijuana on any campus property.

(<http://www2.ed.gov/policy/elsec/leg/esea02/pg51.html>)

Employees in violation of the university alcohol and drug policies may be subject to corrective action or dismissal or be required to participate fully in an approved counseling or rehabilitation program. Applicable legal sanctions under local, State and Federal law for the unlawful possession or distribution of illicit drugs and alcohol range from probation, diversion, imprisonment in the county jail for less than one year, to

imprisonment in State Prison. A police officer can take the license from any driver suspected of driving under the influence of alcohol and or drugs, who refuses to take a blood alcohol test.

#### Liquor Law Violations:

The violation of laws or ordinances prohibiting: the manufacture, sale, transporting, furnishing, possessing, of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; all attempts to commit any of the aforementioned. (Drunkenness and driving under the influence are not included in this definition.)

#### Drug Law Violations:

The unlawful manufacture, distribution, dispensing, possession or use of illicit drugs on the University campus or at any University-sponsored event off campus is prohibited. No one may use illegal substances, or abuse legal substances, including alcohol, in a manner which impairs performance of assigned tasks. The term "illicit drug" includes any dangerous drug, restricted drug, or narcotic as those terms are used in California statutes, and all substances regulated under federal law through the Controlled Substances Act, including but not limited to marijuana, cocaine derivatives, heroin, "crack," amphetamines, barbiturates, LSD, PCP, and substances typically known as "designer drugs" such as "ecstasy."

## SEXUAL VIOLENCE PREVENTION PROGRAMS

### Not Alone at the Beach

Program	Type of Program	Frequency	Audience	Name of Speaker/Prevention Group
Consent and Sex-cessful Communication	Sexual Assault Prevention	One	CSULB Community (students, faculty, staff, etc.)	Julia MacLaren, Not Alone @ the Beach
Let's Talk About It: A Conversation to Enhance Awareness and Care for Ourselves After Sexual Violence	Sexual Assault Awareness	One	CSULB Community (students, faculty, staff, etc.)	Sarah Bowling at the Long Beach Trauma and Recovery Center

CSULB Leadership Academy Mentors in Violence Prevention (MVP) Training	Sexual Assault Prevention	One	CSULB Community (students, faculty, staff, etc.)	La Shonda Coleman and Dr. Matt Cabrera
Behind the Screens, Bridging the Digital Divide	Sexual Assault Awareness	One	CSULB Community (students, faculty, staff, etc.)	Ebony Uteley

### Multicultural Affairs & Inclusion

Program	Type of Program	Frequency	Audience	Name of Speaker/Prevention Group
You are Not Alone: Resources and Support for Victims of Gender and Immigration Based Violence	Violence Prevention, Awareness, and Education	Annually	Students, Staff, Faculty, and Alumni	Dream Success Center, CARECEN, Women's and Gender Equity Center, Office of Multicultural Affairs, ( EOP, MSI, GS, TRIO, Not Alone @ The Beach, SLD, Athletics, HRL, ASI, Office of Equity & Diversity)
Sexual Assault Awareness Month; Day of Action	Sexual Assault Prevention, Awareness, and Education	Annually	Students, Staff, Faculty, and Alumni	Women's & Gender Equity Center, Dream Success Center, Office of Multicultural Affairs, ( EOP, MSI, GS, TRIO, Not Alone @ The Beach, SLD, Athletics, HRL, ASI)
Take Back the Night	Sexual Assault Prevention, Awareness, and Education	Annually	Students, Staff, Faculty, and Alumni	Women's & Gender Equity Center, Dream Success Center, Office of Multicultural Affairs, ( EOP, MSI, GS, TRIO, Not Alone @ The Beach, SLD, Athletics, HRL, ASI)
Denim Day	Sexual Assault Prevention, Awareness, and Education	Annually	Students, Staff, Faculty, and Alumni	Women's & Gender Equity Center, Dream Success Center, Office of Multicultural Affairs, ( EOP, MSI, GS, TRIO, Not Alone

				@ The Beach, SLD, Athletics, HRL, ASI)
Dating Violence Awareness/Education	Sexual Assault Prevention, Awareness, and Education	Annually	Students, Staff, Faculty, and Alumni	Women's & Gender Equity Center, Dream Success Center, Office of Multicultural Affairs, (EOP, MSI, GS, TRIO, Not Alone @ The Beach, SLD, Athletics, HRL, ASI)
Red Zone Social Media Campaign	Violence Prevention, Awareness, and Education	Annually	Students, Staff, Faculty, and Alumni	Women's & Gender Equity Center, Dream Success Center, Office of Multicultural Affairs, (EOP, MSI, GS, TRIO, Not Alone @ The Beach, SLD, Athletics, HRL, ASI)

#### Staff Human Resources

Program	Type of Program	Frequency	Audience	Name of Speaker/Prevention Group
MPP and Leads prevention training with OED	Title IX, Clery, CARNA, DHR	At least once a year	MPP & Leads	OED

#### Center for International Education

Program	Type of Program	Frequency	Audience	Name of Speaker/Prevention Group
Campus Health and Safety Workshop/Session for International Students	Title IX Prevention, general campus health and safety	Every Fall and Spring term during orientation week	International students	OED

### Student Orientation, Advising & Registration (SOAR)

Program	Type of Program	Frequency	Audience	Name of Speaker/Prevention Group
Pre-SOAR BeachBoard Course: What is Title IX? Module	Title IX policy, T9 annual student training, affirmative consent, and advocacy & support introduction overview	Online course offered twice a year (May-August and November-February) through BeachBoard to newly admitted students (freshmen and transfer students)	Approximately 12,000 newly admitted students (freshmen and transfer students) have access to this BeachBoard course	Student Orientation, Advising & Registration (SOAR)

### Athletics

Program	Type of Program	Frequency	Audience	Name of Speaker/Prevention Group
Title IX, Cleary & DHR training	meeting to cover Clery, title ix, and DHR training requirements	Beginning of school year	coaches and staff	OED

### Student Life & Development

Program	Type of Program	Frequency	Audience	Name of Speaker/Prevention Group
Sexual Assault Month	Sexual Assault/Relationship Violence	April	Fraternity & Sorority Chapter Members/ CSULB Community	Outside Speaker
Chapter President Meeting Refresher	Title IX Prevention & Sexual Assault awareness	At Start of Fall Semester	Fraternity & Sorority Chapter Presidents	Office of Equity & Diversity
FSL Peer Educators	Title IX Prevention & Sexual Assault awareness	FSL Peer Educators get trained before the start of the Fall Semester	Fraternity & Sorority Peer Educators	Office of Equity & Diversity
FSL 101 - Title IX	Title IX Prevention & Sexual Assault awareness	twice every semester (October & March)	Fraternity & Sorority New Members	Fraternity & Sorority Peer Educators

### Club Sports & Recreation

Program	Type of Program	Frequency	Audience	Name of Speaker/Prevention Group
Club Sports & Recreation Orientation	Title IX Prevention	2x per Academic Year	Students, Coaches, Staff	Office of Equity & Diversity (Title IX)
Club Sports & Recreation Orientation	Hazing Awareness and Prevention	2x per Academic Year	Students, Coaches, Staff	Dr. Trace Camacho (Hazing)

### Alcohol, Tobacco & Other Drugs Program (ATOD)

Program	Type of Program	Frequency	Audience	Name of Speaker/Prevention Group
D.A.T.E at the Beach	Drug, Alcohol and Tobacco Education (sexual misconduct & negative health impacts);	6-10 per academic year	students	ATOD Program Coordinator & program staff
Party Safe	how to be responsible host and party goer	4-6 per academic year	students	ATOD Program Coordinator & program staff
BECOME A PAUSE-itive BYSTANDER	explore role in violence prevention & what it means to be an active bystander	4-6 per academic year	students	ATOD Program Coordinator & program staff

### University Housing & Residential Life (HRL)

Program	Type of Program	Frequency	Audience	Name of Speaker/Prevention Group
Resident Assistant Training	Sexual Awareness & Title IX	2x a year (Fall & Spring)	students	OED

Beach Days 2021-Health 101	Alcohol Awareness and Prevention	1x a year (Beach Days/Move-in)	students	Student Health Services
Beach Days 2021- Title IX/Sexual Assault Awareness	Sexual Awareness	1x a year (multiple sessions)- Fall/Move- in	students	Catharsis Production
Beach Days 2021- Title IX Awareness	Sexual Awareness	1x a year (multiple sessions)- Fall/Move- in	students	OED
Red Zone Bulletin Boards	Sexual Assault Awareness	1x a year- Fall/Beginning of the semester	students	Housing and Residential Life
Health 101- Part 2	Alcohol Awareness and Prevention	1x of year (Spring Semester)	students	Student Health Services

## SEXUAL VIOLENCE

The California State University does not discriminate on the basis of sex, gender, including gender identity or expression, or sexual orientation in its education programs or activities. Title IX of the Education Amendments of 1972, and certain other federal and state laws, prohibit discrimination on the basis of sex, gender, or sexual orientation in employment, as well as all education programs and activities operated by the University (both on and off campus), including admissions, and protect all people regardless of their gender from Sex Discrimination, including Sexual Harassment, Sexual Misconduct/Sexual Assault, Dating or Domestic Violence, and Stalking.

The University seeks to provide an education environment free of Sexual Misconduct/Sexual Assault, Sexual Harassment, Dating Violence, Domestic Violence and Stalking. Every member of the University community shall be aware that Sexual Misconduct, and/or acts of violence with a sexual nature directed toward another person will not be tolerated and are prohibited by federal and state law and University policy. As members of the University community, students shall comply with University policies and guidelines in addition to federal, state, and local laws whether on or off campus. The University will discipline persons identified as responsible for Sexual Misconduct/Sexual Assault Dating or Domestic Violence, or Stalking as described in this report and University policy.

In an ongoing effort to prevent Sexual Misconduct/Sexual Assault Dating Violence, Domestic Violence and Stalking, the University provides education and prevention programs, investigates complaints, dispenses corrective or disciplinary action where appropriate, provides referrals for medical care/counseling, modified classes, reduced course loads, campus housing changes, work assignment assistance, stay away orders, leaves of absence, and more. The University also provides information to victims on pursuing criminal action and obtaining protective orders if needed. University officials who are responsible for investigating and/or



adjudicating cases of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, and Stalking receive annual training for compliance with federal, state and CSU system regulations.

The University is committed to empowering victims of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, and Stalking by providing ample supportive services, and encouraging their choice of action, regardless of their decision to seek criminal prosecution of offender(s). If requested by the victim, University personnel will assist the victim in notifying the appropriate law enforcement authorities.

### PREVENTION, EDUCATION, AND AWARENESS

The University conducts preventive education programs to promote awareness of CSU policies against Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking, and to make victim resources available, including comprehensive victim services.

Programming includes primary prevention and awareness programs: (1) for all new Students 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. Throughout the academic year, the University conducts ongoing prevention and awareness campaigns for all Students and Employees.

These prevention programs fall into two categories, primary and secondary prevention programs.

Each primary prevention program includes:

1. A statement that the institution prohibits the crimes of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking
2. Crime definitions based on California laws for dating violence, domestic violence, sexual assault, stalking, and of consent, in reference to sexual activity. Specifically:
  - a. California domestic violence and dating violence laws make it a crime to harm, or threaten to harm, an intimate partner. Relevant Penal Codes are 243(e)(1) “domestic battery” and 273.5, “inflicting corporal injury on an intimate partner.”
  - b. Sexual Assault as defined by Penal Code 243.4 includes touching 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.
  - c. Under Penal Code 656.9. Stalking is defined as following, harassing, and threatening another person to the point that the person fears for his or her safety.
  - d. As defined under Penal Code Sections 261, 262, 286, 288a or 289 in which consent is an issue, “consent” shall be defined to mean 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.
3. A description of safe and positive options for bystander intervention  
For example, the University’s Bystander Intervention Training includes an explanation of the “Three D’s” of Bystander Intervention, which are:
  - Direct: Point out threatening or inappropriate behavior in a safe, respectful manner.

- Distract: Make up an excuse to help the prospective victim get away from someone who might pose danger.
  - Delegate: Alert someone with authority that a prospective victim needs help.
4. Risk Reduction to avoid becoming a victim of Sexual Misconduct and to avoid becoming an initiator of Sexual Misconduct.
    - a. With no intention to victim-blame and with recognition that only those who commit Sexual Misconduct are responsible for those actions, the following are suggestions to reduce risk of experiencing a non-consensual sexual act:
      - If you have limits, make them known as early as possible.
      - Tell a sexual aggressor “NO” clearly and firmly.
      - Try to remove yourself from the physical presence of a sexual aggressor.
      - Find someone nearby and ask for help.
      - Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
      - Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.
      - In an emergency, call 9-1-1
    - b. For persons who find themselves being the initiator of sexual behavior, they are reminded that they owe sexual respect to their potential partner. The following are suggestions to initiators to help reduce their risk of being accused of sexual misconduct:
      - Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
      - Understand and respect personal boundaries.
      - DON'T MAKE ASSUMPTIONS about consent, about someone's sexual availability, about whether they are attracted to you, about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity, then you DO NOT have consent.
      - Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable. • Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves. Incapacitation means a person is unable to give valid consent.
      - Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
      - Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
      - Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.
      - include information on procedures the institution follows when one of these crimes is reported and rights within disciplinary proceedings. Include also a description of your institution's ongoing prevention and awareness campaigns for students and employees, including information on disciplinary procedures.
  5. Procedures the University follows when one of these crimes is reported and rights within disciplinary proceedings. For example:

The University has formal written procedures that provide for a Campus investigation of reports of sexual misconduct/sexual assault, dating and domestic violence, and stalking, hearings where applicable, written findings sent to the Complainant and the Respondent, and a review of the campus findings by the CSU Chancellor's Office. The procedure for CSU employees and third parties is separate from, but similar to the procedure for CSU students. The Campus Title IX Coordinator is available to explain these procedures to parties in detail.

At the conclusion of the University's complaint procedure, any employee or student found to have violated University policy may be subject to discipline. Discipline would be administered consistent with applicable collective bargaining agreements and MPP/confidential personnel plans (for employees), University policies and legal requirements.

Disciplinary procedures for sexual misconduct/sexual assault, dating and domestic violence, and stalking will:

- Provide a prompt, fair, and impartial process and resolution;
- Be conducted by officials who receive annual training on sexual misconduct/sexual assault, dating and domestic violence, and stalking, including how to conduct a process that protects the safety of members of the campus community and promotes accountability;
- Provide the Complainant and the Respondent the same opportunity to be accompanied to any related meeting or proceeding by a Support Advisor of their choice;
- Simultaneously inform the Complainant and the Respondent in writing of:
  - The disciplinary outcome;
  - The procedures available to appeal the results of the disciplinary outcome;
  - Any change to the disciplinary results that occurs prior to the time such results become final; and
- When disciplinary results become final.

The University provides students and Employees with numerous opportunities during the academic year to attend presentations about crime prevention, bystander awareness, risk reduction, disciplinary procedures, and many other related topics. Most notably these presentations are part of the University's Beach IX Ally Program, and are conducted in collaboration with the Title IX Office's campus partners, which include but are not limited to, the University Police Department, Campus Confidential Advocates, and Support Advisors.

## DEFINITIONS PER EXECUTIVE ORDERS 1095-1097

These policy definitions are derived from the local jurisdiction, and based on the California Penal Code, the California Family Code, and the California Evidence Code. In some instances, these definitions may differ slightly from the federal definitions set forth in the section for mandatory crime statistic reporting. For reportable crime statistics, the Clery Act regulations mandate definitions from the Federal Bureau of Investigation's (FBI's) Uniform Crime Reporting (UCR) Handbook.

In 2020, through Secretary of Education Betsy DeVos, the United States Department of Education, Office for Civil Rights (OCR) issued and amended federal regulations (Federal Regulations) implementing Title IX of the

Education Amendments of 1972. The Federal Regulations are titled *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance* (34 C.F.R. 106). The Federal Regulations were published in the Federal Register on May 19, 2020. The Federal Regulations have been implemented in CSU policy by way of an Addendum to Executive Orders 1096 and 1097 known as "Addendum B – Federal Mandated Hearing Addendum." The definitions required by the Federal Regulations are included below and identified as "Addendum B Definitions." These definitions will apply where the campus Title IX Coordinator determines that a Formal Complaint of Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, or Stalking falls within the scope of Addendum B. Additional Executive Order definitions are included. These definitions apply to conduct that falls outside of the scope of Addendum B.

## SEX DISCRIMINATION

An adverse action taken against an individual because of gender or sex (including Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking) as prohibited by Title IX; Title IV; VAWA/Campus SaVE Act; California Education Code § 66250 et seq.; and/or California Government Code § 11135. See also Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act (Cal. Govt. Code § 12940 et seq.), and other applicable laws. Persons of all genders and gender identities can be victims of Sex Discrimination.

## SEXUAL HARASSMENT

ADDENDUM B: Sexual Harassment means conduct on the basis of sex that satisfies one or more of the following:

- An Employee conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an education program or activity

EXECUTIVE ORDER: Sexual Harassment is unwelcome verbal, nonverbal or physical conduct of a sexual nature that includes but is not limited to sexual advances, requests for sexual favors, and any other conduct of a sexual nature where:

1. Submission to, or rejection of, the conduct is explicitly or implicitly used as the basis for any decision affecting a Complainant's academic status or progress, or access to benefits and services, honors, programs, or activities available at or through the University; or
2. The conduct is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as limiting his or her ability to participate in or benefit from the services, activities or opportunities offered by the University; or
3. The conduct is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as creating an intimidating, hostile or offensive environment.

Sexual Harassment could include being forced to engage in unwanted sexual contact as a condition of membership in a student organization; being subjected to video exploitation or a campaign of sexually explicit graffiti; or frequently being exposed to unwanted images of a sexual nature in a classroom or work

environment that are unrelated to the coursework or employment. Sexual Harassment also includes acts of verbal, non-verbal or physical aggression, intimidation or hostility based on gender or sex-stereotyping, even if those acts do not involve conduct of a sexual nature. The University's policy covers unwelcome conduct of a sexual nature. While romantic, sexual, intimate, personal or social relationships between members of the University community may begin as consensual, they may evolve into situations that lead to Sexual Harassment or Sexual Misconduct, including Dating or Domestic Violence, or Stalking, subject to University policy.

### SEXUAL MISCONDUCT

All sexual activity between members of the CSU community must be based on Affirmative Consent. 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.

Sexual activity includes, but is not limited to, kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex. It also includes any unwelcome physical sexual acts, such as unwelcome sexual touching, Sexual Assault, Sexual Battery, Rape, and Dating Violence. Sexual Misconduct may include using physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person's incapacitation (including voluntary intoxication) to engage in sexual activity. Persons of all genders can be victims of these forms of Sexual Misconduct. Sexual activity with a minor is never consensual when the complainant is under 18 years old, because the minor is considered incapable of giving legal consent due to age.

### SEXUAL ASSUALT (ADDENDUM B):

**RAPE:** the penetration, or attempted penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Affirmative Consent of the Complainant. Rape also includes the attempted penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Affirmative Consent of the Complainant, with the present ability and the intent to commit Rape.

**FONDLING:** the touching of the private body parts of another person for the purpose of sexual gratification, without the Affirmative Consent of the victim, including instances where the Complainant is incapable of giving Affirmative Consent because of their age or because of their temporary or permanent mental incapacity.

**INCEST:** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**STATUTORY RAPE:** is sexual intercourse with a person who is under the age of 18 years, the California statutory age of consent.

### AFFIRMATIVE CONSENT

- An informed, affirmative, conscious, voluntary, and mutually agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure Affirmative Consent has been obtained from the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean Affirmative Consent, nor does silence mean consent. Affirmative Consent must be voluntary, and given without coercion, force, threats, or intimidation.

- The existence of a dating or social relationship between those involved, or the fact of past sexual activities between them, should never by itself be assumed to be an indicator of Affirmative Consent. A request for someone to use a condom or birth control does not, in and of itself, constitute Affirmative Consent.
- Affirmative Consent can be withdrawn or revoked. Consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity. Consent given to sexual activity on one occasion does not constitute consent on another occasion. There must always be mutual and affirmative consent to engage in sexual activity. Consent must be ongoing throughout a sexual activity and can be revoked at any time, including after penetration. Once consent is withdrawn or revoked, the sexual activity must stop immediately.
- Affirmative Consent cannot be given by a person who is incapacitated. A person is unable to consent when asleep, unconscious or is incapacitated due to the influence of drugs, alcohol or medication so that the person could not understand the fact, nature or extent of the sexual activity. A person is incapacitated if they lack the physical and/or mental ability to make informed, rational decisions,
- Whether an intoxicated person (as a result of using alcohol or other drugs) is incapacitated depends on the extent to which the alcohol or other drugs impact the person's decision-making ability, awareness of consequences, and ability to make informed judgments. A person's own intoxication or incapacitation from drugs or alcohol does not diminish that person's responsibility to obtain Affirmative Consent before engaging in sexual activity.
- A person with a medical or mental disability may also lack the capacity to give consent.
- Sexual activity with a minor (a person under 18 years old) is not consensual, because a minor is considered incapable of giving consent due to age.
- It shall not be a valid excuse that a person affirmatively consented to the sexual activity if the respondent knew or reasonably should have known that the person was unable to consent to the sexual activity under any of the following circumstances:
  - The person was asleep or unconscious;
  - The person was incapacitated due to the influence of drugs, alcohol or medication, so that the person could not understand the fact, nature or extent of the sexual activity;
  - The person was unable to communicate due to a mental or physical condition.
- It shall not be a valid excuse that the respondent believed that the person consented to the sexual activity under either of the following circumstances:
  - The respondent's belief in Affirmative Consent arose from the intoxication or recklessness of the respondent;
  - The respondent did not take reasonable steps, in the circumstances known to the respondent at the time, to ascertain whether the person affirmatively consented.

## DOMESTIC VIOLENCE

ADDENDUM B: Physical violence or threat of physical violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant.

EXECUTIVE ORDER: Abuse committed against someone who is a current or former spouse; current or former cohabitant; someone with whom the Respondent has a child; someone with whom the Respondent has or had a

dating or engagement relationship; or a person similarly situated under California domestic or family violence law. Cohabitant means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. It does not include roommates who do not have a romantic, intimate, or sexual relationship. Factors that may determine whether persons are cohabiting include, but are not limited to: (1) sexual relations between the Parties while sharing the same living quarters; (2) sharing of income or expenses; (3) joint use or ownership of property; (4) whether the Parties hold themselves out as spouses; (5) the continuity of the relationship; and, (6) the length of the relationship. For purposes of this definition, "abuse" means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to self, or another. Abuse does not include non-physical, emotional distress or injury.

## DATING VIOLENCE

ADDENDUM B: Physical violence or threat of physical violence committed by a person—

1. who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
2. where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - a. The length of the relationship.
  - b. The type of relationship.
  - c. The frequency of interaction between the persons involved in the relationship.

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

## STALKING

ADDENDUM B: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress.

EXECUTIVE ORDER: Engaging in a repeated Course of Conduct directed at a specific person that would cause a Reasonable Person to fear for his or her safety or the safety of others, or to suffer Substantial Emotional Distress. For purposes of this definition:

- Course of Conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through Third Parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property;
- Reasonable Person means a reasonable person under similar circumstances and with the same Protected Status(es) as the complainant;
- Substantial Emotional Distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.



- Protected Status includes Age, Disability (physical or mental), Gender (or sex), Genetic Information, Gender Identity or Expression, Nationality, Marital Status, Race or Ethnicity, Religion, Sexual Orientation, and Veteran or Military Status.

## California Law Definitions

### **Rape (CA Penal Code Chapter1 Section 261)**

(a) Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:

(1) Where a person 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.

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

(6) 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. 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) As used in this section, “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.

(c) As used in this section, “menace” means any threat, declaration, or act which 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 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 Department of Fair Employment and Housing 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)

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

#### **Stalking CA Penal Code, Chapter 2, Section 646.9**

(a) 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.

#### **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)**

In prosecutions under Section 261, 262, 286, 287, or 289, or former Section 288a, in which consent is at issue, "consent" shall be defined to mean 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, 262, 286, 287, or 289, or former Section 288a.

## **PROCEDURES FOR REPORTING A CRIME OF SEXUAL VIOLENCE/SEXUAL MISCONDUCT**

Call 9-1-1 in any kind of emergency, or when facing immediate harm or threat of harm.

Persons who have experienced Sexual Misconduct/Sexual Assault, including Rape, Dating Violence, Domestic Violence, or Stalking, are encouraged to seek immediate assistance from police and healthcare providers for their physical safety, emotional support and medical care. University or local police can escort victims to a safe place and transport them to a hospital for medical treatment, if needed. University police can also provide access to a Sexual Assault Victim Advocate. Regardless of whether an individual chooses to notify the police, they are strongly encouraged to seek assistance from the campus Title IX Coordinator and/or a Sexual Assault Victim Advocate or counselor who can provide information on options, rights and remedies.

A written explanation of rights and options must be provided to a Student, Employee or Third Party who reports to the University that s/he has been a victim of Sexual Misconduct/Sexual Assault, Dating or Domestic Violence, or Stalking, whether the offense occurred on or off Campus. It is the Title IX Coordinator's responsibility to ensure this written Notice is provided to the complainant/victim(s). The Title IX Coordinator annually provides the written explanation of Rights and Options for Victims of Sexual Misconduct/Sexual Assault, Dating or Domestic Violence, or Stalking (Attachment C in Executive Order 1095) to all members of the campus community including Sexual Misconduct/Sexual Assault, Dating or Domestic Violence, or Stalking victims. The written explanation of Rights and Options is described in detail later in this document.

Victims have the right to decide who and when to tell about Sexual Misconduct/Sexual Assault, Dating and Domestic Violence, and Stalking. They may always decline to notify authorities when that option is offered to them. However, it is very important that they get medical attention after being assaulted. Following the incident, a victim may be physically injured, may have contracted a sexually transmitted disease, or may become pregnant.

The University's primary concern is the safety and well-being of every member of the campus community. The use of alcohol or drugs never makes the victim at fault. If a campus community member has experienced Sexual Misconduct, Dating Violence, Domestic Violence, or Stalking they should not be deterred from reporting the incident out of a concern that they might be disciplined for related violations of drug, alcohol, or other University policies. A person who participates in investigations or proceedings involving Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking will not be subject to discipline for related violations of the Student Conduct Code or other University policies at or near the time of the incident unless the University determines the conduct places the health and safety of another person at risk, or is otherwise egregious.

The University encourages victims of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking to talk to someone about what happened – so they can get the support they need, and so the University can respond appropriately. Whether – and the extent to which – a University employee may agree to maintain confidentiality (and not disclose information to the Title IX Coordinator) depends on the employee's position and responsibilities at the University. The following information is intended to make everyone aware of the various reporting and confidential disclosure options available to them – so they can make informed choices about where to turn for help. The University strongly encourages victims to talk to someone identified in one or more of these groups.

Certain University employees, listed below, are required by law to maintain near or complete confidentiality; talking to them is sometimes called a "privileged communication." University law enforcement employees may maintain the victim's identity as confidential, if requested by the victim, but will report the facts of the incident to the Title IX Coordinator, including the identity of the perpetrator. Most other University employees are

required to report all details of an incident (including the identities of both the victim and alleged perpetrator) to the Title IX Coordinator so the University can take immediate action to protect the victim, and take steps to correct and eliminate the misconduct.

University Police, the Title IX Coordinator, University-employed physicians, professional counselors, licensed clinical social workers, sexual assault and domestic violence counselors and advocates, and certain other University employees are required to explain to victims their rights and options with respect to confidentiality.

## PRIVILEGED AND CONFIDENTIAL REPORTS

Treating physicians, psychotherapists, professional counselors, and clergy who work or volunteer providing medical or mental health treatment or counseling (including those who act in that role under their supervision) may not report any information about an incident of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking to anyone else at the University, including the Title IX Coordinator, without the victim's consent. A victim can seek assistance and support from physicians, psychotherapists, professional, licensed counselors, and clergy without triggering a University investigation that could reveal the victim's identity or the fact of the victim's disclosure. However, see limited exceptions below regarding when these professionals must report to local law enforcement agencies. These confidential professionals should explain these limited exceptions to victims, if applicable.

The University will be unable to conduct an investigation into a particular incident or pursue disciplinary action against a perpetrator if a victim chooses to (1) speak only to a treating physician, psychotherapist, professional counselor, or clergy member, and (2) maintain complete confidentiality. Even so, these individuals will assist victims in receiving other necessary protection and support, such as victim advocacy, disability, medical/health or mental health services, or legal services, and will advise victims regarding their right to file a Title IX complaint with the University and a separate complaint with local or University Police. If a victim insists on confidentiality, the University will likely not be able to fully assist the victim with: University academic support or accommodations; changes to University-based living or working schedules; or adjustments to course schedules.

A victim who at first requests confidentiality may later decide to file a complaint with the University or report the incident to the police, and thus have the incident fully investigated. Counselors and advocates can provide victims with that assistance if requested. Treating physicians, psychotherapists, professional counselors, and clergy will also explain that Title IX includes protections against retaliation, and that the University will not only take steps to prevent retaliation when it knows or reasonably should know of possible retaliation, but will also take strong responsive action if it occurs.

## EXCEPTIONS TO CONFIDENTIALITY

Under California law, any health practitioner employed in a health facility, clinic, physician's office, or local or state public health department or clinic is required to make a report to local law enforcement if they provide medical services for a physical condition to a patient/victim who they know or reasonably suspects is suffering from (1) a wound or physical injury inflicted by a firearm; or (2) any wound or other physical injury inflicted upon a victim where the injury is the result of assaultive or abusive conduct (including Sexual Misconduct/Sexual Assault, Domestic Violence, and Dating Violence).

This exception does not apply to sexual assault and domestic violence counselors and advocates. Health care practitioners should explain this limited exception to victims, if applicable

Additionally, under California law, physicians, psychotherapists, professional counselors, licensed clinical social workers, clergy, and sexual assault and domestic violence counselors and advocates are mandatory child abuse and neglect reporters and are required to report incidents involving victims under 18 years of age to local law enforcement. These professionals will explain this limited exception to victims, if applicable. Finally, some or all of these professionals may also have reporting obligations under California law to (1) local law enforcement in cases involving threats of immediate or imminent harm to self or others where disclosure of the information is necessary to prevent the threatened danger; (2) to the court if compelled by court order or subpoena in a criminal proceeding related to the sexual violence incident. If applicable, these professionals will explain this limited exception to victims.

See more about voluntary confidential reporting in the Voluntary Confidential Reporting section above.

## PRESERVATION OF EVIDENCE

In cases of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking, the preservation of physical evidence is important to facilitate the identity and successful prosecution of the offender. The victim should preserve text messages, social media postings, or notes that demonstrate the course of conduct. Contemporaneous photos of bruises or other injuries are helpful. In cases of sexual assault or violence, the victim should not change clothes, bathe, douche, or shower following the attack. Sexual Assault Response Team (S.A.R.T.) medical personnel are trained to collect, process, and preserve physical evidence of Sexual Misconduct, and are committed in their assistance to the victim. Victims may request a S.A.R.T. exam to preserve forensic evidence without completing a police report. This evidence may be used in the case a victim wishes to report the assault at a later date. Victims are not financially responsible for S.A.R.T. exams and the cost will be the responsibility of the local law enforcement jurisdiction.

As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining protection orders related to the incident more difficult. Victims who choose not to make a complaint regarding an incident, nevertheless, should consider speaking with University Police or other law enforcement to preserve evidence in the event that they change their mind and wish to report the assault at a later date.

A victim has the right to have a confidential advocate present when reporting to law enforcement and during examinations. With the victim's consent, the confidential advocate will assess the victim's immediate needs and provide support and referral as appropriate. This confidential assistance may include counseling, information concerning rape trauma syndrome; information on the collection of medical evidence and available health services to test for injuries, sexually transmitted diseases, and/or pregnancy. Assistance is also available with access to other resources and services, including assistance in obtaining emergency protection orders and restraining orders.

## REPORTING OPTIONS

Victims have several reporting options including those with confidentiality and may pursue one or all of these options at any time. Victims have a right to have a friend, family member, sexual assault victim advocate, or other representative present while reporting the incident. They also have the right to have a sexual assault

victim advocate and support person of their choice present with them during a rape examination. The campus Title IX Coordinator can assist in notifying the police. Victims may also take any of the actions below.

### REPORTING TO THE POLICE

Reporting to University Police and/or local police is an option at any time. Victims who choose not to report to the police immediately following a Sexual Misconduct/Sexual Assault, Dating and Domestic Violence, or Stalking incident, can still make the report at a later time. However, with the passage of time, the ability to gather evidence to assist with criminal prosecution may be limited. Depending on the circumstances, the police may be able to obtain a criminal restraining order on the victim's behalf.

As soon after the incident as possible, victims of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking are strongly encouraged to report the incident to the police. Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking may be reported to the University Police Department by dialing 911. The University Police will support all victims of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking regardless of their decision to seek criminal prosecution of the offender or not. Victims have the option to report anonymously to the police and the decision to seek criminal prosecution remains with the victim. University Police will protect the confidentiality of the victim to the extent permitted by applicable California State law.

If a victim reports to a local police agency or the University Police about Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking, the police are required to notify victims that their names will become a matter of public record unless confidentiality is requested. If a victim requests that their identity be kept confidential, their name will not become a matter of public record and the police will not report the victim's identity to anyone else at the University, including the Title IX Coordinator. University Police will, however, report the facts of the incident itself, including the identity of the perpetrator if known, to the Title IX Coordinator being sure not to reveal the victim names/identities or compromise their own criminal investigation. The University is required by the federal Clery Act to report certain types of crimes (including certain sex offenses) in statistical reports. However, while the University will report the type of incident in the annual crime statistics report known as the Annual Security Report, victim names/identities will not be revealed. All publicly available record keeping will be maintained without the inclusion of personally identifiable information about the victim.

### REPORTING TO A CSA

Any member of the University community may report incidents of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence or Stalking to any Campus Security Authority (CSA's). These University personnel will assist the victim in notifying the appropriate law enforcement agency if the victim requests the assistance of law enforcement. In addition, most campus employees including CSA's are required to report incidents of Sexual Misconduct/Sexual Assault, Dating Violence, Dating Violence and Stalking to the Title IX Coordinator. Title IX Coordinator reporting responsibilities are described in detail below.

NOTE: If the University determines that the perpetrator poses a serious and immediate threat to the campus community, under the Clery Act the campus may be required to issue a timely warning to the community. Any such warning will not include any information that identifies the victim.

### REPORTING TO A TITLE IX COORDINATOR OR RESPONSIBLE EMPLOYEE



Many resources and options are available on and off campus including confidential and privileged communication options. The University has designated a Title IX Coordinator as the primary point of contact to provide victims with assistance and support, and to monitor and oversee overall compliance with laws and policies related to Sexual Misconduct/Sexual Assault, Dating and Domestic Violence, and Stalking. The campus Title IX Coordinator is available to explain and discuss rights to file a criminal complaint and to assist in doing so; the University's relevant formal complaint process, and rights to receive assistance with that process, including the investigation process; how confidentiality is handled; available resources, both on and off campus; and other related matters.

Complaints may be filed by submitting an online reporting form at the Office of Equity & Diversity's website at: [https://cm.maxient.com/reportingform.php?CSULongBeach&layout\\_id=100](https://cm.maxient.com/reportingform.php?CSULongBeach&layout_id=100). Complainants may also be filed by calling the Office of Equity & Diversity at (562)985-8256 or by emailing [oed@csulb.edu](mailto:oed@csulb.edu).

Most University employees have a duty to report disclosed incidents of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking when they are on notice of it. When a victim tells the Title IX Coordinator or another non-confidential University employee about a Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking incident, the victim has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. In all cases, the University strongly encourages victims to report Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking directly to the campus Title IX Coordinator.

As detailed above, most University employees except treating physicians, licensed counselors, and clergy must report to the Title IX Coordinator all relevant details about any Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking incidents of which they become aware. The University will need to determine what happened and will need to know the names of the victim(s) and the alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the incident.

To the extent possible, information reported to the Title IX Coordinator or other University employees will be kept private and shared only with individuals responsible for handling the University's response to the incident. Any Supportive Measures will remain confidential except when it is not possible to maintain confidentiality in order to provide the Supportive Measures. The University will protect the privacy of individuals involved in a Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking incident except as otherwise required by law or University policy. A Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking report may result in the gathering of extremely sensitive information about individuals in the campus community. While such information is considered confidential, University policy regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a report. In such cases, efforts will be made to redact the records, as appropriate, in order to protect the victim's identity and privacy and the privacy of other involved individuals. Except as detailed in the section on Privileged and Confidential Communications above, no University employee, including the Title IX Coordinator, should disclose the victim's identity to the police without the victim's consent or unless the victim has also reported the incident to the police.

If a victim requests of the Title IX Coordinator or another University employee that their identity remain completely confidential, the Title IX Coordinator will explain that the University cannot always honor that request and guarantee complete confidentiality. If a victim wishes to remain confidential or request that no investigation be conducted or disciplinary action taken, the University must weigh that request against the



University's obligation to provide a safe, non-discriminatory environment for all students, employees and third parties, including the victim. Under those circumstances, the Title IX Coordinator will determine whether the victim's request for complete confidentiality and/or no investigation can be honored under the facts and circumstances of the particular case, including whether the University has a legal obligation to report the incident, conduct an investigation or take other appropriate steps. Without information about a victim's identity, the University's ability to meaningfully investigate the incident and pursue disciplinary action against the perpetrator may be severely limited.

The Title IX Coordinator will provide the written explanation of Rights and Options for Victims of Sexual Misconduct/Sexual Assault, Dating or Domestic Violence, or Stalking (Attachment C in Executive Order 1095) which includes written information to victims about supportive measures. This includes information on preservation of evidence, how and to whom to report the alleged offense, the options available regarding and involving law enforcement and campus authorities (including notification of law enforcement authorities, being assisted by campus authorities in notifying law enforcement if the victim chooses, and declining to notify the authorities), and notification of the rights of victims to seek orders of protection and request "no-contact" orders, and restraining orders. The Title IX Coordinator will inform the victim of the initiation of an investigation prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University's response to the incident. The Title IX Coordinator will remain mindful of the victim's well-being, and will take ongoing steps to protect the victim from retaliation or harm, and work with the victim to create a safety plan. Retaliation against the victim, whether by students, employees or third parties, will not be tolerated. The University and Title IX Coordinator will also:

- Provide Supportive Measures requested by the victim and the other party to a complaint, if they are reasonably available, regardless of whether the victim chooses to report to campus or local police;
- Assist victims in accessing available victim advocacy, academic support, counseling, disability, medical/health or mental health services, and legal assistance both on and off campus;
- Make connections to individuals on campus who can provide support and solutions with respect to a variety of logistics, including transportation assistance, visa/immigration assistance, and financial aid assistance.
- Provide security and support, which could include issuing a mutual no-contact order, helping arrange a change of campus-based living or working arrangements or course schedules or adjustments for assignments, tests, or work duties, including supervisory reporting relationships and leaves of absence; and
- Inform victims of their right to report a crime to University or local police – and provide victims with assistance if desired.

The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures. Supportive Measures will remain confidential except when it is not possible to maintain confidentiality in order to provide the Supportive Measures. The Title IX Coordinator remains available to assist the victim and provide reasonable Supportive Measures requested throughout the reporting, investigative, and disciplinary processes, and thereafter.

The University will not require a victim to participate in any investigation or disciplinary proceeding if the victim does not wish to participate.

The University will not generally notify parents or legal guardians of a Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking report unless the victim is under 18 years old or the victim provides the University with written permission to do so.

Under California law, and pursuant to University policy, many University employees, including the Title IX Coordinator, are mandatory child abuse and neglect reporters and should explain to victims under 18 years of age that they are required to report the incident to the police. However, the identity of the person who reports and the report itself are confidential and disclosed only among appropriate agencies.

Because the University is under a continuing legal obligation to address the issue of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking campus-wide, reports (including non-identifying reports) may also require the University to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported incident(s) occurred; increased education, training and prevention efforts, including to targeted population groups; climate assessments/victimization surveys; and/or revision of policies and practices.

## NON-REPORTING

Victims are strongly encouraged to formally report any incident of Sexual Misconduct/Sexual Assault, Dating and Domestic Violence, or Stalking to the police and/or campus Title IX Coordinator so that steps may be taken to protect them and the rest of the campus community. However, non-reporting is also an option.

## CIVIL LAWSUIT

Victims may choose to file a civil lawsuit against the perpetrator, whether or not criminal charges have been filed. A civil lawsuit provides the opportunity to recover actual damages, which may include compensation for medical expenses, lost wages, pain, suffering and emotional distress.

## RESTRAINING ORDERS

Victims may also choose to obtain a protective or 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 protect victims who have experienced or are reasonably in fear of physical violence, Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, or Stalking. The campus Title IX Coordinator or Sexual Assault Victim's Advocate can offer assistance with obtaining a protective or restraining order.

### 1. Obtaining a Protective Order - Basic First Steps & Contact/Address Information

- Los Angeles Superior Court – Long Beach  
Governor George Deukmejian Courthouse  
1st Floor Clerk's Office, Room #1200, Window #1-4  
275 Magnolia Avenue  
Long Beach, CA 90802  
(562) 256-2315

Hours: 08:30 am – 3:30 am

<http://www.lacourt.org/courthouse/info/lb>

- o Visit the Clerk's Office to request a Domestic Violence TRO packet or proceed directly to Legal Aid for free legal assistance.
- o Fill out all forms and go to filing window #1-4 where a clerk will assign a case number.
- o Wait in the waiting room in room 1200 until a clerk calls your name.

If a judge grants your request, you will obtain an immediate Ex Parte Order.

- o If granted the clerk will provide you two (2) copies, one for the defendant and one for yourself.
- o If you have the Sheriff's Office serve the Order, you will need the following:
  - one copy of application #DV-100,
  - one copy of the TRO, and
  - one copy of form #DV110.

LEGAL AID CLINIC - Legal Aid staff will be in the Long Beach Courthouse,

1st Floor, Room 1004, on Monday, Wednesday, and Friday, intake at 9:00 a.m.

Clients are seen on a first-come, first-serve basis. All services are free of charge.

\*EMERGENCY PROTECTIVE ORDER - An Emergency Protective Order may be obtained from a law enforcement officer 24 hours a day, 7 days a week. Emergency Protective Orders, or "EPOs", are valid until 5:00 PM on the 5th court day or 7th calendar day from the date of issuance.

2. What do we do when the existence of a protective order is known?

- Verify the order has been served to the Restrained Party
- Confirm the order has been properly entered into the Domestic Violence Restraining Order System.

3. How can persons inform UPD that they have obtained an order?

- If the order has been served and the Protective Party merely wished to inform UPD of the existence of the Order, a copy of the order can be submitted to UPD preferably in person, fax or email.
- If the order has not been served, it is preferred that the Protective Party meet with UPD who may be able to assist in having the order served.

## DISCIPLINARY PROCEDURES

### COMPLAINTS MADE BY STUDENTS

Executive Order 1097, entitled "Systemwide Policy Prohibiting Discrimination, Harassment, and Retaliation, Sexual Misconduct , Dating and Domestic Violence, and Stalking Against Students and Systemwide Procedure for Addressing Such Complaints by Students" is the appropriate systemwide procedure for all complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct , Sexual Violence, Domestic Violence, Dating Violence, and Stalking made by CSU students against the CSU, a CSU employee, another CSU student, or a third party. Executive Order 1097 can be viewed at <https://calstate.policystat.com/policy/6742744/latest/>

#### COMPLAINTS MADE BY EMPLOYEES, FORMER EMPLOYEES, THIRD PARTIES, AND APPLICANTS FOR EMPLOYMENT

Executive Order 1096, entitled "Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation, Sexual Misconduct/Sexual Assault, Dating and Domestic Violence, and Staling Against Employees and Third Parties and Systemwide Procedure for Addressing Such Complaints by Employees and Third Parties" is the appropriate systemwide procedure for all complaints of Sex Discrimination, Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking made by employees and former employees against the CSU, another CSU employee, a CSU student or a third party.

Employees covered by a collective bargaining agreement that provides a grievance procedure for raising allegations of Sex Discrimination or Sexual Harassment, including Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking should use the grievance procedure specified in their collective bargaining agreement. Executive Order 1096 can be viewed at <https://calstate.policystat.com/policy/6743499/latest/>

#### COMPLAINTS MADE BY STUDENT-EMPLOYEES

Executive Order 1096 is the appropriate system-wide procedure for all complaints of Sex Discrimination, including Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking, made by student-employees where the alleged Sex Discrimination, Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking arose out of the person's status as an employee and not their status as a student. Executive Order 1096 can be viewed at <https://calstate.policystat.com/policy/6743499/latest/>

The following is a description of the CSU's disciplinary procedures for matters involving allegations of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, and Stalking. Full policies and procedures are contained within [CSU Executive Order 1095](#), [CSU Executive Order 1096](#), and [CSU Executive Order 1097](#). Any questions about CSU Title IX-related policy should be directed to the campus Title IX Coordinator.

The investigation and hearing process (when applicable) from initial complaint to final result shall be prompt, fair, and impartial. An investigator will meet separately with the Complainant and the Respondent, and other potential witnesses to gather information.

Victims are not required to participate in any University disciplinary process and may choose not to be a part of it. Disciplinary procedures will:

- Provide a prompt, fair, and impartial process and resolution;
- Be conducted by officials who receive annual training on Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, and Stalking and how to conduct an investigation and hearing process that protects members of the campus community and promotes accountability;

- Provide the complainant and respondent the same opportunity to be accompanied to any related meeting or proceeding by the Advisor of their choice;
- Simultaneously inform the complainant and respondent in writing of:
  - The outcome of the disciplinary proceeding;
  - The University's procedures to appeal the results of the disciplinary proceeding;
  - Any change to the disciplinary results that occurs prior to the time such results become final; and
  - When disciplinary results become final.

## STANDARD OF EVIDENCE

The standard of evidence that will be used during all CSU disciplinary proceedings arising from allegations of Sexual Misconduct/Sexual Assault, Dating Violence, Domestic Violence, and Stalking is the Preponderance of the Evidence. 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.

## SUPPORTIVE MEASURES

Supportive Measures are individualized services offered as appropriate, as reasonably available, and without fee or charge to a Complainant or Respondent regardless of whether a complaint is filed under CSU Executive Order 1096 or 1097 (including Addendum A or Addendum B) or with campus police or local law enforcement. Supportive Measures are designed to restore or preserve equal access to CSU Education Programs or Activities without unreasonably burdening the other Party, including to protect the safety of all Parties or the educational environment. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escorts, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures. Supportive Measures will remain confidential except when it is not possible to maintain confidentiality in order to provide the Supportive Measures.

After receiving a report of Sexual Misconduct/Sexual Assault, Domestic Violence, Dating Violence, or Stalking, the Title IX Coordinator will contact the Complainant promptly to discuss the availability of 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 complaint, and explain the process for filing a complaint.

## COMPLAINT PROCEDURES

The CSU has adopted and published complaint procedures that provide for prompt, impartial, and equitable resolution of complaints of Sex Discrimination, including Sexual Harassment, Sexual Misconduct/Sexual Assault, Domestic Violence, Dating Violence, and Stalking. The complaint procedures that will apply in a particular case will depend on certain factors described below. There are three sets of procedures that could apply:

## EXECUTIVE ORDER 1096 OR 1097 SINGLE INVESTIGATOR PROCESS

Executive Order 1096 is the applicable policy and procedure for a complaint made by an employee or third party. Executive Order 1097 is the applicable policy and procedure for a complaint made by a student. The complaint procedures under Executive Orders 1096 and 1097 are called a “single investigator process.” This means that an Investigator interviews the Parties and witnesses, and gathers any documentary evidence. The Parties have an opportunity to review the evidence gathered, request that additional evidence be gathered, and respond to the evidence gathered. Once the evidence is reviewed by the parties, the Investigator makes a determination as to whether the policy was violated. The single investigator process will be used in response to complaints of Sexual Misconduct/Sexual Assault, Domestic Violence, Dating Violence, and Stalking that are not mandated to be addressed under either Addendum A: State Mandated Hearing Addendum, or Addendum B: Federal Mandated Hearing Addendum (see below).

### ADDENDUM A: STATE MANDATED HEARING ADDENDUM

In January 2019, a California Court of Appeal ruled that students accused of Sexual Misconduct who face severe discipline (expulsion or suspension) at any California university have the right to a hearing to cross-examine (question), directly or indirectly, their accusers and other witnesses if witness credibility is “central” to the case. To implement the new requirements, the CSU created an addendum to Executive Orders 1096 and 1097. This addendum is known as Addendum A: State Mandated Hearing Addendum (“Addendum A”), and it describes the investigation and resolution process for cases that meet the above requirements. Cases that proceed under Addendum A **do** involve a hearing (where the case is not resolved through Informal Resolution).

### ADDENDUM B: FEDERAL MANDATED HEARING ADDENDUM

On May 6, 2020, the United States Department of Education, Office for Civil Rights (OCR) issued and amended Title IX Regulations implementing Title IX of the Education Amendments of 1972. The Regulations are titled *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance* (34 C.F.R. 106).

To implement the requirements of the Title IX Regulations, the CSU created a further addendum to Executive Orders 1096 and 1097. This addendum is known as Addendum B: Federal Mandated Hearing Addendum (“Addendum B”), and it describes the investigation and resolution process for cases covered by the Title IX Regulations. Addendum B applies to cases involving allegations that are defined by the Title IX Regulations as Sexual Harassment in an Education Program or Activity against a person (including, but not limited to students and employees) in the United States. Cases processed under Addendum B **do** involve a hearing (where the case is not resolved through Informal Resolution).

## UNIVERSITY RESPONSE TO REPORTS OF SEXUAL MISCONDUCT/SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING

Regardless of whether an employee, a student or a third party ultimately files a complaint under the applicable complaint procedure, if the University knows or has reason to know about possible Sexual Misconduct/Sexual Assault, Domestic Violence, Dating Violence, and Stalking, the Title IX Coordinator will review the matter to determine if an investigation is warranted. When warranted, all such investigations must be prompt, thorough and impartial. The University must then take appropriate steps to eliminate the Sexual

Misconduct/Sexual Assault, Domestic Violence, Dating Violence, and/or Stalking, prevent its recurrence, and remedy its effects.

Complaints alleging Sexual Misconduct/Sexual Assault, Sexual Assault, Domestic Violence, Dating Violence, and Stalking will initially be assessed to determine if they meet the requirements for the case to proceed under Addendum B.

When the Title IX Coordinator receives a Formal Complaint,<sup>1</sup> the Title IX Coordinator will simultaneously provide both Parties a written Notice of Allegations. The Notice of Allegations includes the factual allegations and policy violations alleged.

#### MANDATORY AND DISCRETIONARY DISMISSAL OF A FORMAL COMPLAINT

When the Title IX Coordinator receives a Formal Complaint, or information from a third party, the Title IX Coordinator will assess whether the Formal Complaint meets the requirements of the Federal Regulations to move forward under the process in Addendum B to Executive Order 1096 (if the Complainant is an employee or a third party) or Executive Order 1097 (if the Complainant is a student). A determination that allegations in a Formal Complaint do not meet the requirements of Addendum B will result in a dismissal of the allegations in the Formal Complaint that do not meet the requirements and, in some cases, a referral of the allegations to another process as the University may have an obligation to address the matter under other laws and policies. During the process, a Formal Complaint or any allegation in the Formal Complaint, may be dismissed under the circumstances listed below.

The Federal Regulations, Addendum B, require that there be two types of dismissals: mandatory and discretionary.

#### MANDATORY DISMISSAL/REFERRAL

AA Formal Complaint must be dismissed as to any conduct alleged that:

1. would not meet the definition of Sexual Harassment even if proved;
2. did not occur in an Education Program or Activity; or
3. did not occur in the United States.

#### DISCRETIONARY DISMISSAL

At any time during the process, it is within the discretion of the Title IX Coordinator to dismiss a Formal Complaint, or any conduct alleged within a Formal Complaint, where:

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<sup>1</sup> A Formal Complaint is defined as a document or electronic submission filed by a Complainant that contains the Complainant's physical or digital signature or a document signed by the Title IX Coordinator alleging Sexual Harassment (as defined under Addendum B) 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. A Formal Complaint may exist even without a signature where something otherwise indicates that the complainant is the person filing the formal complaint. An e-mail from the Complainant would be sufficient.

1. a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any part of it;
2. the Respondent is no longer a Student or Employee; or
3. if the specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

#### WRITTEN NOTICE

Written notice of a mandatory or discretionary dismissal and reason(s) for the dismissal will be sent simultaneously to the Parties when a Title IX Coordinator dismisses a Formal Complaint (Notice of Dismissal). The notice will inform the Parties of their right to appeal the dismissal, whether the matter will be referred to another process and the process for submitting an appeal. This notice may be accompanied by a Notice of Allegations, as described in Article VI. below, where a Notice of Allegations has not already been provided.

#### APPEAL OF A FORMAL COMPLAINT DISMISSAL/REFERRAL

Either Party may appeal from a dismissal of a Formal Complaint or any part of the Complaint to the Chancellor's Office (CO) Systemwide Title IX Unit. The appeal must be filed within **10 Working Days** from the date of the Notice of Dismissal. The appeal will be in writing and will be based only on one or more of the following grounds: a procedural irregularity occurred that affected the dismissal of the Formal Complaint; new evidence that was not reasonably available at the time the dismissal decision was made that could affect the decision to dismiss the Formal Complaint; or the Title IX Coordinator (or designee) who dismissed the Formal Complaint had a conflict of interest or bias for or against the Complainant or Respondent in this case or complainants or respondents in general.

Appeals will be filed with the Chancellor's Office (CO) Systemwide Title IX Unit. 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)

If you are Any individual who is unable to file an appeal or a response to an appeal electronically, please should contact the Campus Title IX Office for assistance.

When an appeal is submitted, the other Party as well as the Campus Title IX Coordinator will be notified in writing. In response to the appeal, the other Party will be given **5 Working Days** from their receipt of notice of the appeal to submit a written statement in support of or challenging the dismissal. Within **10 Working Days** of the CO's receipt of the appeal, the Parties will simultaneously receive (via email) a written decision with explanation.

The CO review will not involve a new assessment of the Dismissal/Referral or consideration of evidence that was not introduced during the Campus review, unless the new evidence was not reasonably available at the time of the review.



If the CO review determines that the Dismissal/Referral should be reviewed to cure any defects, the matter will be remanded back to the Campus to reassess within a timeframe specified by the CO. The Parties will be informed simultaneously of the review and the timeframe. Once the review is complete the Campus will provide the Parties and the CO with either a Notice of Dismissal/Referral or Notice of Allegations, depending on the outcome, that reflects any changes to the determination. The notice will inform the Parties of their right to appeal and the CO will contact the appealing Party to determine whether that Party wishes to continue with the appeal.

The CO appeal response is final and concludes the Dismissal/Referral process under Addendum B. If there is a mandatory dismissal of a Formal Complaint, it does not preclude the Campus from later identifying a relevant policy or policies that address the alleged conduct, notifying the Parties of the policy or policies, and moving forward under the procedures of those policies.

When the Title IX Coordinator receives a Formal Complaint, the Title IX Coordinator will simultaneously provide both Parties a written Notice of Allegations.

The Notice of Allegations will be provided to both Parties regardless of whether the Formal Complaint must be dismissed. See section above on dismissal of formal complaints. If a Formal Complaint is dismissed at this stage of the process, the Notice of Allegations will also include the Notice of Dismissal and appeal rights.

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.

## INVESTIGATIVE PROCEDURES

The Title IX Coordinator will either promptly investigate a complaint or assign this task to another Investigator.

### ADVISORS

During the investigations the Parties may be accompanied by Support Advisors. During Addendum B hearings, the Parties must also have a Hearing Advisor to conduct cross-examination.

Support Advisor-The Complainant and the Respondent may each elect to be accompanied by a Support Advisor to any meeting, interview, or proceeding regarding the allegations that are the subject of a complaint. The Support Advisor may be anyone, including a union representative from the Complainant's or Respondent's collective bargaining unit, an attorney, or, in the case of the Complainant, a Sexual Assault Victim's Advocate. The Support Advisor may not answer questions regarding the subject matter of the investigation for the Complainant or the Respondent or speak on behalf of a Complainant or Respondent. However, the Support Advisor may observe and consult with the Complainant or Respondent.

## HEARING ADVISORS – ADDENDUM B Hearings ONLY

In matters proceeding under Addendum B, the Complainant and Respondent must each have a Hearing Advisor at the hearing. A Hearing Advisor will be responsible for asking the other Party and any witnesses all relevant questions and follow-up questions, including those that challenge credibility, during the hearing.

### GATHERING OF EVIDENCE

The Complainant and the Respondent shall have equal opportunities to present relevant witnesses and evidence in connection with 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

### REVIEW OF EVIDENCE

After gathering evidence and before issuing a Final Investigation Report, the Investigator will share with the Complainant and Respondent,<sup>2</sup> all evidence (including, in an Addendum B case, evidence upon which the University does not intend to rely) obtained as part of the investigation that is Relevant (single investigator process or Addendum A) or Directly Related (Addendum B) to the allegations raised in the Formal Complaint (Preliminary Investigation Report). In matters proceeding under Addendum A or Addendum B, the Preliminary Investigation Report will also identify the material facts – disputed and undisputed, with explanations as to why any material fact is disputed.

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. 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; or
- 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.

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<sup>2</sup> For an Addendum B matter, this information will also be sent to the Parties' respective Support Advisors, if any.

## 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, including any 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.

## WRITTEN RESPONSE TO FINAL INVESTIGATION REPORT – ADDENDUM B ONLY

Under Addendum B, the Parties and their Support Advisors will be provided 10 Working Days to review and provide a written response to the Final Investigation Report for an Addendum B matter.

## TIMEFRAME FOR COMPLETION OF INVESTIGATION

### EXECUTIVE ORDER 1096 OR 1097 SINGLE INVESTIGATOR

An investigation conducted under the Executive Order 1096 or 1097 single investigator process shall be completed no later than **60 Working Days** after the intake interview, unless the timeline has been extended pursuant to Article V. E. of EO 1096 and EO 1097. The timeline should not be extended for a period longer than an additional 30 Working Days from the original due date.

### ADDENDUM A OR ADDENDUM B

Absent a determination of good cause made by the Investigator or Title IX Coordinator (of which the Parties will receive written notice): (i) an Addendum A or Addendum B 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, and notice to the Parties given, as set forth in Article V. E. of EO 1096 and EO 1097. 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. Under Addendum B, 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.

## HEARING PROCEDURES

The following will only apply to cases that proceed under Addendum A or Addendum B to Executive Order 1096 or 1097. Differences between the hearing processes under Addendum A and Addendum B are indicated where applicable.

After the investigation and Review of Evidence, there will be a hearing to determine if the policy was violated.

The Parties will be given written notice of the date, time, location, participants, the identity of the Hearing Officer and, for an Addendum B hearing, the purpose of the hearing. The hearing will not be set sooner than **20 Working Days** after the date of notice of hearing.

The Parties can object to the appointed Hearing Officer in writing to the Hearing Coordinator within **5 Working Days** after notice of the identity of the Hearing Officer has been communicated to the Parties. The objection may only be based on an actual conflict of interest. A conflict of interest exists if the Hearing Officer

has a personal relationship with one of the Parties or witnesses or has demonstrated actual bias towards a Party or witness. The fact that a Hearing Officer has previously served as a Hearing Officer in a University proceeding will not constitute a conflict of interest. The Hearing Coordinator will determine if a conflict of interest exists.

No later than **15 Working Days** before the hearing, each Party will, under Addendum A: a. Provide to the Hearing Coordinator a proposed witness list that includes the names of, and current contact information for, that Party's proposed witnesses as well as an explanation of the relevance of each proposed witness's testimony and the disputed issue to which the witness's testimony relates. Under Addendum B, the Parties may, but are not required to provide this information. 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.

No later than **5 Working Days** prior to the hearing, the Parties will under Addendum A, and may under Addendum B, submit a list of proposed questions to the Hearing Coordinator. The questions will be provided to the Hearing Officer. The proposed questions will not be shared with the other Party.

Live hearings will be conducted using videoconferencing technology, unless circumstances are such that videoconferencing would not be appropriate. Neither Party will be required to be physically present in the same room as the Hearing Officer, each other, or witnesses. CSU will utilize technology that ensures that Parties will be able to simultaneously see and hear all of the proceedings and testimony.

The Complainant and Respondent may be present (physically or virtually) at all times during the hearing.

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. Hearing Advisors and any Support Advisors, where present, are not permitted to make the opening statement. The Support Advisor may not speak during an Addendum A or Addendum B 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 complaint, investigation process, and summarize the evidence. The Hearing Officer may ask questions of any Party or witness who participates in the hearing.

#### QUESTIONING BY A HEARING OFFICER DURING AN ADDENDUM A HEARING ONLY

As set forth above, under Addendum A, the Parties will give the Hearing Coordinator a written list of any questions that they would like the Hearing Officer to ask the witnesses. The Parties may also propose 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:

- i. 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);

- ii. 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;
- iii. seek information that is unreasonably duplicative of evidence in the Hearing Officer's possession; or
- iv. the Hearing Officer determines are not relevant to material disputed issues, are argumentative or harassing or unduly intrude on a witness's privacy.

The Hearing Officer has discretion to modify or change the wording of a question proposed by a Party (for example, when a question is unclear or inappropriate in tone) as long as the substance of the question is preserved.

Absent extenuating circumstances, the Hearing Officer will not rely on prior statements made by the Parties or witnesses during the investigation whose credibility is central to the determination unless those Parties or witnesses make themselves available for examination by the Hearing Officer.

#### QUESTIONING BY HEARING ADVISORS DURING AN ADDENDUM B HEARING ONLY

Under Addendum B, Hearing Advisors will be permitted to ask Relevant questions once the Hearing Officer has concluded their questioning of the other Party and each witness. Parties themselves may not directly ask questions of each other and witnesses.

Each Party's Hearing Advisor is permitted to ask all Relevant questions of the other Party, the Investigator, and any witnesses, and is also permitted to ask follow-up questions, including those questions challenging credibility. A Party may not be directly questioned by their own Hearing Advisor. The Hearing Officer controls the hearing and determines whether a question is Relevant.

A question is not considered Relevant if it relates to the Complainant's sexual predisposition or prior sexual behavior, unless such question about the Complainant's prior sexual behavior is offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the question concerns specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and is asked to prove consent.

Even if a question relates to a Relevant subject or issue, the Hearing Officer may determine that the Party or witness being asked the question is not required to answer if the question is repetitive or duplicative of prior questions.

The Hearing Officer has the discretion to request information from the Parties or Hearing Advisors regarding questions prior to making a determination about the Relevancy of the question. Neither the Parties nor Hearing Advisors may assert objections to questions.

Immediately after each question is asked by the Hearing Advisor, and before the question is answered, the Hearing Officer will indicate whether the question is Relevant, and if it is not, provide an explanation as to why the question is excluded as not Relevant. A Complainant, Respondent, or witness will only answer questions posed by a Hearing Advisor that the Hearing Officer determines are Relevant.

In reaching a determination, the Hearing Officer will not rely on statements made by the Parties or any witness unless those Parties or witnesses make themselves available for questioning. The Hearing Officer may not draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the hearing or refusal to answer questions.

## IN RELATION TO HEARINGS UNDER ADDENDUM A AND ADDENDUM B

Abusive or otherwise disorderly behavior that causes a material disruption will not be tolerated. The Hearing Officer may excuse from the hearing anyone (including either Party or their Hearing Advisor/Support Advisor/Support Person) whose behavior causes a material disruption. Should a Hearing Advisor be removed from a proceeding, the University will provide a Hearing Advisor. The Hearing Officer, in their discretion, may postpone the hearing. In making a determination whether to postpone the hearing, the Hearing Officer will consider the equity of postponement as to both Parties.

Formal rules of evidence applied in courtroom proceedings (e.g., California Evidence Code) do not apply in the hearing.

## DETERMINATION REGARDING RESPONSIBILITY

After the hearing, the Hearing Officer will make written findings of fact and conclusions about whether the Respondent violated University policy.

The Hearing Coordinator will simultaneously send the Hearing Officer's Report promptly to the Parties, the Title IX Coordinator, and the appropriate University Administrator, usually within **10 Working Days** (Addendum A) or **15 Working Days** (Addendum B) of the close of the hearing.

If no violation 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 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 University 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 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.

## PRESIDENT'S SANCTION DECISION/NOTIFICATION

The president (or designee) may impose the recommended sanctions, adopt a different sanction or discipline, or reject sanctions or disciplines altogether. If the president (or designee) adopts a sanction other than what is recommended by the Hearing Officer, the president (or designee) 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 also be sent to the Student Conduct Administrator or other appropriate University Administrator responsible for Employee discipline and the Hearing Officer.

The president will also send the Decision Letter to the Title IX Coordinator so that they may determine whether any additional Remedies (or other supportive measure) will be provided or undertaken in order to maintain a safe and nondiscriminatory University environment.

The determination regarding responsibility and any sanctions become final either on the date that the Chancellor's Office provides the Parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely (**11 Working Days** after the date of the Decision Letter).

#### NOTICE OF INVESTIGATION OUTCOME – SINGLE INVESTIGATOR PROCESS ONLY

The following applies only in relation to an investigation conducted under CSU Executive Order 1096 or 1097 in which an Investigator, as opposed to a Hearing Officer determines whether or not there is a violation of university policy.

Within **10 Working Days** of issuance of the Final Investigation Report, the Title IX Coordinator will notify the Complainant and Respondent in writing of the outcome of the investigation. The notice will advise the Complainant and Respondent of their right to file an appeal under the Executive Order.

Where a Complaint is made against another Student and the Executive Order is found to have been violated, the Title IX Coordinator will also notify the Campus Student Conduct Administrator of the investigation outcome, and provide a copy of the investigation report.

Where the Respondent is an Employee, Human Resources or Academic/Faculty Affairs shall be notified and provided a copy of the investigation report.

## INFORMAL RESOLUTION

#### INFORMAL RESOLUTION UNDER EO 1096/1097 SINGLE INVESTIGATOR PROCESS

To initiate the Informal Resolution Process under the EO 1096/1097 single investigator process, the Complainant should contact the Title IX Coordinator who shall promptly meet with the Complainant to discuss their concern and possible resolutions as appropriate.

Complainants shall be informed about the range of possible outcomes, including Supportive Measures or disciplinary actions that might be taken against the Respondent, and information about the procedures leading to such outcomes.

Participation in the Informal Resolution process is voluntary. It may include an inquiry into the facts, but does not include an investigation. Means for resolution shall be flexible. Resolution options include but are not



limited to discussions with the Parties, a resolution facilitated by the Title IX Coordinator, separating the Parties, referring one or both of the Parties to counseling programs, an agreement between Campus and the Respondent regarding disciplinary action, conducting targeted preventive educational and training programs or providing Remedies to persons harmed by violations of this policy.

The Title IX Coordinator shall meet with the Complainant, the Respondent, and any other persons or witnesses they may determine to be necessary.

If resolution is reached, a written record of the resolution shall be documented and maintained in accordance with applicable Campus recordkeeping policies. The matter shall be considered closed.

Where the Respondent is another Student, the Title IX Coordinator shall inform the Student Conduct Administrator of the outcome of the Informal Resolution process, including any Supportive Measures afforded to the Complainant. Where the Respondent is an Employee, Human Resources or Academic Affairs shall be informed as appropriate.

If resolution is not reached, the Campus shall promptly notify the Complainant and, where applicable, the Respondent in writing that the Informal Resolution process is terminated, and the termination effective date. The Title IX Coordinator shall also determine whether the matter is appropriate for investigation, and so notify the parties in writing. The Complainant shall be provided written notification of the right to file a complaint.

The Complainant shall be notified that the Complainant or the Campus may at any time elect to terminate the Informal Resolution process. In that event, the Title IX Coordinator shall promptly notify the Complainant and the Respondent in writing that the Informal Resolution process has terminated, the effective date thereof, and inform the Complainant of the right to file a complaint.

#### INFORMAL RESOLUTION UNDER ADDENDUM A

If the Title IX Coordinator or either Party believes that it may be possible to resolve a complaint processed under Addendum A in a prompt, fair, and reasonable manner without a hearing, the Title IX Coordinator may suggest that the Parties consider an Informal Resolution subject to the following:

1. both Parties must agree to engage in the Informal Resolution process;
2. any agreed-upon remedies and disciplinary sanctions will have the force and effect of sanctions imposed following a Hearing;
3. the terms of any resolution must be memorialized in writing and signed by the Parties and the Title IX Coordinator; and
4. the resolution will be final and not appealable by either Party.

#### INFORMAL RESOLUTION UNDER ADDENDUM B

Under Addendum B, at any time prior to the issuance of the Hearing Officer's Report, if the Title IX Coordinator or either Party believes that it may be possible to resolve the Formal Complaint in a prompt, fair, and reasonable manner without a hearing, the Parties may consider an Informal Resolution that does not involve a full investigation and adjudication, subject to the following:

1. informal Resolution under this Addendum may only be offered where a Formal Complaint has been filed;



2. the University cannot offer or facilitate Informal Resolution under this Addendum to resolve allegations that an Employee sexually harassed a Student; and
3. the University must obtain the Parties' voluntary, written consent before starting the Informal Resolution process.

Once the Title IX Coordinator determines that Informal Resolution is appropriate, the Parties should simultaneously be provided written notice regarding Informal Resolution.

The Informal Resolution process will be completed prior to any determination of responsibility being made, but no later than 60 Working Days after both Parties provide voluntary, written consent to participate in the Informal Resolution process.

The terms of any Informal Resolution must be put in writing and signed by the Parties, and the Title IX Coordinator. Prior to signing the Informal Resolution, the Title IX Coordinator will consult with the Student Conduct Administrator and/or other appropriate University Administrator responsible for the implementation of the terms. Use of electronic signatures is permitted.

#### WRITTEN PRELIMINARY ASSESSMENT – ADDENDUM B ONLY

As part of an Informal Resolution under Addendum B, at the request of both Parties, Campuses will provide a written preliminary assessment of the evidence by the Title IX Coordinator. Neither the fact nor the substance of the assessment will be shared with the Hearing Officer or considered relevant at the Hearing.

## EMPLOYEE DISCIPLINE

Where a complaint is made against an employee, Human Resources or Academic/Faculty Affairs shall be notified and provided a copy of the investigation reports. Discipline is imposed in accordance with current collective bargaining agreement, when applicable, and may include:

- verbal reprimand
- written reprimand,
- reduction in salary
- temporary or permanent demotion
- paid or unpaid administrative leave
- suspension
- denial or curtailment of emeritus status
- mandated education or training
- change in work location
- restrictions from all or portions of campus
- restrictions to scope of work
- dismissal

## STUDENT SANCTIONS

The following sanctions as defined in Article V, California State University Executive Order 1098 may be imposed for violation of the Student Conduct Code:

## 1. 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, cancelled or denied.

## 2. 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' misconduct or as deemed appropriate based upon the nature of the violation.

## 3. 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; or (ii) to have contact (physical or otherwise) with the complainant, witnesses or other specified persons.

## 4. 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.

## 5. 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.

## 6. 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.

More than one sanction may be imposed for a single violation.

## OTHER CONSIDERATIONS RELATED TO SANCTIONS:

**ADMINISTRATIVE HOLD AND WITHHOLDING A DEGREE:** The University may place an administrative hold on registration transactions and release of records and transcripts of a student who has been sent written notice of a pending investigation or disciplinary case concerning that student, and may withhold awarding a degree otherwise earned until the completion of the process, including the completion of all sanctions imposed<sup>3</sup>.

**RECORD OF DISCIPLINE:** A record of disciplinary probation or suspension is entered on a student's transcript, with beginning and end date, for the duration of the sanction. A record of expulsion or suspension for one academic year or more shall note the effective date of discipline and remains on the transcript permanently, without exception. A record of withdrawal in lieu of suspension or expulsion and withdrawal with pending misconduct investigation or disciplinary proceeding remains on the transcript permanently, without exception<sup>4</sup>. These requirements shall not be waived in connection with any resolution agreement.

**INTERIM SUSPENSION:** A president may impose an interim suspension pursuant to Title 5, California Code of Regulations section 41302 where there is reasonable cause to believe that separation of a student is necessary to protect the personal safety of persons within the University community or University property, and to ensure the maintenance of order.

An investigative finding of a violation of Executive Orders 1096 or 1097 standing alone may be sufficient to constitute reasonable cause to believe that an interim suspension is necessary to protect the personal safety of persons within the University community or University property, and to ensure the maintenance of order.

**DENIAL OF PRESENCE ON CAMPUS DURING INTERIM SUSPENSION:** During the period of an interim suspension, the student charged may not, without prior written permission from the campus president, enter any campus of the California State University other than to attend the hearing regarding the merits of the interim suspension and any disciplinary hearing. The president may also restrict the student's participation in University-related activities on a case-by-case basis, such as attending off-campus activities and/or participating in on-line classes. Violation of any condition of interim suspension shall be grounds for expulsion.

**ADMISSION OR READMISSION:** Applicants for admission or readmission into any University program are subject to appropriate sanctions for violations of the Student Conduct Code, including qualification, revocation or denial of admission or readmission. For students who withdraw while a disciplinary matter is proceeding, the campus has discretion whether to continue proceedings or hold proceedings in abeyance.

## **APPEALS**

### CSU EXECUTIVE ORDER 1096 OR 1097

Any Complainant or Respondent who is not satisfied with a Campus investigation outcome may file an appeal with the CSU Chancellor's Office (CO) no later than 10 Working Days after the date of the Notice of Investigation Outcome.

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<sup>3</sup> This is not applicable in matters that fall under Addendum B.

<sup>4</sup> This is not applicable in matters that fall under Addendum B.

1. The appeal shall be in writing and shall be based only on one or more of the appeal issues listed below:
  - a. The investigation outcome is unsupported by the evidence, based on the Preponderance of the Evidence standard;
  - b. Prejudicial procedural errors impacted the investigation outcome to such a degree that the investigation did not comply with this Executive Order; or
  - c. New evidence not available at the time of the investigation.

#### ADDENDUM A

Any Complainant or Respondent who is not satisfied with a Campus hearing outcome may file an appeal with the Chancellor's Office (CO) no later than **10 Working Days** after the date of the Decision Letter.

The appeal must be in writing and may be based only on one or more of the grounds for appeal listed below:

#### APPEAL GROUNDS

1. The hearing outcome is not supported by substantial evidence (in other words, there was no reasonable basis for such findings or conclusions);
2. Prejudicial procedural errors impacted the hearing outcome to such a degree that the hearing did not comply with this Executive Order;
3. New evidence that was not reasonably available at the time of the hearing and would have affected the Hearing Officer's decision about whether the Respondent violated CSU policy; or
4. The sanction(s) imposed constituted an abuse of discretion based on the substantiated conduct.

#### ADDENDUM B

Any Complainant or Respondent who is not satisfied with a Campus hearing outcome may file an appeal with the Chancellor's Office (CO) no later than **10 Working Days** after the date of the Decision Letter.

The appeal must be in writing and may be based only on one or more of the grounds for appeal listed below:

#### APPEAL GROUNDS

1. the hearing outcome is not supported by substantial evidence (in other words, there was no reasonable basis for such findings or conclusions);
2. a procedural irregularity occurred that affected the outcome of the matter; new evidence that was not reasonably available at the time of the hearing and would have affected the Hearing Officer's decision about whether the Respondent violated the Executive Order, including addendum B;
3. the Title IX Coordinator, Investigator, or Hearing Officer had a Conflict of Interest or Bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter;
4. and the sanction(s) imposed as part of the outcome of the Formal Complaint process constituted an abuse of discretion based on the substantiated conduct.

#### ISSUES AND EVIDENCE ON APPEAL: EXECUTIVE ORDER 1096 AND 1097

The issues and evidence raised on appeal shall be limited to those raised and identified during the investigation, unless new evidence becomes available after the Campus investigation process and is made part of the appeal by the appealing party. The CO may conduct an interview, at the CO's discretion, with the appealing party to clarify the written appeal.

The CO shall provide prompt written acknowledgement of the receipt of the appeal to the appealing party, and will provide written notification of the appeal to the other party and the Campus Title IX Coordinator.

If an investigation is to be reopened, the CO will return the matter to the Campus and will specify in writing the timeline by which a reopened investigation must be completed. The CO will notify the Parties of the reopening of the investigation and the timeline for completion of the reopened investigation. The Campus will complete the reopened investigation and provide the CO with an amended investigation report. The Campus will also provide the Parties with amended Notices of Investigation Outcome, and such Notices will provide the Parties the opportunity to appeal any new or amended findings, in accordance with their Executive Order. Upon receipt of the amended investigation report, the CO will contact the appealing party to determine whether that party wishes to continue with the appeal.

A copy of the final CO Appeal Response shall be forwarded to the Complainant and Respondent, as well as the Campus Title IX Coordinator. The CO will respond to the appealing Party no later than 30 Working Days after receipt of the written appeal unless the timeline has been extended as specified in Article V, E. of EO 1096 and 1097.

ISSUES AND EVIDENCE ON APPEAL: ADDENDUMS A & B: The issues and evidence raised on appeal will be limited to those raised and identified during the Campus hearing, unless new evidence becomes available that was not reasonably available at the time of a Campus hearing that could affect the outcome of the matter and is submitted by the appealing party. The CO may communicate, at the CO's discretion, with the appealing party, the responding party, and/or the Campus to clarify the written appeal.

The CO will provide prompt written acknowledgement of the receipt of the appeal to the appealing Party, and will provide prompt written notification of the appeal, including a copy of the appeal, to the non-appealing Party and the Campus Title IX Coordinator. 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.

In relation to an appeal under Addendum B, the appeal and appeal response shall be limited to 3,500 words, excluding exhibits.

If a matter is to be reopened, the CO will return the matter to the Campus and will specify in writing the timeline by which a reopened hearing must be completed. The CO will simultaneously notify the Parties of the reopening of the hearing and the timeline for completion of the reopened hearing. The Campus will complete the reopened hearing and provide the CO with an amended Hearing Officer's Report. The Campus will also provide the Parties with amended Notices of Hearing Outcome, and such Notices will provide the Parties the opportunity to appeal any new or amended findings, in accordance with the Executive Order. Upon receipt of the amended hearing report, the CO will contact the appealing party to determine whether that Party wishes to continue with the appeal.

If the hearing outcome (determination regarding policy violation) is not supported by the facts as determined by the Hearing Officer, the CO may vacate and reverse the Hearing Officer's decision, but only with respect

to whether University policy was violated. The CO may reverse the Hearing Officer's decision under extremely limited circumstances, and the factual findings will remain intact

A copy of the final CO Appeal Response will be sent simultaneously to the Complainant and Respondent, as well as the Campus Title IX Coordinator. The CO Appeal Response is final and concludes the Complaint and CO review process under the Executive Order. The CO will respond to the appealing Party no later than **30 Working Days** after receipt of the written appeal unless the timeline has been extended as specified in Article V, E. of EO 1096 and 1097.

Additional detail about the processes described above can be found in the following university policies governing complaints made by students; employees, former employees, third parties, and applicants for employment; and student-employees, respectively.

## 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/>

## EMERGENCY NOTIFICATION POLICY

The primary intent of this policy is to provide uniformity in the manner in which emergency notifications required under the Clery Act are processed. The systemwide Emergency Notification Policy shall serve as the authoritative statement of policy on Emergency Notifications for each campus. This policy outlines the procedures campuses will use to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students and/or employees occurring on the campus.

Any member of the campus community with information believed to constitute a significant emergency or dangerous situation that poses an imminent or immediate threat shall report the information to UPD and/or by calling "911." Examples include, but are not limited to, the following types of incidents:

- Severe weather warning (e.g., flash flooding, tsunami, hurricane, etc.).
- Environmental emergency within an on-campus facility (e.g., hazardous chemical spill, fire, earthquake, building collapse).
- Criminal activity with an imminent threat to campus community (e.g., active shooter, murder, fleeing suspect with a weapon).
- Public Health Emergency (e.g., measles outbreak, swine flu outbreak, etc.).

Once UPD has received the report, the Chief of Police (or management designee) will, without delay and taking into account the safety of the community, confer with the appropriate public official (e.g., fire chief, health department) and any campus officials responsible for managing the on-campus emergency, if available, to confirm **both**: 1) a legitimate emergency or dangerous situation exists impacting on-campus geography; **and** 2) the emergency or dangerous situation poses an immediate or imminent threat to members

of the on-campus community. This confirmation process may include, but is not limited to, visual observation, officer investigation, the assistance of key campus administrators, local or campus first responders, and/or official government reporting through agencies such as the National Weather Service.

If both of the above factors are not met, no emergency notification is required. If it is determined that both of the above factors are met, then an emergency notification as described below shall be issued. The Chief of Police (or management designee) will confer with the Clery Director, if available, to prepare the content of the notification and determine which members of the campus community are threatened and need to be notified. The content of the message will be developed based on a careful but swift analysis of the most critical facts.

Once the notification is prepared, the Chief of Police and/or the Clery Director (or their management designees) will, without delay and taking into account the safety of the community, transmit the emergency notification unless doing so would delay the ability to mitigate and/or contain the emergency, including the ability to provide immediate, life saving measures. If an emergency notification is issued, a timely warning shall not be issued for the same incident.

#### CONTENTS OF THE EMERGENCY NOTIFICATION

Approved by the Clery Director, emergency notification templates shall be used to which shall contain following information:

- A statement as to what the emergency or dangerous situation is, in specific terms (e.g., chemical spill, active shooter, building fire)
- A statement providing direction as to what actions the receiver of the message should do to take precautions for their own safety
- A statement as to where or when additional information may be obtained

The Clery Director (or management designee) will provide updates to the emergency notification with pertinent updates or direction to persons for their safety when new information becomes available. Updates will be provided in regular intervals until the emergency has been mitigated or no longer poses an imminent threat, e.g., fire is out and building has re-opened.

#### METHODS OF DISTRIBUTION

Emergency Notifications will be distributed as quickly as possible in a manner that will likely reach the segment(s) of the on-campus community threatened by the emergency. Segmentation will be considered by the Chief of Police (or management designee) by evaluating which persons are likely to be at risk, and notifying those persons. Segmentation should not be considered if making this determination would delay issuing the emergency notification. The Chief will determine if notification to the larger community is appropriate. Distribution methods, including distribution to the larger community, vary from campus to campus and depending on the nature of the emergency, may include:

- A campus mass notification system, including but not limited to phone, campus email, or text messaging. Systems should provide currently enrolled students, faculty and staff the ability to adjust their subscription preferences to select multiple contact methods from text messages, emails and phone calls, or if desired, to 'opt out' of the service and not receive any notifications

- Audio/visual message boards
- Audible alarms/sirens
- Campus public address systems
- In person or door-to-door notifications in a building or residence halls
- Local media
- Social media
- Other means appropriate under the circumstances

## TESTING AND EVACUATION SYSTEM

Testing of the Emergency Notification System and evacuation will be done at least once annually. The tests may be announced or unannounced. Tests must be scheduled, contain drills, exercises and appropriate follow-through activities, and be designed for assessment and evaluations of emergency plans and capabilities. However, at least one test will be publicized in conjunction with the campus's emergency response and evacuation procedures. Each test will be documented to include a description of the exercise, the date of the test, the start and end times of the test, and whether the test was announced or unannounced. The [California State University Emergency Management Policy](#) describes these tests and defines responsibility for their completion. A copy of the documentation will be provided to the Clery Director.

All current employees and currently enrolled students are automatically enrolled to receive emergency alerts. A student or employee can add additional family to also receive alerts by logging into their Single-Sign-On and adding additional phone numbers and/or email addresses to their contact information. Community members who are not directly affiliated with the campus can choose to opt-in to receive emergency alerts by texting "START CSULB" to 23177. Students and employees can opt-out of receiving text and phone call alerts by texting "STOP CSULB" to 23177, however emergency alerts sent to campus email addresses are mandatory and cannot be opted out. More information is available at <https://www.csulb.edu/university-police/emergency-notification-system>

## MISSING STUDENT NOTIFICATION

If a member of the university community has reason to believe that a student who resides in on-campus housing is missing, the individual should immediately notify CSULB PD at (562) 985-4101. If a report is made to Housing & Residence Life, and there are suspicious circumstances, their staff will immediately contact CSULB PD. (If a report is made to Housing & Residence Life, and there are no suspicious circumstances, their staff will immediately make an effort to contact the student via phone, messaging, and in person, as well as seeing if there is recent activity on their keycard. If the student is not able to be located via those efforts, HRL staff will immediately contact CSULB PD.) CSULB PD will generate a missing-person report and initiate an investigation in accordance with the department's missing person policy. If an on-campus housing student has been determined to have been missing for 24 hours, then the University will initiate the specifically designated notification procedure described below within 24 hours after receiving the report. Nearby law enforcement agencies will also be notified within 24 hours of an official determination that they are missing. An exception would be the agency that made the determination the student was missing; they would not be notified. The department may release a photo of the missing student as a tool to assist in locating the individual and may seek information and/or assistance from a variety of campus resources during the course of the investigation. In addition to and separate from the registering of an emergency contact, students residing in on-campus housing have the option to identify confidentially an individual to be contacted by the University in the event the student is determined to be



missing. Students who wish to identify a confidential contact may do so when completing the Housing application and at any time on-line through the CSULB Housing Portal. Only authorized campus officials and law enforcement officers in furtherance of a missing person investigation may have access to this information. If the student is under 18 years of age and not an emancipated minor, CSULB PD is required to notify a custodial parent or guardian and any other designated contact within 24 hours after the time that the student is determined to be missing in addition to any additional contact person designated by the student. Once information on a juvenile missing person is reported to the police, a complete and thorough investigation will be conducted in accordance with California law and CSULB PD policy.

## FIRE SAFETY ACT

The 2020 Fire Safety Report is available at the following link: <https://www.csulb.edu/afsreport>