

2021-2022 Title IX Annual Report



INSTITUTIONAL EQUITY & COMPLIANCE

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INTRODUCTION

This report presents information about complaints of sexual misconduct brought to the attention of the campus Title IX Coordinator within the reporting period of July 1, 2021, to June 30, 2022, and the actions taken by the campus to address those complaints.

This report is intended to raise community awareness about the complaints of sexual misconduct and the procedures available to address those complaints. It may also be a stimulus for community discussion about issues relating to sexual misconduct and for community engagement in the California State University's (CSU) efforts to prevent it. However, because the report must be composed to protect the privacy of the individuals involved, it cannot provide a public forum for discussion of specific cases.

While intended to be broadly informative, the report has limitations. The report concerns complaints about "sexual misconduct," as defined in CSU Policy that encompass a broad range of behaviors, including Sexual Assault, Sexual Harassment, including hostile environment and quid pro quo ("this for that"), Dating Violence, Domestic Violence, Sexual Exploitation and Stalking, Sexual Misconduct, Prohibited Consensual Relationships. Because of privacy obligations, the report cannot fully convey the variety and complexity of circumstances associated with matters that may appear similar. The report is limited to presenting information concerning the campus's responses to reported misconduct raised pursuant to CSU's procedures for addressing violations of University policies. It includes information concerning administrative handling of reported misconduct whether or not the conduct was also the subject of a crime report or criminal prosecution, whether or not the purported misconduct occurred on or off campus, and whether or not the conduct itself occurred during the period. Information about reported crimes committed during the period at CSUSB is available in the Annual Security Report (ASR) located online at:

https://www.csusb.edu/sites/default/files/2022_CSUSB_Annual_Security_Report_0.pdf .

POLICIES

The CSU and CSUSB is committed to creating and sustaining an educational and working environment that is free of sexual misconduct. The safety of our campus communities is a priority for the CSU and CSUSB.

The campus Title IX Coordinator provides a neutral avenue for students, employees, and others to report concerns about sexual misconduct to the University and to have those concerns addressed.

CSU policies in effect during the reporting period prohibited sexual misconduct and established procedures for students, employees and third parties to report violations. In the reporting period, the following policies and complaint procedures were in effect:

- [CSU Executive Order 1095](#), the Systemwide Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence and Stalking Policy.
- [CSU Executive Order 1096](#), the 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.
- [CSU Executive Order 1097](#), the 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 Student.
- [CSU Executive Order 1098](#), Student Conduct Procedures (Revised 8-14-20).
- [CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation](#)
- [Procedures for Complaints of Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation Made Against a Student](#)
- [Procedures for Complaints of Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation Made Against an Employee or Third-Party](#)

REPORTED POLICY VIOLATIONS

Under CSU policies the campuses respond to reported policy violations. In some circumstances, the report of misconduct is made by a complainant who invokes the complaint procedures set forth in the Executive Orders. When that occurs, the campus investigates the complaint and reaches a determination as to whether or not a preponderance of the evidence reflects that the respondent violated policy. Where a violation is found, the finding is referred to a disciplinary process where applicable.

This report describes the aggregate number of investigations at CSUSB broken out by whether an employee or a student is accused of misconduct as well as by whether the evidence was sufficient or insufficient, applying the preponderance of the evidence standard, to establish a policy violation by the respondent. Some investigations concerned reported misconduct by third parties who were neither students nor employees, but, over whom the campus exercised some degree of control. The outcomes of those investigations are also included in the report.

CSU procedures include an option to resolve a concern about possible misconduct without an investigation. The report includes the number of resolutions reached using that process. Not all reports of possible policy violations arise as a complaint made by someone seeking to invoke the complaint or resolution procedures. The campus also responds to reports where the information is insufficient to open an investigation. Circumstances include persons who report incidents to police but not to administrators and request that their identity be kept confidential, persons who report incidents but decline to identify any perpetrator, incidents where the person reporting the misconduct requests that their identity not be disclosed in any investigation, and incidents in which the reporting person requests that no investigation be opened.

When someone requests confidentiality or asks that an investigation not be pursued, the campuses inform the person that the ability to respond may be limited and that Title IX and CSU policy prohibit retaliation.

The campuses evaluate requests not to reveal identifying information in the context of the responsibility to provide a safe and nondiscriminatory environment for all. If the request is honored, even if the campus cannot take a disciplinary action, the campus pursues other steps to limit the effects of any misconduct and prevent recurrence.

CSUSB also receives reports about instances that did not occur on campus and did not involve a member of the campus community. CSUSB provides support and resources in those circumstances and those reports are also included in this report.

DEFINITIONS

Affirmative Consent¹ must be voluntary, and given without coercion, force, threats, or intimidation. It is the responsibility of each person involved in the sexual activity to ensure Affirmative Consent has been obtained from the other participant(s) prior to engaging in the sexual activity.

Affirmative Consent means an agreement to engage in sexual activity that is:

- Informed,
- Affirmative,
- Conscious,
- Voluntary, and
- Mutual.
- Lack of protest or resistance does not mean there is Affirmative Consent.
- Silence does not mean there is Affirmative Consent.
- 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, mean there is Affirmative Consent.
- Affirmative Consent can be withdrawn or revoked. Consent must be ongoing throughout a sexual activity and can be revoked at any time, including after sexual activity begins. Once consent is withdrawn or revoked, the sexual activity must stop immediately.

¹ Definition obtained from CSU Non-Discrimination Policy (12-24-21) page 8-9.

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.

Dating Violence & Domestic Violence²

Dating Violence means 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:
 - I. The length of the relationship.
 - II. The type of relationship.
 - III. The frequency of interaction between the persons involved in the relationship.

Domestic Violence means 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, or by a person similarly situated to a spouse of the Complainant. Physical violence means physical conduct that intentionally or recklessly threatens the health and safety of the recipient of the behavior, including assault.

Domestic Violence³ is 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

² Definition obtained from CSU Non-Discrimination Policy (12-24-21) page 11-12.

³ Definition obtained from CSU Non-Discrimination Policy (12-24-21) page 12.

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.

Sexual Misconduct⁴: 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. When based on Gender, Domestic Violence or Stalking also constitute Sexual Misconduct. 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. Men as well as women 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.

1. Sexual Assault is a form of Sexual Misconduct and is an attempt, coupled with the ability, to commit a violent injury on the person of another because of that person’s Gender or sex.

2. Sexual Battery is a form of Sexual Misconduct and is any willful and unlawful use of force or violence upon the person of another because of that person’s Gender or sex as well as touching an intimate part of another person against that person’s will and for the purpose of sexual arousal, gratification, or abuse.

3. Rape is a form of Sexual Misconduct and is non-consensual sexual intercourse that may also involve the use of threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Any sexual penetration, however

⁴ Definition obtained from CSU Non-Discrimination Policy (12-24-21) pp. 8-9.

slight, is sufficient to constitute Rape. Sexual acts including intercourse are considered nonconsensual when a person is incapable of giving consent because s/he is incapacitated from alcohol and/or drugs, is under 18 years old, or if a mental disorder or developmental or physical Disability renders a person incapable of giving consent. The Respondent’s relationship to the person (such as family member, spouse, friend, acquaintance or stranger) is irrelevant. (See complete definition of Affirmative Consent above.)

4. Acquaintance Rape is a form of Sexual Misconduct committed by an individual known to the victim. This includes a person the victim may have just met; i.e., at a party, introduced through a friend, or on a social networking website. (See above for definition of Rape).

STATISTICS

Pending Sexual Misconduct, Dating and Domestic Violence, and Stalking cases as of July 1, 2021
– Total 8

The number of reports received during the reporting period in which a Student, Employee, Third Party, Unknown, or Unidentified

Sexual Violence Incidents Reported	Student Respondent	Employee Respondent	Third Party Respondent	Unknown Respondent	Unidentified Respondent	Total
Sexual Misconduct/ Sexual Assault	1	1	2	2	2	8
Dating/Domestic Violence	3	1	6	2	0	12
Stalking	8	1	0	0	0	9
Sexual Exploitation	0	0	0	0	0	0
Sexual Harassment	5	5	3	1	1	15
Total	17	8	11	5	3	44

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Investigations	With Finding	Without Investigation/Finding	Respondent held Responsible	Evidence Insufficient to hold Respondent Responsible
Sexual Misconduct	2	4	0	2
Dating/Domestic Violence	0	2	0	0
Stalking	0	1	0	0
Total	2	7	0	2

Investigation	Sexual Misconduct	Dating/Domestic Violence	Stalking
Informal Resolution prior to investigation commencing	1	0	1
Informal Resolution while investigation was in process	2	0	0
Investigation completed (prior to a finding being made)	0	0	0
Complainant requested resources and/or supportive measures only	1	1	0
Complainant did not respond to outreach and insufficient information to move forward	0	1	0
Complainant elected to remain confidential so unable to send outreach	0	0	0
Other Outcome (please specify and provide number)	0	0	0

EDUCATION AND PREVENTION

Every academic year, all students are mandated to take online or in-person training that focuses on ending sexual violence, common myths about sexual assault and rape, the definition of

consent, bystander intervention, and healthy relationships. Student leaders such as those affiliated with fraternities, sororities, student organizations, and athletes are mandated to receive supplemental training. CSUSB has a two-fold training curriculum that gives students the option to take online training through *Not Anymore*, or 1:1 with campus advocate. In-person training and prevention efforts are planned by Institutional Equity & Compliance Office and the Campus Advocate.

For more information, including definitions, resources, and a more detailed overview of the processes available under the CSU Executive Orders, or to report an incident of Sexual Misconduct, please visit: <https://www.csusb.edu/institutional-equity-compliance>. Please feel free to contact the Title IX Coordinator with any questions or concerns at:

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