

# CALIFORNIA STATE UNIVERSITY SAN MARCOS



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

San Marcos Campus  
CSUSM at Temecula

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# CALIFORNIA STATE UNIVERSITY SAN MARCOS

## ANNUAL SECURITY REPORT

### MESSAGE FROM THE PRESIDENT OR THEIR DESIGNEE

Students are at the heart of everything we do at CSUSM, and we want to ensure that every person who dreams of earning a college degree receives that opportunity. Providing a safe, welcoming environment conducive to learning, teaching and working is a critical part of that commitment.

An important piece of our daily efforts to safeguard the well-being of our campus community is the Annual Security Report, which is prepared in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. The ASR is a compilation of incidents that occurred on or around university property, and it's filled with information on crime prevention programs, security procedures and campus resources.

I am proud of the work that our faculty, staff and students do to keep CSUSM secure and safe. Under Chief Lamine Secka, the University Police Department strives to collaborate with all members of the campus community, with an emphasis on developing partnerships that allow for the sharing of information and ideas. But it's crucial for us to look out for one another and to speak up by reporting potentially unsafe situations.

I encourage all of you to familiarize yourselves with the resources that are outlined in this report. Together, we can help keep CSUSM a great place for us all to learn, live and work.

Sincerely,  
Ellen J. Neufeldt, Ed.D.  
President



## PREPARING THE ASR

The Clery Director and Clery Compliance Team (CCT) compile this institutional report to comply with the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* (the Clery Act), and it is a disclosure for the three most recent calendar years concerning the number of specific crimes that occurred on or within CSUSM's Clery geography.

The Clery Compliance Team assists the Clery Director in the collection of information and required crime statistics, assists in developing, writing, reviewing and ensuring the accuracy of the ASR and campus policies required to be included in the ASR, assists in the proper identification of relevant Clery Act geography, assists in programming, developing and providing training and outreach efforts on the campus for compliance and assists in overall compliance with the Clery Act and state student safety laws.

The procedures for preparing the annual disclosure of crime statistics include reporting statistics to the campus community obtained from the following sources: the CSUSM University Police Department, Dean of Students, Office of Residential Life, Title IX office, Athletics, Office of Human Resources, Faculty Affairs, individuals designated as "Campus Security Authorities" (CSA) under the Clery Act, and local law enforcement agencies with concurrent jurisdiction over the campus's Clery Geography. For statistical purposes, crime statistics reported to any of these sources on or within CSUSM's Clery geography are recorded in the calendar year the crime was reported.

The statistics are gathered, compiled and reported to the University community via this Annual Security Report and the CSUSM Annual Fire Safety Report, which is published by the Clery Director. The Clery Director submits the annual crime statistics published in this report to the Department of Education (ED). The statistical information gathered by the Department of Education is available to the public through the ED website: <https://ope.ed.gov/campusafety/#/>

All policy and procedure references in this report apply to both the San Marcos and Temecula campus locations unless separately notes. All students and employees receive annual notice by campus-wide email of the Annual Security Report, a brief description of its contents, information regarding the availability of the report on the campus website, the electronic address to access the report, and a statement on how to obtain a paper copy, if desired. Similar notices are provided to prospective students and employees on the [Admissions & Student Outreach](#) and [Careers at CSUSM](#) webpages.

For more information, see [California State University Executive Order \(EO\) 1107](#).

## CLERY CRIME STATISTICS 2018 - 2020

OFFENSE	YEAR	ON-CAMPUS TOTAL	CAMPUS RESIDENTIAL	NON-CAMPUS	PUBLIC PROPERTY
<b>Murder and Non-Negligent Manslaughter</b>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<b>Manslaughter by Negligence</b>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<b>Rape</b>	2018	0	0	0	1
	2019	0	0	0	0
	2020	0	0	0	0
<b>Fondling</b>	2018	4	3	0	0
	2019	4	2	0	0
	2020	0	0	0	0
<b>Incest</b>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<b>Statutory Rape</b>	2018	0	0	0	0
	2019	1	1	0	0
	2020	0	0	0	0
<b>Robbery</b>	2018	0	0	0	0
	2019	0	0	0	1
	2020	0	0	0	1
<b>Aggravated Assault</b>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
<b>Burglary</b>	2018	2	1	0	0
	2019	1	1	0	0
	2020	4	1	0	0
<b>Motor Vehicle Theft</b>	2018	1	0	0	0
	2019	0	0	0	0
	2020	1	0	0	0
<b>Arson</b>	2018	0	0	0	0
	2019	0	0	0	0
	2020	0	0	0	0
OFFENSE	YEAR	ON-CAMPUS TOTAL	CAMPUS RESIDENTIAL	NON-CAMPUS	PUBLIC PROPERTY

<b>Dating Violence</b>	2018	0	0	0	0
	2019	3	3	0	0
	2020	0	0	0	0
<b>Domestic Violence</b>	2018	0	0	0	0
	2019	2	0	0	0
	2020	0	0	0	0
<b>Stalking</b>	2018	1	0	0	0
	2019	8	4	0	0
	2020	0	0	0	0

<b>OFFENSE</b>	<b>YEAR</b>	<b>ON-CAMPUS TOTAL</b>	<b>CAMPUS RESIDENTIAL</b>	<b>NON-CAMPUS</b>	<b>PUBLIC PROPERTY</b>
<b>Liquor Law Arrests</b>	2018	1	0	0	2
	2019	3	0	0	0
	2020	0	0	0	0
<b>Liquor Law Referrals for Disciplinary Action</b>	2018	30	25	0	0
	2019	27	23	0	0
	2020	1	1	0	0
<b>Drug Law Arrests</b>	2018	6	1	1	4
	2019	4	0	1	4
	2020	7	0	0	3
<b>Drug Law Referrals</b>	2018	45	44	0	0
	2019	56	54	0	0
	2020	18	18	0	0
<b>Weapons Law Arrests</b>	2018	0	0	0	0
	2019	2	0	0	0
	2020	3	0	0	1
<b>Weapons Law Referrals for Disciplinary Action</b>	2018	1	1	0	0
	2019	1	1	0	0
	2020	3	3	0	0

<b>OFFENSE</b>	<b>YEAR</b>	<b>TOTAL</b>
<b>Unfounded Crimes</b>	2018	0
	2019	0
	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—There were no reported hate crimes.

2019—There were no reported hate crimes.

2020—There were no reported hate crimes.

## REPORTING CRIMINAL ACTIONS & EMERGENCIES

Community members, students, faculty, staff, and guests are encouraged to promptly report all crimes, emergencies, and public safety-related incidents to the University Police Department (UPD). Crimes should be reported to UPD for purposes of assessing the crime for distributing a potential timely warning and for disclosing in the annual crime statistics. For crimes occurring at off-campus locations, including any University non-campus property, the law enforcement agency with jurisdiction in that area should be contacted. Police services for non-campus properties are the responsibility of the local law enforcement agency in that area.

### EMERGENCY REPORTING

- Dial 9-1-1 from a campus or mobile phone.
- For non-emergencies, dial (760) 750-4567.
- Use any of the more than 100 emergency telephones located in University buildings to report an emergency directly to the UPD.
- Use the emergency intercom system found in most building elevators to report an emergency directly to the UPD.
- Use any of the 65 Blue Light Emergency Telephones located around campus to report an emergency directly to the UPD.
- Off-campus calls for emergency assistance should be directed to the local law enforcement agency.

- ***Always be ready to provide your name, telephone number, and location.***
- ***Describe the incident clearly and as accurately possible.***
- ***Do not hang-up; allow the dispatcher to end the call.***

**Special Note:** California Penal Code Section 11160-11163.2 requires health practitioners (e.g., those at Student Health and Counseling Services) who, in their professional capacities or within the scope of their employment, have knowledge of or observe a patient they know or reasonably suspect has suffered any wound or injury



*inflicted by a firearm or as the result of an assault or other abusive conduct (including but not limited to assault with a deadly weapon, simple battery, dating violence, domestic violence, sexual battery, rape, attempted rape, and spousal or adult abuse), to make a prompt, mandatory report to local law enforcement.*

### **CAMPUS SECURITY AUTHORITIES (CSAs)**

The University encourages all members of the campus community to contact the UPD when they have been the victim of or have witnessed criminal actions. However, in some instances members of the campus community may feel more comfortable reporting criminal activity to a CSA. When a CSA receives a report of a Clery-qualifying crime occurring within the campus Clery geography, the CSA is required under the Clery Act to report the allegation (as detailed further below) for inclusion in the ASR.

The Federal Department of Education defines a CSA as

- A campus police department or a campus security department of an institution
- Any individual who has responsibility for campus security but who does not constitute a campus police department or a campus security department (e.g., an individual who is responsible for monitoring the entrance to the institution or providing safety escorts)
- Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses
- Any official of the University who has a significant responsibility for student and campus activities, including but not limited to student housing, student discipline, and campus judicial proceedings
  - An *official* is any person who has the authority and the duty to take action or respond on particular issues on behalf of the institution. Examples (outside of a police or security department) include but are not limited to:
    - Dean of Students
    - Director of Athletics and athletic coaches
    - Faculty and staff advisors to student organizations
    - Housing director and resident advisors
    - Title IX Coordinator
    - Ombudsperson
    - Director of Student Health & Counseling Center

While there may be some overlap, persons considered CSAs for Clery Act reporting are not necessarily the same as those defined as “responsible employees” for Title IX.

Individuals who do not meet the criteria for being CSAs include faculty members who do not have any responsibility for student and campus activities beyond the classroom, clerical staff, and cafeteria staff.

**Exemption for Pastoral and Professional Counselors:** Under the Clery Act, there are two types of individuals—pastoral counselors and professional counselors—who may have significant responsibility for student and campus activities but are not CSAs. This exemption protects the counselor-patient relationship by ensuring that pastoral and professional counselors can provide appropriate counseling services without an obligation to report all crimes they may learn about while providing these services. However, this exemption is not absolute and there are certain situations in which counselors have a legal obligation to report a crime. Individuals who counsel students and/or employees but do not meet the Clery Act definition below of a pastoral or professional counselor are not exempt from being a CSA if they otherwise have significant responsibility for student and campus activities.

CSUSM encourages pastoral and professional counselors to notify those they are counseling of the anonymous reporting options available to them.

- *Pastoral Counselor*: A person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling and is functioning within the scope of that recognition as a pastoral counselor (34 CFR 668.46(a)).
- *Professional Counselor*: A person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of their license or certification (34 CFR 668.46(a)).

When a CSA receives crime information they believe was provided in good faith (little or no reason to doubt the validity of the information), the CSA has the duty to immediately report the crime information to the UPD either by calling police dispatch at (760)750-4567 or by submitting a completed CSA Reporting Form (found online at [https://www.csusm.edu/clery/csa\\_reporting\\_form.html](https://www.csusm.edu/clery/csa_reporting_form.html)).

CSA reports are used by the institution to compile statistics for Clery Act reporting and to help determine if there is a serious or continuing threat to the safety of the campus community that would require an alert (i.e., timely warning or emergency notification). Those responsibilities can usually be met without disclosing personally identifying information. A CSA report does not need to automatically result in the initiation of a police or disciplinary investigation if the victim does not want to pursue this action. A CSA is not responsible for authoritatively determining whether a crime actually took place; such a determination is the function of law enforcement.

## VOLUNTARY CONFIDENTIAL REPORTING

### CONFIDENTIAL REPORTING

UPD accepts voluntary confidential reports of criminal activity. To make a voluntary confidential report, go to: [https://csusm.co1.qualtrics.com/jfe/form/SV\\_e5V6lxkRO5TisOW](https://csusm.co1.qualtrics.com/jfe/form/SV_e5V6lxkRO5TisOW)

San Diego Crime Stoppers provides a safe way to anonymously report crime. Anyone with information on a crime is asked to call the Crime Stoppers anonymous tip line at (888) 580-8477 or visit the Crime Stoppers website at [www.sdcrimestoppers.org](http://www.sdcrimestoppers.org) for more information on how to send anonymous web and mobile app tips. Please note, there could be a delay in reports submitted to Crime Stoppers being forwarded to the CSUSM University Police Department. CSUSM encourages reporting to UPD for assessment of the crime for distribution of a timely warning, disclosure in the annual crime statistics and providing immediate campus resources.

### CONFIDENTIAL RESOURCES

Individuals can speak with a sexual violence advocate in a confidential environment where reports will not automatically lead to a legal or Title IX report. Services available to all CSUSM students and employees include:

- General support connected to stalking, sexual harassment, dating/domestic violence, sexual assault and rape
- If desired, accompaniment with:
  - Medical Appointments
  - Police Interviews

- Legal Meetings & Court
- University Title IX
- Safety planning including help with restraining orders
- On campus advocacy for academic (i.e. classes) and housing concerns
- Support for concerned persons, secondary victim/ survivors of sexual trauma
- Referrals for on and off-campus resources
- Information about reporting options
- Support Groups

For more information on sexual violence advocacy and education, as well as to contact a sexual violence advocate and prevention educator, please visit: <https://www.csusm.edu/shcs/advocate/index.html>

CSUSM encourages professional counselors to inform individuals they are counseling about the voluntary, confidential reporting options available to them.

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. 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 California State University San Marcos (CSUSM) University Police Department (UPD) is responsible for providing a safe and secure environment and the protection of all properties and facilities owned, operated, controlled, or administered by the University. The UPD is responsible for controlling access to all university facilities. Most CSUSM buildings and facilities are open to the public during the day and evening hours when classes are in session. During those times that the University is officially closed, buildings are generally locked and only faculty, staff, and some students with proper authorization are permitted access. All campus buildings are equipped with an "access control system" (card key access) where door contacts are electronically connected to the UPD. In addition, many offices, labs, and computer rooms have alarm systems. In conjunction with Facilities Development and Management (FDM), which manages the campus key and card access systems, the UPD is responsible for authorizing campus keys and access cards. All keys or access cards issued by the campus remain the property of CSUSM. Prior to separation from university employment or any other activity for which key or card access is granted, all such items must be returned in compliance with campus procedures. In addition, CSUSM uses video cameras as one method of deterring, detecting, and investigating crime on campus. The primary intent of video camera use is to discourage theft and criminal activity and enhance the likelihood of apprehending and successfully prosecuting offenders.

### STUDENT HOUSING (UNIVERSITY VILLAGE AND QUAD APARTMENTS)

University Village Apartments and The QUAD Apartments are both large residential complexes with housing for approximately 1,500 students. The existence of student housing has forged a close working relationship between the UPD and housing staff to create a safe and comfortable learning, studying, and living environment. Housing facilities are gated and secured using a card access system. It is a violation of housing policy to prop open doors or gates at any time. Use of residence facilities is limited to residents and accompanied guests. Residence halls are routinely patrolled by UPD Officers and Community Service Officers. Additionally, security is supplemented by live-in Resident Advisors and Resident Directors.

Door-to-door solicitation is prohibited in CSUSM Housing. Student residents are encouraged to report the

presence of such persons to the Student Housing staff and/or the UPD. Residents are also advised to keep their bedroom and apartment doors locked at all times.

Housing policy requires that residents report any unsafe conditions or behaviors that threaten the safety or security of the housing community. Any failure to abide by housing security procedures can be pursued through the Housing conduct process. To further enhance security, housing policy provides that students are required to carry their CSUSM ID Card (physical ID card or virtual ID card on the CSUSM app) and UVA/QUAD key access card at all times while on the premises and to present their Student ID cards when requested by University personnel, including but not limited to staff members of the University and/or Housing and Residential Education. Both cards are not transferrable, and students cannot lend, sell, or give their card or their ID to others. Failure to comply is grounds for referral to the Housing and/or University student conduct process.

#### STUDENT HOUSING POLICY ON ID AND KEY CARDS

- **University Identification Cards:** University identification cards may only be used by the student whose name appears on the card. Any alteration or illegal use of University identification cards is prohibited. CSUSM student ID cards that are misused are subject to confiscation and illegal use of University identification cards is prohibited. The University reserves the right to confiscate any duplicate CSUSM ID cards if discovered.
- **Other Identification Cards:** Possession of an identification card that bears another person's likeness or contains false demographic information is prohibited. This includes all blank, forged, stolen, borrowed, fictitious, counterfeit, or unlawfully issued driver's license or identification cards. Identification cards meeting any of these criteria will be confiscated where students are found in possession of them and will be turned into the Dean of Students Office and/or the University Police as evidence of misuse and policy violation.
- **Creating Identification Cards:** Making or possessing instruments and/or materials for counterfeiting of University identification cards, driver's licenses, or any of other forms of identification is prohibited.
- **UVA/QUAD Key Access Cards:** Possession of a UVA or QUAD key access card that was not issued directly to the individual student is a policy violation. Any student found in possession of an access card that is not their own will be subject to the Housing and/or student conduct process and the access card will be confiscated.

#### SECURITY CONSIDERATIONS IN THE MAINTENANCE OF CAMPUS FACILITIES

CSUSM is always working to improve the security of campus through environmental design. Careful consideration is given to lighting, landscape, and building maintenance in the furtherance of campus safety. Representatives from the UPD, FDM, Safety Health & Sustainability, and Integrated Risk Management are frequently involved in the planning committees for new buildings and major renovations to ensure maximum security. The Facility Services electric shop performs lighting preventative maintenance for all external lighting on a monthly basis. The building maintenance shop conducts monthly building rounds to identify interior lighting issues, building egress issues, and perform other related safety inspections. The lock shop performs preventative maintenance to all main entry doors for proper operation and verify that card and key access is working properly. On a monthly basis, Community Service Officers perform checks to ensure the proper working condition of alarms, blue e-poles, light fixtures, door locks, etc. All repairs are the responsibility of

FDM. FDM responds to reports of potential safety and security hazards such as broken windows, locks, and lighting problems.

To report a potential hazard, call FDM during business hours at (760) 750-4601 or submit a customer request online. After hours, call the UPD at (760) 750-4567. Housing maintenance staff are responsible for all safety and key/lock issues in the UVA and QUAD. Housing-related concerns can be reported to a Housing and Residential Education staff member by calling the front desk during business hours, calling the resident assistant (RA) on duty after business hours, or submitting a work order through the Housing Portal.

## 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](#).

Located at 425 La Moree Road in San Marcos, on the northeast side of campus, the CSUSM UPD is the primary agency for reporting and investigating criminal activity occurring on the San Marcos campus. Police officers patrol the campus 24 hours a day, 365 days a year, providing immediate response to all police, fire, and medical emergencies. Accidents involving automobiles and bicycles are also investigated by the UPD. Where criminal prosecution is sought, cases are forwarded to the San Diego County District Attorney's Office (or other applicable prosecuting agency) for complaint issuing.

Officers possess the same authority under the law, including arrest authority, as municipal and county law enforcement officers. Further, the California State University Trustees have vested UPD officers with the authority and responsibility to enforce all applicable local and state laws on University property and those areas immediately contiguous to the San Marcos campus in accordance with Education Code Section 89560.

The UPD subscribes to the standards of the California Commission on Peace Officer Standards and Training (POST). UPD officers receive the same basic training as municipal and county law enforcement officers, plus additional training to meet the unique needs of a campus community environment. The UPD is computer-linked to county, state, and federal criminal justice agencies for access to criminal records information on wanted person and missing persons as well as stolen property and stolen vehicle information.

The University encourages accurate and prompt reporting of all crimes to the UPD and/or appropriate police agencies regardless whether the victim elects or is able to make a report.

## OPERATIONAL RESPONSIBILITY

Pursuant to the California Educational Code Section 67381, known as the Kristin Smart Campus Safety Act of 1998, the CSUSM UPD and the San Diego County Sheriff's Department have an inter-agency law enforcement assistance agreement.

The CSUSM UPD shall be the primary reporting and investigating law enforcement agency for all crimes reported on University properties that are leased, owned, controlled, or operated by the University inside the city limits of San Marcos, with the exception of willful homicides and officer-involved shootings, which shall be investigated by the San Diego County Sheriff's Department.



Traffic collisions where the initial “area of impact” occurred on University roadways shall be investigated by the UPD. Traffic collisions where the initial “area of impact” occurred on streets maintained by the City of San Marcos shall be investigated by the San Diego County Sheriff’s Department. Nothing in this provision shall prohibit joint investigations when deemed appropriate by the on-scene Watch Commander from each agency or as required by the regional pursuit policy.

The San Diego County Sheriff’s Department shall be the lead investigative agency when a criminal investigation requires the use of specialized equipment/tools, resources, and/or expertise that in the opinion of the UPD Chief of Police (or designee) is beyond the capability of the UPD to investigate. However, as a professional courtesy, the Sheriff’s Department shall keep the UPD informed of the progress of said investigation. Both agencies shall continue to provide assistance or mutual aid as necessary and when requested.

Both agencies shall continue to provide assistance or mutual aid and necessary and when requested.

All landline 9-1-1 calls from ancillary locations will be received by the UPD. To the extent technologically possible, cellular 9-1-1 calls coming from 200-240 East Barham Road (Quad Apartments) are programmed to be received by the UPD Public Safety Answering Point (PSAP). Misrouted cellular 9-1-1 calls from 200-240 East Barham Road will be redirected to the UPD as soon as possible, when appropriate.

### **CSUSM at Temecula**

The Temecula campus is located at 43890 Margarita Road, Temecula, A 92592 in southwest Riverside County. The Temecula Police Department has primary jurisdiction for the safety and security of the CSUSM at Temecula campus. Temecula Police is located at 30755-A Auld Rd., Murrieta, California and can be reached 24 hours per day at 911 or 951-696-3000. The Riverside County Sheriff manages the regional 911 call center. In addition, private security is provided to monitor the CSUSM Temecula at night.

## **SECURITY PROCEDURES AND PRACTICES**

Members of the CSUSM 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 reminded by the University Police Department throughout the year to:

- Promptly report all crimes and suspicious persons or activity to the UPD
- Always be aware of your personal safety and surroundings.
- Never leave your property unattended, lock bicycles, lock 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 UPD to request 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.
- Keep a list of serial numbers and description of your property and provide it to the UPD 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.
- Use good bicycle theft prevention measures, use a combo or flat key u-lock. Most cable locks can be 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 be easily taken off. Register your bike with the UPD.

The University Police Department offers other programs to enhance the security awareness and safety of its campus community. Such programs include, but are not limited to:

- **Personal Safety Escort Services:** During the hours between dusk and dawn, personal safety escorts are provided as an additional measure of safety. Escorts are provided to and from campus buildings, campus parking lots, immediate bus stops, and areas immediately adjacent to campus property. An escort can be arranged by calling (760) 750-4567. A CSO or University Police Officer will escort the requester by automobile, bicycle, or on foot from a campus building to their vehicle, parking lot, or residence hall.
- **Cougar Watch:** is a community-based crime prevention program patterned after the successful Neighborhood Watch program used in many cities. UPD officers present information on crime prevention and safety programs for students and employees at campus events such as “Welcome Week.” The UPD also provides crime prevention information, safety brochures, and information on other topics such as campus safety, self-protection for women, sexual harassment on campus, personal safety, campus theft, and emergency preparedness.
- **Security Surveys:** Police officers are available (upon request) to provide information to students, staff, and faculty concerning personal/property safety and office security surveys. To schedule a tailored workshop or presentation please contact the UPD at (760) 750-4567.

## CRIME PREVENTION PROGRAMS

CSUSM provides campuswide and audience specific outreach and programs presented by UPD, Title IX, Dean of Students Office, Student Health & Counseling Services, Hope & Wellness Center and many others. Campus educational programming for both students, faculty and staff is comprehensive and intentional, integrating programming initiatives, strategies and campaigns intended to inform the campus community about safety procedures and ways to prevent crime.

See Appendix A for the full listing of crime prevention programs and campaigns in 2020 and ongoing programs offered during the academic year.

## ORIENTATION AND NEW STUDENT PROGRAMS

From the [Student Life and Leadership Office](#), new students may obtain all the guidance and information necessary to begin their college experience at CSUSM. An initial full-day orientation is provided prior to the start of school with continuous new student-oriented programming throughout the year. Orientation and follow-up programming topics include, without limitation, information concerning safety and security on campus, alcohol policies, health and counseling, sexual violence prevention/education, general crime prevention, safety escorts, and police services.

#### ALCOHOL EDUCATION AND PREVENTION PROGRAM

All first-time freshman students are required to complete "[Not Anymore: Alcohol and Drugs](#)," an online alcohol education and prevention program, in order to continue classes at CSUSM. This training is completed once at or prior to the start of the fall semester.

#### UNIVERSITY STUDENT HOUSING

Resident students should go to [University Student Housing](#) for answers to all questions concerning residential crime prevention and fire and personal safety. Student Housing has prepared and published a Resident Handbook containing valuable information regarding student housing policies, rules, regulations, and safety tips.

Throughout the academic year, the Student Housing staff provides an array of safety-related programs designed to make the residential life experience safe and crime-free.

#### STUDENT SUPPORT SERVICES & EDUCATIONAL OPPORTUNITY PROGRAM

This office sponsors several helpful programs to enhance the college experience including, without limitation, the following programs:

- African American Student Welcome Program
- New Student Convocation
- Walk-in clinics for measles, mumps and rubella (MMR) and Hepatitis-B (Student Health and Counseling Services)
- Celebration of Culture
- College Survival Night
- Student Organization Exposition
- Latino Heritage Festival
- Cultural Faire (sponsored by the Black Faculty & Staff Association and the Asian Pacific Islander Desi American Faculty & Staff Association)
- Preview Day for prospective students and families
- Cougar Bazaar
- Career Expo: Graduate & Professional School/Job Fair

#### ALCOHOL & DRUG AWARENESS WEEK

One week each academic year, CSUSM proudly sponsors an important alcohol awareness program for the benefit of the student population. Programs include

- High-Risk Times for College Students
- Alcohol Information and Education
- Impaired Driving Prevention and Driving Behaviors
- Alcohol and Sexual Decision-Making
- You and Your Friends Safety and Bystander Intervention

- Peer Education in Prevention
- How Alcohol Affects Us All
- Alcohol Abuse and Academics
- Alcohol and Nutrition
- Alcohol Statistics and Reports

#### THE CAMPUS SAFETY TRAINING SERIES

The Campus Safety Training Series is a group of four safety-related topics designed to educate the campus community about various safety initiatives. The series includes free training in the areas of active shooter response, tourniquet training, fire extinguisher training, and CPR/AED training. Each course is one hour in duration and all are intended to provide the most current, hands-on training to the campus community. Courses are offered several times throughout the academic year as well as on demand at times that make it available to students, faculty, and staff.

#### PREVENTION OF WORKPLACE VIOLENCE

Upon request, UPD personnel will provide classroom training in recognizing and preventing workplace violence. With the understanding that creating a safe workplace environment starts with a Zero Tolerance Policy regarding acts of intimidation, threats of violence, or acts of violence, the next step is to provide the information necessary to recognize potential workplace violence situations in order to prevent or minimize the violence. This class also provides students with a clear understanding of their duties and responsibilities with respect to workplace violence. Interested persons can access workplace violence prevention videos from the UPD's Internet homepage: [www.csusm.edu/police](http://www.csusm.edu/police).

#### OFFICE SECURITY SURVEYS AND PERSONAL SAFETY PRESENTATIONS

Upon request, UPD personnel will provide office security surveys and employee safety presentations. Providing a quality education to students is the University's primary goal, and maintaining a safe workplace environment is a critical component in the overall campus educational equation.

#### GENDER EQUITY CENTER (GEC)

[The Gender Equity Center](#) (GEC) is an inclusive space that promotes positive interactions in a diverse environment. The GEC strives to provide a space that celebrates and affirms students of all gender identities and expressions. The GEC provides ongoing programming and discussions regarding women's issues, feminism, men and masculinity, Trans issues, gender identity and expression, gender and race, class, sexuality and culture, gender and popular culture, domestic violence and sexual assault awareness and prevention, social justice, diversity and inclusion, and positive body image.

#### STUDENT HEALTH & COUNSELING SERVICES: HOPE AND WELLNESS CENTER

[The Hope and Wellness Center](#) provides health education to students through outreach and programming offered on an ongoing basis and includes topics such as alcohol and drugs, mental health, sexual violence, and stress management.

#### SAFETY, HEALTH AND SUSTAINABILITY SERVICES

The campus [Safety, Health and Sustainability](#) department provides the following programs on an ongoing basis to help ensure the health and safety of the University community: Biological Safety, Occupational Health and Safety, Chemical Safety, Emergency Response, Food Safety, Ergonomics, Hazardous Material Safety and Handling, Office Safety, Radiation Safety, Universal & Electronic Waste, Defensive Driver and DMV Pull Programs, Event Safety Assessment, Internship and field trip safety assessments and site visits, travel safety, and risk management.

## CRIMINAL ACTIVITY AT NONCAMPUS LOCATIONS OF STUDENT ORGANIZATIONS

CSUSM does not recognize any non-campus properties associated with and owned or controlled by officially recognized student organizations. Crime statistics for “public property” of each table are collected from the Automated Regional Justice Information System (ARJIS). ARJIS is a countywide database containing crime statistics from police and sheriff agencies throughout San Diego County.

## ALCOHOL AND DRUGS

Pursuant to the Federal Drug-Free Workplace Act of 1988 and the Federal Drug-Free Schools and Communities Act ([DFSCA](#)) of 1989, California State University San Marcos is a drug-free workplace and learning community. Any unlawful manufacture, sale or attempted sale, distribution, dispensing, possession or use of controlled substances by employees, students or members of the campus community is prohibited on University property or at University functions or activities.

### **Student Responsibilities**

Use of alcohol and other drugs by students is stipulated in the [Drug-Free Campus Policy](#) and the [Alcohol Use on Campus Policy](#).

All students are required to abide by University policies regarding use, possession, consumption, distribution or presence of alcohol and other drugs in residence halls and University property. Students are also to adhere to Federal, state and local regulations regarding alcohol and other drugs. Violation of campus policy on drugs and alcohol may result in disciplinary sanctions.

### **Faculty/Staff Responsibilities**

All employees must adhere to the [Drug-Free Campus Policy](#) and the [Alcohol Use on Campus Policy](#). Violation of this policy may result in disciplinary sanctions which may include termination.

### **Local, State, and Federal Laws**

There are numerous Federal, State, and local statutes and ordinances relating to the manufacture, distribution, dispensation, possession, or use of a controlled substance or alcohol. These statutes impose legal sanctions for both felony and misdemeanor convictions related to violations of applicable laws and ordinances. Detailed information regarding these statutes, which may change over time, is available from the University Police Department. Scheduled drugs considered to be controlled substances are listed in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and are further defined by regulations 21 CFR 1308.11 through 1308.15. Copies of the Act and regulations are available for review via the [California Legislative Information website](#).

ACCORDING TO FEDERAL AND/OR STATE LAWS:

1. The manufacture, sale, or distribution of all scheduled drugs is a felony, which could result in serving time in prison; simple possession of controlled substances can be punished by civil fines of up to \$10,000 per violation and a jail sentence.
2. Distribution or possession with the intent to distribute a controlled substance on University property requires a sentence up to twice the prescribed sentence for the original offense, and twice the prescribed parole time.
3. The cultivation, possession for sale, or sale of marijuana is a felony.
4. Possession of one ounce or more of marijuana for personal use is a misdemeanor, which could include payment of a fine or serving time in jail; possession of less than one ounce for personal use is a misdemeanor, which could include a fine up to \$100.00.
5. It is a misdemeanor to sell, furnish, give, or cause to be sold, furnished or given away, any alcoholic beverage to a person under 21 or any obviously intoxicated person, and no one under 21 may purchase alcoholic beverages.
6. It is unlawful for any person under 21 to possess alcoholic beverages on any street or highway or in any place open to public view.

## Health Impacts

Alcohol misuse is described as alcohol consumption that puts individuals at increased risk for adverse health and social consequences. It is defined as excess daily consumption (more than 4 drinks per day for men or more than 3 drinks per day for women), or excess total consumption (more than 14 drinks per week for men or more than 7 drinks per week for women), or both. (National Institute on Alcohol Abuse and Alcoholism [here](#)). Excessive alcohol use, including underage drinking and binge drinking (for women, 4 or more drinks during a single occasion; for men, 5 or more drinks during a single occasion), can lead to increased risk of health problems such as injuries, violence, liver diseases, and cancer. The Centers for Disease Control and Prevention (CDC) Alcohol Team [-here](#) defines alcohol misuse as a pattern of drinking that results in harm to one's health, interpersonal relationships or ability to work. Excessive drinking includes heavy drinking, binge drinking or both. Alcohol dependence, also known as alcohol addiction and alcoholism, is a chronic disease and is associated with experiencing withdrawal symptoms, loss of control, or alcohol tolerance.

Alcohol and substance misuse and substance use addiction result in a wide spectrum of extremely serious health and behavioral problems, having both short-term and long-term effects on the body and mind. Alcohol misuse is a risk factor for several adverse health outcomes including:

- Unintentional injuries (e.g., motor vehicle accidents, falls)
- Violence (e.g., homicide, suicide)
- Liver disease
- Diseases of the central nervous system (e.g., stroke, dementia)
- Heart disease including coronary artery disease, atrial fibrillation (i.e., abnormal heart rhythm), high blood pressure, and congestive heart failure
- Various cancers (e.g., breast, colorectal, and liver)
- Risky sexual behaviors and adverse pregnancy outcomes

Many substances, both illegal and legal, have the potential for misuse. Common examples include cocaine, ecstasy, heroin, inhalants, marijuana, methamphetamine, PCP/Phencyclidine, and prescription narcotics. The impacts of substance misuse on health problems include the risk of dependence, addiction, overdose and death which can occur after first-time use. Long-lasting health effects of substance misuse include: disruption of normal heart rhythm, high blood pressure, leaks of blood vessels in the brain, bleeding and destruction of brain cells and permanent memory loss, infertility, impotency, immune system impairment, kidney failure, cirrhosis of the liver, pulmonary damage, and psychological problems. Alcohol and substance misuse during pregnancy may result in fetal damage and birth defects causing hyperactivity, neurological abnormalities,

and developmental difficulties. In addition to the problem of toxicity, contaminant poisoning often occurs with illegal drug use. HIV infection associated with intravenous drug use is a prevalent hazard.

More information about the health risks associated with alcohol and substance misuse are available at the National Institute on Drug Abuse website <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/addiction-health> and <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/addiction-health> and the CSUSM Student Health and Counseling Services at <https://www.csusm.edu/shcs/emergency/links.html>.

## Resources:

Information is available from the CSUSM Office of Human Resources at [https://www.csusm.edu/hr/benefits/other\\_programs/employee\\_assistance\\_program.html](https://www.csusm.edu/hr/benefits/other_programs/employee_assistance_program.html) and Student Health and Counseling Services at <https://www.csusm.edu/shcs/emergency/links.html>.

Students can refer to the CSUSM Housing and Residential Education Policies Handbook, where alcohol policy violations are detailed starting on page 24 and drug violations are outlined on page 26. Access the document here:

<https://www.csusm.edu/housing/documents/residenthandbook.pdf>. Additional important references for students include: the CSUSM Student Conduct website, <https://www.csusm.edu/dos/advocacy/conduct/index.html>; and Standards for Student Conduct, [https://www.csusm.edu/dos/studres/standards\\_student\\_conduct.html](https://www.csusm.edu/dos/studres/standards_student_conduct.html). Students can consult the FAQ page regarding smoke- and tobacco-free campus environment at [www.csusm.edu/dos/about/polpro.html](http://www.csusm.edu/dos/about/polpro.html).

Help with alcohol and substance misuse can be obtained from the Substance Abuse and Mental Health Services Administration (SAMHSA) National Helpline at 1-800-662-HELP (4357) or TTY: 1-800-487-4889, or use SAMHSA's Behavioral Health Treatment Services Locator <https://findtreatment.samhsa.gov/> to get help.

## 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

Educational programming consists of primary prevention and awareness programs for all incoming students and new employees (i.e., faculty and staff) and ongoing awareness and prevention campaigns for students and employees that:

1. Identifies domestic violence, dating violence, sexual misconduct, and stalking as prohibited conduct;  
California State University San Marcos does not discriminate on the basis of sex, gender, 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 in all education programs and activities operated by the university (both on and off campus) that receive Federal financial assistance. Title IX protects all people regardless of their gender or gender identity from sex discrimination, which includes sexual harassment and sexual misconduct.
2. Include crime definitions for the local jurisdiction for dating violence, domestic violence, sexual assault, stalking, and of consent, in reference to sexual activity, in the applicable jurisdiction;  
See Appendix B for definitions per California Penal Code.
3. Provides safe and positive options for bystander intervention.  
Bystander intervention means a safe and positive option that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual misconduct, or stalking against a person other than the bystander. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.
4. Provides information on risk reduction.  
Risk reduction is addressed through the concept of verbal defense and drawing clear sexual boundaries, including using words to attempt to remove oneself from situations causing discomfort.
5. Include information on procedures the institution follows when one of these crimes is reported and rights within disciplinary proceedings.



The University procedures to reports of Sexual Misconduct/Sexual Assault, Domestic Violence, Dating Violence and Stalking, can be found on page 40 You can also access the Universities' policies outlining these procedures online. For Employees Executive Order 1096, Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Employees and Third Parties and Systemwide Procedure for Addressing Such Complaints by Employees and Third Parties, can be found at: <https://calstate.policystat.com/policy/8453514/latest/>. For Students Executive Order 1097, Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Students and Systemwide Procedure for Addressing Such Complaints by Students, can be found at: <https://calstate.policystat.com/policy/8453516/latest/>.

In Addition, The Universities' Student disciplinary procedures can be found on page 38. You can also access the Universities' policies outlining these procedures online. Executive Order 1098, Student Conduct Procedures, can be found at: <https://calstate.policystat.com/policy/8453518/latest/>."

The University has numerous primary prevention and awareness programs that include the distribution of educational materials to new students and new employees at such events as New Student Orientation, New Faculty Orientation, and New Employee orientations held throughout the year. In addition, ongoing prevention and awareness events are presented throughout the year for students and employees can be found in Appendix A: CSUSM Crime Prevention and Safety Campaigns.

### Students

All students are required to complete online "Not Anymore" sexual violence, domestic/dating violence, and stalking prevention training.

- First time freshmen only are mandated to complete BOTH Not Anymore: Sexual Violence Prevention and Not Anymore: Alcohol and Other Drugs trainings.
- All continuing students must complete the annually assigned refresher training.
- Transfer Students must complete Not Anymore Sexual Violence Prevention.

"Not Anymore: Sexual Violence Prevention" is an interactive online interpersonal violence prevention program that Provides critical information about sexual violence prevention and the definitions of consent, bystander intervention, sexual assault, rape, domestic violence, and stalking. This program also provides information regarding your rights, safety, and ability to help stop sexual violence at California State University San Marcos. This training takes approximately 80 minutes to complete.

"Not Anymore: Alcohol and Other Drugs" provides critical information about alcohol and drugs as they impact your brain, your GPA, your peers, and your life. This training takes approximately 60 minutes to complete.

"Every Choice" is a "refresher" program aimed at reducing campus sexual assault, dating/domestic violence and stalking by equipping students with realistic, actionable bystander intervention tools. This training takes approximately 25 minutes to complete.

Failure to complete trainings by the deadline listed in email communication will result in a registration hold.

The content of this online training contains some sensitive material involving sexual violence prevention. If you feel that this training will be triggering or traumatizing for you to complete due to experiences with this issue,

please contact CSUSM's Sexual Violence Advocate and Educator, Christa Wencl at [cwencil@csusm.edu](mailto:cwencil@csusm.edu) or (760) 750-4915 (ext.7) to discuss alternatives.

Compliance for the “Not Anymore” training is overseen by the Title IX Office.

<https://www.csusm.edu/title9/onlinetraining/index.html>

#### Faculty & Staff

All faculty and staff are required to take a similar training program entitled “Gender Equity and Title IX” presented by United Educators through the CSU Learn training portal. New employees are required to complete within 6 months of employment.

This course provides practical training for identifying, reporting, and preventing campus sexual violence, as well as assisting victims of sexual assault. Interactive case studies and videos provide engaging educational content that explains how to respond to known or suspected sexual violence, which includes sexual assault, dating violence, domestic violence, and stalking. Examples are based on real cases that teach important concepts to build a safe campus community and create a culture that does not tolerate sexual violence. The course teaches employees valuable skills for assisting victims and survivors of sexual violence and reporting sexual violence. This course trains faculty and staff on how to recognize sexual misconduct, report incidents to campus authorities, and prevent sexual misconduct from occurring in the first place. This course also provides state-specific legal definitions of sexual violence, and describes victim protections, bystander intervention strategies, and school disciplinary proceedings.

The content of this online training contains sensitive material involving sexual misconduct prevention. If you feel that this training will be traumatic for you to complete due to current or past experiences with this issue, please contact CSUSM's Advocates, Christa Wencl and Avery Bather at [advocates@csusm.edu](mailto:advocates@csusm.edu) or (760) 750-4915 (ext.7) for confidential support and to request an alternative training.

The Office of Human Resources oversees required employee compliance trainings:

<https://www.csusm.edu/hr/training/compliance.html>

## 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.

## 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.

You may report to the campus Title IX Coordinator any incident of sex discrimination, sexual harassment, or sexual misconduct (e.g., rape, acquaintance rape, dating violence, domestic violence or stalking).

Title IX Coordinator: Dr. Bridget Blanshan

Address: 3200 Craven Hall

Email: [bblanshan@csusm.edu](mailto:bblanshan@csusm.edu)

Phone: (760) 750-6020

Office Hours: Monday-Friday 8AM to 5PM, closed during campus closure days

Please note that the Title IX Coordinator can assist you with the completion of this form/documentation of the required information via an in-person meeting.

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.

Court-based legal service providers, the Legal Aid Society of San Diego, and the San Diego Volunteer Lawyer Program offer remote assistance by phone, email, and video conference.. You are encouraged to seek assistance from a legal service provider before visiting the courthouse. Providers are attorneys and legal

professionals who can explain procedures, prepare your forms, and write your declaration. Services are provided at no cost.

[Legal Aid Society of San Diego \(LASSD\)](#)

Remote assistance is available by phone and video conference. LASSD will prepare your forms and email them to you or to the courthouse for pick up and filing. 877-534-2524, Ext. 2844

[San Diego Volunteer Lawyer Program \(SDVLP\)](#)

Remote assistance is available by phone and video conference. SDVLP will prepare your forms and email them to you or to the courthouse for pick up and filing. Apply for assistance online by filling out the Restraining Order Screening Form at [sdvlp.org](http://sdvlp.org).

English: 619-235-5656, Ext. 118 Spanish: 619-235-5656, Ext. 102

Students, faculty and staff are encouraged to contact UPD Dispatch at ext. 4567 to notify the University Police of the existence of a restraining order. A hard copy can be delivered to the Public Safety Building or sent via e-mail to [dispatch@csusm.edu](mailto:dispatch@csusm.edu). UPD will maintain a copy on file and a report documenting the existence of the restraining order is prepared by an officer. The institution will work with both parties to ensure the restrained individual's compliance with all orders in situations where both parties maybe present such as class, on campus housing, or other University functions.

## 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.

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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.

## 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:

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.

#### 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

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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.

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 proceedings 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:

1. seek information about the Complainant's sexual history with anyone other than the Respondent (unless such evidence about the Complainant's sexual behavior is offered to prove that someone other than the Respondent committed the alleged misconduct);
2. seek information about the Respondent's sexual history with anyone other than the Complainant, unless such information is used to prove motive or pattern of conduct;
3. seek information that is unreasonably duplicative of evidence in the Hearing Officer's possession; or
4. 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 WITHOLDING 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 website](#).

## 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

The emergency notification shall contain the 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 EVACUATIONS

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.

If you are a current CSUSM faculty, staff or student, you are automatically registered in the Emergency Notification System utilizing your current contact information within the University PeopleSoft System. We strongly encourage CSUSM faculty, staff and students to [review and confirm that your contact information](#) within PeopleSoft is up to date. It is important that you include a cell phone number in your PeopleSoft profile (must be listed as a mobile phone). Most people carry cell phones which gives them the ability to quickly receive emergency alerts anywhere on campus.

During an emergency, alert messages are sent to registered cell phones via text message, cellular calls, registered home phones and email address (not all campus email addresses are automatically registered). Please listen and/or read the alert and follow the recommended action.

If you prefer to not be included in the text, cellular and email portion of the Emergency Notification System, you may opt out your personal contact information. If you chose to opt out, you will not receive first response notifications via your personal email and personal phone numbers. Campus email addresses will continue to receive emergency notifications.

[To Opt In](#) (if you are not a current CSUSM faculty, staff or student and wish to register with the CSUSM Emergency Notification System:

[https://www.csusm.edu/em/notification\\_system/em\\_notif\\_system\\_opt-in.html](https://www.csusm.edu/em/notification_system/em_notif_system_opt-in.html)

[To Opt Out](#): [https://www.csusm.edu/em/notification\\_system/em\\_notif\\_system\\_opt-out.html](https://www.csusm.edu/em/notification_system/em_notif_system_opt-out.html)

For additional questions on the Emergency Notification System including opt in/opt out assistance, please contact:

Jennifer Ralph  
Emergency Manager  
[jralph@csusm.edu](mailto:jralph@csusm.edu)  
760-750-4567

## MISSING STUDENT NOTIFICATION

CSUSM's [On-Campus Housing Missing Student Policy](#) is administered through Housing and Residential Education. The purpose of this policy is to establish procedures for the reporting of missing on-campus student residents as required by the *Higher Education Opportunity Act of 2008*. For purposes of this policy, a student may be considered a "missing person" if their absence is contrary to their usual pattern of behavior and/or unusual circumstances may have caused the absence. Individuals having reason to believe that a student has been missing should immediately notify the UPD at (760) 750-4567.

Missing person reports should be made directly to the UPD. However, these reports may also be made to the Housing Office by calling either University Village Apartments (UVA) at (760) 750-3711 or The QUAD at (760) 750-3730 during published office hours or by contacting the resident advisors on duty at (760) 750-6400 for the UVA or (760) 750-3733 for The QUAD after the offices have closed. The Office of the Dean of Students can also be contacted at (760) 750-4935. If the missing person report is made to staff or organizations other than the UPD, said individual(s) or entity must contact the UPD immediately.

### CONTACT PROCEDURES

Every student who lives in on-campus student housing, regardless of age, will register one or more individuals to be a contact strictly for missing persons purposes. Housing will collect the contact information of a parent, guardian, or individual as the Missing Persons Contact during the student housing license application process. This confidential contact may be separate from an emergency contact. Students will be offered this option annually regardless whether they chose to register a contact the previous year. The contact person will be notified not later than 24 hours after the official missing person report has been filed with the UPD.

- Contact information provided by the student will be registered confidentially. This information will be accessible only to authorized campus officials and will not be disclosed except to law enforcement personnel in furtherance of a missing person investigation. This contact information will be stored on a password protected share drive and on a portable storage drive in the event it is needed when computer systems are not accessible (e.g., during a power outage or computer server failure).
- If the student is under 18 years of age and not an emancipated individual, the UPD is required to notify a custodial parent or guardian in addition to any contact person designated by the student no more than 24 hours after the student is determined missing.
- Within 24 hours of the determination that the student is missing, the UPD will initiate the On-Campus Housing Missing Student Procedures in accordance with the student's designation and will notify local law enforcement.
- Housing and Residential Education and the Dean of Students Office shall be informed of the progress of any investigation as much as is legally possible so that they may ensure members of the residential communities are provided with support services that may be necessary (e.g., counseling).

### OFFICIAL NOTIFICATION PROCEDURES

- Any individual on campus who has information that a resident may be a missing person must notify the UPD as soon as possible.
- Once a report is filed with the UPD, numerous departments and individuals on campus should be notified that a student has been reported missing. The UPD is responsible for immediate notifications to the Dean of Students Office, Housing and Residential Education, and the Clery Director. The Dean

of Students Office will coordinate additional communications to campus departments and individuals including the Vice President of Student Affairs, the Office of Communications, the President's Office, and Campus General Counsel. Should circumstances develop into something more serious, additional departments will be notified, including but not limited to Student Health & Counseling Services and others pending a student's on-campus affiliations.

- As appropriate, the Dean of Students will contact the student's professors and advisor.
- No later than 24 hours after determining that a student is missing, the UPD will notify the Missing Persons Contact (for students 18 and over) and the parent/guardian (for students under the age of 18 and not emancipated) that the student is believed to be missing.

## FIRE SAFETY ACT

The 2021 Fire Safety Report is available at the following link:

<https://www.csusm.edu/housing/documents/2021firesafetyreportfinal.pdf>



Name of Program	Description	Population Served	Scheduling Information*	2020 Dates Offered**	Coordinating Department	Presenters	Primary Prevention & Awareness Program for new students and new employees	Ongoing Prevention & awareness campaigns for students and employees	Domestic Violence	Dating Violence	Sexual Assault	Stalking	Bystander Intervention	Risk Reduction
One Love Healthy Relationship Workshop	Viewed "Escalation" film. Film exposed and we discussed dating and sexual violence, stalking, rape culture, bystander intervention, indicators of an unsafe relationship, affirmative consent, reporting options and resources	Campus Community	annually	2/25/2020	SHCS: HOPE & Wellness Center/ Sexual Violence Advocate & Educator	Cathy Nguyen, Christa Wencil & Peer Educators	x	x	x	x	x	x	x	x
CSUSM Women's Leadership Symposium	served as table hosts informing students of the advocate role, campus resources and career paths. Discussed rape culture and shifting attitudes.	Campus Community	One time event	2/29/2020	SHCS: Sexual Violence Advocacy & Education	Christa Wencil	x	x	x	x	x	x	x	x
No More Donut Day	Advocacy, awareness and pledge drive to end dating violence. Students were given donuts and coffee for photo pledging to be an active bystander and help promote healthy relationship. Promote "NO MORE" week to end all forms of sexual harm.	Campus Community	annually spring	3/2/2020	SHCS: HOPE & Wellness Center/ Sexual Violence Advocate & Educator	Cathy Nguyen Christa Wencil	x	x	x	x	x	x	x	x
A Walk in Their Shoes	A Walk in Their Shoes is an interactive event where the campus community will be engaging with different tables where they will have the opportunity to learn about dating and sexual violence. Participants will walk away with more awareness regarding sexual assault, domestic violence, stalking, harassment and other forms of intimate abuse as well as resources for support.	Campus Community	per semester	3/5/2020	SHCS: HOPE & Wellness Center/ Sexual Violence Advocate & Educator	Cathy Nguyen & Peer Educators		x	x	x	x	x	x	x
Fraternity & Sorority Life 101 Sexual Violence Education	Reviewed previous Kahoot! Survey students answers asked students to consider their responses. Topics included: sexual boundaries, communication, conflict resolution, social media, decisions about taking or sharing photos/ videos, characteristics of relationships they feel clear they want or don't want and how they handle break ups. Students were reminded about on and off campus resources, bystander intervention and asked to think clearly about asserting digital boundaries as well as know which may constitute harassment, stalking and dating violence.	Greek Life	annually spring	3/20/2020	SHCS: Sexual Violence Advocacy & Education	Christa Wencil	x	x	x	x	x	x	x	x

Name of Program	Description	Population Served	Scheduling Information*	2020 Dates Offered**	Coordinating Department	Presenters	Primary Prevention & Awareness Program for new students and new employees	Ongoing Prevention & awareness campaigns for students and employees	Domestic Violence	Dating Violence	Sexual Assault	Stalking	Bystander Intervention	Risk Reduction
ALCI Not Anymore Training	Lecture on definitions of sexual violence, healthy relationships, affirmative consent, digital abuse and safety, cyber and physical stalking, sexual violence and bystander intervention. Title IX, CSUM Executive Orders regarding sexual misconduct and survivor support, resources and reporting options.	ALCI program students	annually	3/24/2020	SHCS: Sexual Violence Advocacy & Education	Christa Wenzl	x		x	x	x	x	x	x
O-Team Training: Title IX & Student Health and Counseling Services	Overview of Advocate role and services, Title IX, on and off campus resources, mandated reporter obligations and best practices for disclosure responses. Offered a summary of Student Health & Counseling Services and supporting incoming students with related requirements. Reviewed bystander intervention and creating survivor inclusive communities.	Orientation Team	annually spring	4/10/2020	SHCS: Sexual Violence Advocacy & Education	Christa Wenzl		x	x	x	x	x	x	x
Show Your Teal Selfie: Sexual Assault Awareness Month	Promoted Sexual Assault Awareness Month (SAAM) and encourage campus communities members to show support by sharing selfies while wearing the color teal, which is the color for SAAM.	Campus Community	one-time event	4/27/2020	SHCS: HOPE & Wellness Center/ Sexual Violence Advocate & Educator	Cathy Nguyen Christa Wenzl	x				x		x	x
Coffee with Christa & Cathy	Offered a space to connect with the campus advocate and health educator. Shared information about roles and services available to students. Answered students questions.	Campus Community	one-time event	4/28/2020	SHCS: HOPE & Wellness Center/ Sexual Violence Advocate & Educator	Cathy Nguyen Christa Wenzl	x		x	x	x	x	x	x
Sole Survivor art show	Instagram live event hosted by student to highlight sexual assault awareness. Advocate shared overview of role and services. Answered questions about ways to support a survivor.	Campus Community	one-time event	4/29/2020	SHCS: Sexual Violence Advocacy & Education	Christa Wenzl	x				x		x	x
Show Your Denim Selfie: Sexual Assault Awareness Month	Social media event to honor Denim Day, encouraging campus members to wear jeans in support of survivors and dispelling myths about sexual assault.	Campus Community	annually spring	4/30/2020	SHCS: HOPE & Wellness Center/ Sexual Violence Advocate & Educator	Cathy Nguyen Christa Wenzl	x				x	x	x	
Restorative Yoga: Sexual Assault Awareness Month	Invited members of campus for a self-care session of restorative yoga to conclude Sexual Assault Awareness Month.	Campus Community	one-time event	5/1/2020	SHCS: HOPE & Wellness Center/ Sexual Violence Advocate & Educator	Dr. Juan Alvarez	x					x		



Name of Program	Description	Population Served	Scheduling Information*	2020 Dates Offered**	Coordinating Department	Presenters	Primary Prevention & Awareness Program for new students and new employees	Ongoing Prevention & awareness campaigns for students and employees	Domestic Violence	Dating Violence	Sexual Assault	Stalking	Bystander Intervention	Risk Reduction
Wear Red: National Day of Awareness for Missing and Murdered Indigenous Women & Girls	social media campaign asking CSUSM members to wear red and build awareness for Missing and Murdered Indigenous Women & Girls	Campus Community	annually Spring	5/5/2020	SHCS: HOPE & Wellness Center/ Sexual Violence Advocate & Educator	Cathy Nguyen Christa Wencil	x		x	x	x	x	x	x
Restorative Yoga	Invited members of campus for a self-care session of restorative yoga to conclude Sexual Assault Awareness Month.	Campus Community	one-time event	5/8/2020	SHCS: HOPE & Wellness Center/ Sexual Violence Advocate & Educator	Dr. Juan Alvarez	x					x		
Temecula Business Student Orientation	Overview of affirmative consent and rights, responsibilities and services available relating to sexual misconduct.	Temecula Business Students	as requested	5/19/2020	Title IX/DHR	Carinna Connelly	x		x	x	x	x	x	x
Orientation Recorded Presentation and Virtual Resource Fair	Wellness presentation for all new incoming students addressing forms of sexual violence, affirmative consent, bystander intervention, Title IX, survivor support, rights, resources on/off campus.	All incoming first year and transfer students	annually summer	6/25; 6/27; 7/7; 7/9; 7/11; 7/14; 7/16; 7/21; 7/23; 8/1; 8/4; 8/6;	SHCS: HOPE & Wellness Center/ Sexual Violence Advocate & Educator	Cathy Nguyen Christa Wencil	x		x	x	x	x	x	x
GEL class	Overview of advocacy services, Student Health & Counseling services and appointment information. Discussed impacts of stress and ways to manage including proactive awareness and resiliency strengths and skills. Overlaps of sexual trauma within challenges and coping.	GEL 101 Class, First year students	as requested	7/27/2020	SHCS: Sexual Violence Advocacy & Education	Christa Wencil	x		x	x	x	x	x	x
Advocate Services Overview	History of advocate role on campus, overview of services, trends on campus, resources and ways to refer a student for advocate services.	SHCS new staff & interns	annually summer	8/12/2020	SHCS: Sexual Violence Advocacy & Education	Christa Wencil	x		x	x	x	x	x	x
Fall 2020 CSUSM Temecula Orientation	Overview of affirmative consent and rights, responsibilities and services available relating to sexual misconduct.	Temecula New Students	as requested	8/13/2020	Title IX/DHR	Carinna Connelly	x		x	x	x	x	x	x
Clery CSA and Title IX Mandated Reporter training	Explanation of Clery CSA and Title IX Mandated Reporter obligations	Graduate Assistants & Student Specialists	as requested	8/26/2020	Title IX/DHR	Carinna Connelly and Leslie Rockwell	x		x	x	x	x	x	x
ALCI & International Students recorded presentation & virtual Q & A	Wellness presentation for all new incoming students addressing sexual violence, affirmative consent, bystander intervention, Title IX, CSUSM Executive orders connected to sexual misconduct and survivor support, rights, resources on/off campus. Information about health insurance.	New ALCI & International Students	annually	8/26/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather & Christa Wencil	x		x	x	x	x	x	x

Name of Program	Description	Population Served	Scheduling Information*	2020 Dates Offered**	Coordinating Department	Presenters	Primary Prevention & Awareness Program for new students and new employees	Ongoing Prevention & awareness campaigns for students and employees	Domestic Violence	Dating Violence	Sexual Assault	Stalking	Bystander Intervention	Risk Reduction
Trivia: Meet the Sexual Violence Advocates & Educators	Interactive presentation with trivia that provided information on advocacy services, types & causes of sexual violence, bystander intervention, survivor support, and on/off campus resources.	CSUSM Campus Community	one-time event	9/9/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather & Christa Wencil	x		x	x	x	x	x	x
Sexual Violence Prevention Training Program	Provided training to new student Sexual Violence Prevention Trainers on types of sexual violence, bystander intervention, supporting survivors, and intersectionality.	Student Trainers	each semester	9/9/2020, 9/16/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather & Christa Wencil	x		x	x	x	x	x	x
Fraternity & Sorority Life: Meet & Greet Trivia	Interactive presentation with trivia that provided information on advocacy services, types & causes of sexual violence, bystander intervention, survivor support, and on/off campus resources.	CSUSM Fraternity & Sorority Life Students	one-time event	9/10/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather & Christa Wencil	x		x	x	x	x	x	x
Seminar short term trauma work	Present on forms of sexual trauma, trauma impacts, neurobiology of trauma, Trauma Informed Care Principles, intersectional impacts and brief therapy model for supporting survivors of sexual trauma.	SHCS Psychologists and Interns	annually	9/18/2020 and 9/25/2020	SHCS	Dr. Lissa Lim & Christa Wencil		x	x	x	x	x	x	x
Fraternity & Sorority Life: Healthy Digital Relationships	Interactive presentation with discussion, Zoom polls, and videos that focused on relationships and technology. Content included pros/cons of technology in relationships, signs of healthy/unhealthy relationships, types of violence, bystander intervention, and online dating.	CSUSM Fraternity & Sorority Life Students	one-time event	9/15/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather	x		x	x	x	x	x	x
Healthy Digital Relationships	Interactive presentation with discussion, Zoom polls, and videos that focused on relationships and technology. Content included pros/cons of technology in relationships, signs of healthy/unhealthy relationships, types of violence, bystander intervention, and online dating.	CSUSM Campus Community	one-time event	9/21/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather	x		x	x	x	x	x	x
Meet & Greet Trivia with your Advocates!	Interactive presentation with trivia that provided information on advocacy services, types & causes of sexual violence, bystander intervention, survivor support, and on/off campus resources.	CSUSM Campus Community	one-time event	9/23/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather & Christa Wencil	x		x	x	x	x	x	x

Name of Program	Description	Population Served	Scheduling Information*	2020 Dates Offered**	Coordinating Department	Presenters	Primary Prevention & Awareness Program for new students and new employees	Ongoing Prevention & awareness campaigns for students and employees	Domestic Violence	Dating Violence	Sexual Assault	Stalking	Bystander Intervention	Risk Reduction
Survivors are Welcome Here Panel	Student survivors of sexual violence shared ways they cope on a campus, what places and people on campus where helpful, what advice they have for faculty in classes and for how to respond if someone shares they are a survivor.	CSUSM Campus Community	each semester	9/24/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather, Cathy Nguyen & Christa Wencil		x	x	x	x	x	x	x
COVID Hook-ups & Sexual Health	Presented on sexual health during COVID 19, healthy digital relationships, online dating safety, affirmative consent, bystander intervention, and on/off campus resources. Included breakout room discussions and Kahoot.	CSUSM Fraternity & Sorority Life Students	one-time event	9/30/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather & Cathy Nguyen	x						x	x
Together We Heal: Domestic Violence Awareness Month	In collaboration with North County Domestic Violence Coalition, this virtual event provided resources available in the community for those who are suffering from, healing from, and overcoming domestic abuse.	CSUSM Campus Community	one-time event	10/1/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather, Christa Wencil & North County Coalition Against Domestic Violence	x		x	x				
Gender-Based Violence: LBGQTQIA+ Round Table	A discussion-based event that focused on the unique or additional challenges LBGQTQIA+ survivors may face in accessing legal, medical, law enforcement or other resources due to oppression, prejudice and discrimination. Resources, social change leaders, and healing were also discussed.	CSUSM Campus Community	one-time event	10/5/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather & Christa Wencil	x		x	x	x	x	x	
Sorority Sexual Violence Prevention Training	An interactive presentation that covered sexual health, STIs, consent, types and causes of sexual violence, bystander intervention, and resources.	CSUSM aKDPHI Sorority Members	one-time event	10/5/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather	x		x	x	x	x	x	x
Bystander Intervention Bingo	Interactive presentation with bingo that included training on bystander intervention, types of violence, supporting survivors, and resources.	CSUSM Campus Community	one-time event	10/9/2020 and 11/19/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather	x		x	x	x	x	x	x
Fraternity & Sorority Life: Healthy vs. Unhealthy Relationships	Interactive presentation with videos and Kahoot that included information on signs of healthy and unhealthy relationships, types of sexual violence, bystander intervention, and resources.	CSUSM Fraternity & Sorority Life Students	one-time event	10/13/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather	x		x	x	x	x	x	x
Healthy vs. Unhealthy Relationships	Interactive presentation with videos and Kahoot that included information on signs of healthy and unhealthy relationships, types of sexual violence, bystander intervention, and resources.	CSUSM Campus Community	one-time event	10/14/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather	x		x	x	x	x	x	x
Fraternity & Sorority Life: Bystander Intervention Bingo	Interactive presentation with bingo that included training on bystander intervention, types of violence, supporting survivors, and resources.	CSUSM Fraternity & Sorority Life Students	one-time event	10/15/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather	x		x	x	x	x	x	x

Name of Program	Description	Population Served	Scheduling Information*	2020 Dates Offered**	Coordinating Department	Presenters	Primary Prevention & Awareness Program for new students and new employees	Ongoing Prevention & awareness campaigns for students and employees	Domestic Violence	Dating Violence	Sexual Assault	Stalking	Bystander Intervention	Risk Reduction
New Federal Regulations Training	Changes in TIX regulations and how affect CSUSM TIX services	ASI	as requested	10/16/2020	Title IX/DHR	Carinna Connelly		x	x	x	x	x		
Gender-Based Violence Intersectional Focused Round Tables: Race	Discussion-based event that focused on sexual violence and racism. Through small and large group discussion, we explored the unique barriers and challenges survivors of color may face in accessing legal, medical, law enforcement or other resources	CSUSM Campus Community	one-time event	10/19/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather, Christa Wencil & Dr. Lissa Lim	x		x	x	x	x	x	
Fraternity & Sorority Life: Digital Abuse	Interactive presentation with a short film and Kahoot. Presentation focused on technology & relationships, digital abuse, online dating safety, bystander intervention, and resources.	CSUSM Fraternity & Sorority Life Students	one-time event	10/20/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather	x		x	x	x	x	x	x
Fraternity & Sorority Life: Amor del Bueno	Interactive presentation and short film included information on signs of healthy and unhealthy relationships, types of sexual violence, bystander intervention, and resources.	CSUSM Fraternity & Sorority Life Students	one-time event	10/22/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather	x		x	x	x	x	x	x
Digital Abuse	Interactive presentation with a short film and Kahoot. Presentation focused on technology & relationships, digital abuse, online dating safety, bystander intervention, and resources.	CSUSM Campus Community	one-time event	10/26/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather	x		x	x	x	x	x	x
Fraternity & Sorority Life: My Masculinity Helps	Viewed the film "My Masculinity Helps," which explores the role of African American men and boys in the prevention of sexual violence. Included survivors stories, supporting survivors, affirmative consent, deconstructing traditional gender roles, masculinity, power and the prevention of sexual violence. Engaged participants in small and large group discussions and shared on/off campus resources.	CSUSM Fraternity & Sorority Life Students	one-time event	10/27/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather, Dr. Ryan Stevenson, Dr. Juan Alvarez		x	x	x	x	x	x	x
Supporting a Survivor	Defined what sexual harm is and impacts of sexual trauma. Discussed what might be challenging for loved ones in supporting a survivor, ways to respond to a survivor sharing and best practices for offering support. Provided an overview of advocate services.	CSUSM Fraternity & Sorority Life Students	one-time event	10/29/2020	SHCS: Sexual Violence Advocacy & Education	Christa Wencil & Avery Bather	x	x	x	x	x	x	x	x
COVID Hookups + Sexual Health	Presented on sexual health during COVID 19, healthy digital relationships, online dating safety, affirmative consent, bystander intervention, and on/off campus resources. Included breakout room discussions and Kahoot.	CSUSM Campus Community	one-time event	10/29/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather, Cathy Nguyen, & Bryan Karp (Student Trainer)	x						x	x

Name of Program	Description	Population Served	Scheduling Information*	2020 Dates Offered**	Coordinating Department	Presenters	Primary Prevention & Awareness Program for new students and new employees	Ongoing Prevention & awareness campaigns for students and employees	Domestic Violence	Dating Violence	Sexual Assault	Stalking	Bystander Intervention	Risk Reduction
GEL 101	Interactive presentation on types of sexual violence, healthy vs. unhealthy relationships, bystander intervention, survivor support, and on/off campus resources.	GEL 101 Class, First year students	as requested	10/29/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather	x		x	x	x	x	x	x
GEL 101	Very brief overview of types of sexual violence, healthy vs. unhealthy relationships, bystander intervention, survivor support, and on/off campus resources.	GEL 101 Class, First year students	as requested	11/9/2020 (Two class sections)	SHCS: Sexual Violence Advocacy & Education	Avery Bather	x		x	x	x	x	x	x
My Masculinity Helps	Viewed the film "My Masculinity Helps," which explores the role of African American men and boys in the prevention of sexual violence. Included survivors stories, supporting survivors, affirmative consent, deconstructing traditional gender roles, masculinity, power and the prevention of sexual violence. Engaged participants in small and large group discussions and shared on/off campus resources.	CSUSM Campus Community	one-time event	11/2/2020	SHCS: Sexual Violence Advocacy & Education/ Black Student Center	Avery Bather, John Rawlins III, Dr. Ryan Stevenson, Christa Wencil		x	x	x	x	x	x	x
Gender-Based Violence Intersectional Focused Round Tables + the Dis(ability) Community	Through a short presentation and small and large group discussions, we explored the unique challenges & barriers survivors with dis(abilities) may face in accessing legal, medical, law enforcement or other resources due to lack of accessibility and discrimination.	CSUSM Campus Community	one-time event	11/9/2020	SHCS: Sexual Violence Advocacy & Education/ Disability Student Services/ Women Gender & Sexuality Studies	Christa Wencil, Avery Bather, Cecili Chadwick & Dr. Kara Kornher	x		x	x	x	x	x	
Gender-Based Violence Intersectional Focused Round Tables + the Military Community	Through a short presentation and small and large group discussions, we explored the unique challenges & barriers survivors in the military community may face in seeking support and resources following experiences of sexual violence. Additionally, we discussed aspects of military culture that foster gender-based violence as well as steps the military has taken to address these issues.	CSUSM Campus Community	one-time event	11/16/2020	SHCS: Sexual Violence Advocacy & Education/ Veterans Center	Christa Wencil, Avery Bather	x				x	x	x	
Bystander Intervention Bingo	Interactive presentation with bingo that included training on bystander intervention, types of violence, supporting survivors, and resources.	CSUSM Campus Community	one-time event	11/19/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather	x		x	x	x	x	x	x
Self-Care & Healing	Offered a conversation on self-care, healing, and resiliency strategies. Shared information about the impacts of trauma and stress on wellbeing and a variety of self-care techniques such as mindfulness and breathing exercises. Overview of advocate services and resources.	CSUSM Campus Community	one-time event	12/3/2020	SHCS: Sexual Violence Advocacy & Education	Avery Bather & Christa Wencil	x		x	x	x	x	x	x

## APPENDIX B: CSUSM AT TEMECULA CRIME PREVENTION AND SAFETY CAMPAIGNS

(January 1-December 31, 2020)

Name of Program	Description	Population Served	Scheduling Information*	2020 Dates Offered**	Coordinating Department	Presenters	Primary Prevention & Awareness Program for new students and new employees	Ongoing Prevention & awareness campaigns for students and employees	Domestic Violence	Dating Violence	Sexual Assault	Stalking	Bystander Intervention	Risk Reduction
Spring 2020 New Student Orientation	New Student Orientation for CSUSM Temecula Spring Undergraduate Admits. Students are provided an overview of resources, contacts and information related to Dean of Students, Cougar Care Network, Title IX, reporting concerns, UPD and campus safety (specific to the Temecula branch campuses).	Incoming Spring'20 Undergraduate Admits	Spring Orientations = annually in January	1/15/2020	CSUSM Temecula Student Services Team, with DOS/UPD/Title IX	Title IX = Gail Mendez & Carinna Connelly / UPD & DOS = Lt. Jesus Flores & Leslie Rockwell	x						x	x
Fall 2020 New Student Orientation	New Student Orientation for CSUSM Temecula Fall Undergraduate Admits. Students are provided an overview of resources, contacts and information related to Dean of Students, Cougar Care Network, Title IX, reporting concerns, UPD and campus safety (specific to the Temecula branch campuses). *VIRTUAL FORMAT	Incoming Fall'20 Undergraduate Admits	Fall Orientations = annually in August	8/13/2020	CSUSM Temecula Student Services Team, with DOS/Title IX	Title IX = Carinna Connelly / DOS = Leslie Rockwell & Jennie Ruiz (video)	x						x	x
*Fall 2020 CSUSM Temecula Week of Welcome Resource Fair - Cancelled due to Covid-19 limitations														

## APPENDIX C: DEFINITIONS PER CALIFORNIA PENAL CODE

### **Rape (CA Penal Code Chapter 1 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.

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(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.