



# ***California State University***

## ***San Bernardino***



Jeanne Clery Disclosure of Campus Security  
Policy and Crimes Statistics Act

**Annual Security Report (ASR)**

**2016**



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## Message from the President of CSUSB

Welcome to California State University San Bernardino (CSUSB). We are extremely proud of the women and men who serve our campus as members of the University Police Department (UPD) and the outstanding job they do by keeping Cal State University, San Bernardino safe.

With more than 20,000 students and over 1,900 employees, CSUSB police officers go above and beyond the call of duty to ensure our students, faculty and staff feel comfortable in a safe and secure environment at all hours, every day of the year.

The Department's record speaks for itself. CSUSB continues to rank as one of the safest public college and university campuses in California, according to StateUniversity.com. Police Chief Nina Jamsen joined us in 2015. She is an experienced law enforcement leader with over 28 years of public service throughout the Inland Empire. The Department's officers are highly trained, motivated professionals committed to "Campus Safety through Service."

I am especially pleased with the collaborative partnership here on campus with the "See Something, Say Something" Campaign. This slogan is visible throughout our campus and serves as a constant reminder that Campus Safety is a community effort. Thank you.

Sincerely,

Tomás D. Morales  
President



Source: President's Office



## CSUSB Graduation Rates

Institutions of higher education are required to disclose information to prospective and current students about institution graduation rates for first-time freshmen. The California State University (CSU) draws its first-time freshmen from the top one-third of California's high school graduates. Since 1960, the CSU has awarded nearly three (3) million baccalaureate degrees in hundreds of program areas. More than any other senior institution in California, the CSU has maintained access for students who need to juggle academic life with work and family obligations. The rate of graduation will vary depending upon the needs of the individual student to balance work, school and family priorities. Information specific to CSUSB graduation rates appears below.

The CSUSB campus is comprised of five (5) degree awarding colleges: Arts and Letters, Business and Public Administration, Education, Natural Sciences and Social and Behavioral Sciences. Operating on a quarter-based academic calendar, CSUSB currently offers bachelor's degree programs in 125 academic disciplines. Close to 3,300 students are annually awarded baccalaureate degrees in December and June graduation of each year.

CSUSB's six-year graduation rate for fall 2009 first-time freshmen who attempted a minimum of 12 units their first quarter was 52% compared to a CSU systemwide graduation rate of 54% for fall 2008. After six years, 8% of fall 2009 first-time freshmen were still continuing their studies compared to 7% CSU systemwide for fall 2008.

Source: Institutional Research

## Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act Compliance

This report is part of an on-going effort to promote safety and security at CSUSB and to comply with the Jeanne Clery Disclosure of Campus Security Policy, Fire Safety Report and Campus Crime Statistics Act, also known as The Clery Act (<http://clerycenter.org/summary-jeanne-clery-act>). Under this Act, all colleges and universities across the country are required to publish this report by October 1 of each year. These reports must contain applicable policies and procedures regarding security and fire safety and the statistical data from the previous calendar year and the two (2) preceding calendar years. At CSUSB, the Annual Security and Fire Safety Report is prepared by the UPD in cooperation with key personnel from Housing and Residential Services, the Director of Student Conduct & Ethical Development, Title IX Coordinator, Student Health Center, and information provided by local police agencies.

In 1990, the Crime Awareness and Campus Security Act was enacted to assist students in making decisions that affect their personal safety and to ensure institutions of higher education provide current and prospective students, staff, and faculty the information they need to avoid becoming victims of campus crime. The Act was renamed the "Jeanne Clery Disclosure of



Campus Security Policy and Crime Statistics Act,” or The Clery Act, in 1991 in honor of Jeanne Clery, a Lehigh University freshman, who was raped and murdered by a fellow student on April 5, 1986 in her dorm room. Before Jeanne’s death, there were no uniform laws mandating that colleges report crimes on campus to students, employees, potential students, or their parents.

The Clery Act requires all colleges and universities to:

1. Compile and submit crime statistics to the United States Department of Education. Each year, the University submits crime statistics for Clery Act crimes by type, location and year to the U.S. Department of Education.
2. Maintain a daily crime log of alleged criminal incidents that is open to public inspection: <http://csupd.crimegraphics.com?InitialTab=10>
3. Issue campus alerts. CSUSB issues a timely warning to the University community when there is information that a Clery crime has occurred that represents a serious or continuous threat to campus safety.
4. Issue emergency notifications. CSUSB issues an emergency notification upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus. The University tests the emergency notification procedure periodically throughout the year.
5. Publish and maintain an Annual Security Report containing safety-and security-related policy statements and statistics of Clery Act crimes occurring on University property, adjacent property, and non-University property owned or controlled by the University.
6. Maintain and enforce a missing student policy and notification procedure.
7. Compile and submit fire statistics to the United States Department of Education. Each year, the University submits fire statistics by type, location and year to the U.S. Department of Education. The University’s Annual Fire Safety Report for Student Housing, which includes fire safety policy statements and statistics, is included in this report, the Annual Security and Fire Safety Report, and is available at: <http://police.csusb.edu/documents/ASR.pdf>

To comply with the federal law, the UPD collects crime statistics from designated Campus Security Authorities and local police agencies by providing the addresses of non-campus property, either owned or controlled by the University, and of public property within and immediately adjacent to campus and the core campus. Unless otherwise indicated, all policy statements in this Annual Security and Fire Safety Report apply to the following locations:

- California State University, San Bernardino – Main Campus
- California State University, San Bernardino – Palm Desert Campus

The University does not recognize or sanction any off-campus fraternity or sorority houses. Likewise, student organization recognition does not extend beyond the University, and student organizations are not recognized to engage in activity off-campus.



The UPD, Counseling and Psychological Services, and the Division of Student Affairs will accept confidential and anonymous reports of crime for inclusion in the annual statistical report.

Copies of this report are found electronically at:

<http://police.csusb.edu/documents/ASR.pdf>

Hard copies are available upon request at the UPD at 5500 University Parkway, San Bernardino, CA 92407, located off Fairview Drive, adjacent to the A Lot Parking, or by calling (909) 537-3552 or (909) 537-7561.

All prospective employees may obtain a copy from Human Resources in Sierra Hall 110 or by calling 909-537-5138, and the web site address will be attached to CSUSB Employment Applications.

Source: UPD

## Clery Crime Definitions

### **Criminal Homicide (Manslaughter by Negligence)**

The killing of another person through gross negligence. (Attempts are classified as aggravated assaults.)

### **Criminal Homicide (Murder and Non-negligent Manslaughter)**

The willful (non-negligent) killing of a human being by another. (Attempts are classified as aggravated assaults.)

### **Sex Offenses**

Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

- (a) Rape – the 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 consent of the victim. The definition of rape includes forcible rape, sodomy, and sexual assault with an object.
  - a. Forcible rape – the carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his or her age or because of his or her temporary or permanent mental or physical incapacity.
  - b. Sodomy – oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his or her age or because of his or her temporary or permanent mental or physical incapacity.
  - c. Sexual Assault With An Object – to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is



incapable of giving consent because of his or her age or because of his or her temporary or permanent mental or physical incapacity.

- (b) Fondling – the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his or her age or because of his or her temporary or permanent mental capacity.
- (c) Incest – non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- (d) Statutory Rape – non-forcible sexual intercourse with a person who is under the statutory age of consent.

### **Robbery**

The taking or attempting to take anything of value from the care, custody, or control of a person(s) by force or threat of violence and/or fear.

### **Aggravated Assault**

An unlawful attack of another for the purpose of inflicting severe or aggravated bodily injury accomplished by the use of a weapon or means likely to produce death or great bodily harm. It is not necessary that an injury results when a gun, knife or other weapon was used but which could have resulted in serious injury. (Includes attempts.)

### **Burglary**

The unlawful entry (or attempt to enter) into a defined structure with the intent to commit a theft or any felony. (Includes attempts, but excludes vehicle burglary.)

### **Motor Vehicle Theft**

Taking of a motor vehicle (as defined) without the consent of the owner with the intent to either permanently or temporarily deprive the owner of the vehicle. (Includes attempts and joyriding.)

### **Arson**

The willful or malicious burning or attempt to burn (without the intent to defraud) a dwelling house, public building, motor vehicle or aircraft, or personal property of another, etc. (Includes attempts.)

### **Dating Violence**

The term “dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim:

- (1) the existence of such a relationship shall be determined by the victim with consideration of the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship;
- (2) for the purposes of this definition: (i) dating violence includes sexual or physical abuse or the threat of such abuse; (ii) dating violence does not include acts covered under the definition of domestic violence.



### **Domestic Violence**

The term “domestic violence” includes felony or misdemeanor crimes of violence committed: (i) by a current or former spouse or intimate partner of the victim; (ii) by a person with whom the victim shares a child in common; (iii) by a person who is cohabitating with the victim as a spouse or intimate partner; (iv) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; (v) by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction where the crime occurred.

### **Stalking**

The term “stalking” means:

- (1) engaging in a course of conduct directed at a specific person that would cause a reasonable person to – (i) fear for his or her safety or the safety of others; or (ii) suffer substantial emotional distress;
- (2) for the purposes of this definition – (i) 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; (ii) substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling; (iii) reasonable person means a reasonable person in the victim’s circumstances.

### **Hate Crime**

A criminal act involving one or more of the below-listed crimes which was motivated by bias against any person or group of persons, or the property of any person or group of persons, because of the ethnicity, race, national origin, religion, gender, gender identity, sexual orientation, or disability of the person or group, or bias based upon the perception that the person or group has one or more of those characteristics.

### **Larceny-Theft (Except Motor Vehicle Theft)**

The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Attempted larcenies are included. Embezzlement, confidence games, forgery, worthless checks, etc., are excluded.

### **Simple Assault**

An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

### **Intimidation**

To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.





### **Destruction/Damage/Vandalism of Property**

To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

**On-campus property:** Any building or property owned or controlled by the University within the same reasonably contiguous geographic area and used by the University in direct support of, or in a manner related to, the University's educational purpose, including any buildings or property that is owned by the University but controlled by another person and which is frequently used by students and supports institutional purposes such as a food or other retail vendor. (Excluding residential apartments.)

**Non-campus property:** Any building owned or controlled by a student organization that is officially recognized by the University; or any building or property owned or controlled by the University that is used in direct support of, or in relation to, the University's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the University.

**Public property:** All public property, including: thoroughfares, streets, sidewalks, parking facilities, that is within the campus, or immediately adjacent to, and accessible from, campus.

Source: UPD

## **Campus Security Authorities (CSA)**

We encourage and promote accurate and prompt reporting of criminal activity directly to UPD; however in some instances, members of the campus community may notify one of the designated campus security authorities about a crime. Crime statistics are gathered from CSUSB Campus Security Authorities (CSA) using a crime incident report form. When a crime is reported to a CSA, a crime incident report is completed and sent immediately to the UPD. When appropriate, reports of crimes to a CSA will be included in the annual statistical disclosure and will trigger any warranted timely warning reports.

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

At CSUSB, CSA's include, but are not limited to:

- UPD, including sworn and civilian personnel
- Parking and Transportation



- Resident Directors and Assistant Directors
- Resident Coordinators and Resident Assistants
- Athletic Director, Assistant Director and Athletic Coaches, including Assistance Coaches, Trainers and staff members
- Student Conduct & Ethical Development
- Title IX & Gender Equity
- Faculty and Staff Club and Organizations Advisors
- Dean of Students
- Student Activity Directors
- Student Union Staff, including contracted food service staff/employees
- Student Recreation Center Staff
- Study Abroad Coordinators
- Student Engagement
- Campus Administrators (e.g. President, Vice Presidents, Associate Vice Presidents)

Source: UPD/Human Resources

## Safety on Campus

### **California State University San Bernardino strives to:**

- Create and maintain an environment for learning that promotes respect for and appreciation of scholarship, freedom and human diversity;
- Promote excellence in instruction and intellectual accomplishment and;
- Ensure a welcoming and safe intellectual, social and physical environment that engages campus members in the life of University.

The UPD participates in delivering the University mission and strives to create a safe environment conducive to academic excellence. Even though the UPD works closely with neighboring police agencies and employs a variety of measures to reduce and prevent crime, UPD believes safety is everyone's responsibility, and everyone's assistance is needed.

CSUSB is a community of more than 21,000 students, faculty, and staff located in the city, and county, in San Bernardino. To minimize the number of criminal incidents, a competent Residence Life staff, a professionally-trained UPD, students, and members of the wider campus community participate in a number of shared responsibilities to ensure that the students and their possessions are protected as much as possible. The UPD maintains a collaborative relationship with the police agencies in the city, and county, of San Bernardino. On occasion, one may see timely warning notices describing recent crime trends or dangerous incidents. It is the UPD's policy to provide the community with accurate information about the incidents along with crime prevention recommendations.



### **University Police Department - Mission Statement**

The UPD strives to provide “Quality Service” by providing professional service with honor, integrity, and a commitment to excellence to the community. We perform our mission through diligent crime prevention, victim assistance, disaster preparedness, and problem-oriented policing. We strive daily to live by our department motto, “Campus Safety through Service.”

Nina Jamsen, Chief of Police

Source: UPD

## **University Police Department - Your Community Policing Agency**

Campus safety is coordinated by the UPD, located on Fairview Drive, near Lot A. The department has primary jurisdiction over the Campus, with seventeen (17) sworn officers that have full peace officer authority, as defined in California Penal Code 830.2. The department also employs approximately forty (40) non-sworn support personnel. These police officers are graduates of an approved California Peace Officers Standards Training Academy and undergo continued training to upgrade their skills. All sworn employees have been trained in first aid and CPR and are authorized to enforce all regulations on the University campus. The sworn employees have police powers that extend statewide. UPD officers are armed with firearms. They conduct foot, vehicular and bicycle patrols on campus and in the Residence Community 24 hours a day. UPD officers also work very closely with the San Bernardino Police Department and other law enforcement agencies to assist them with incidents involving campus community members that may occur off-campus.

Potential criminal actions and any emergency on campus, including medical emergencies, should be reported directly to the UPD by dialing 9-1-1. Upon receipt of the call, the UPD officers are dispatched immediately to the site of the complaint and have the authority to make arrests, if necessary.

The UPD has existing mutual aid agreements with both the San Bernardino Police Department and the San Bernardino County Sheriff's Department for CSUSB, and the Riverside Sheriff's Department for the Palm Desert Campus.

Main Campus: The San Bernardino Police Department agrees to investigate incidents of homicide and violent sexual assaults that occur on the property of CSUSB.

Palm Desert Campus: The Riverside Sheriff's Department agrees to serve as the primary law enforcement agency, having principle law enforcement jurisdiction at the Palm Desert Campus.

Source: UPD



## Safety and Security in the Residential Community

CSUSB offers traditional residence halls as well as apartment style living. Security safeguards within the residence halls include restricted access and a requirement that guest(s) must always be accompanied by a resident. Crime prevention programs include orientation workshops, individual floor meetings, residential community-wide presentations, and educational programs. All programs are presented each quarter or as requested. The UPD and Residential Life staff has enjoyed a partnership that has been conducive to safety and security.

All Residence Education staff members in the residence halls undergo comprehensive training each quarter for both prevention and response regarding safety and security issues. As part of their responsibility for campus security, both student and professional staff participate in lectures and seminars associated with topics such as substance abuse, prevention of sexual assault, and community security. Resident Assistants, who are all members of the University Housing and Residential Education staff, live on campus and provide 24-hour staff coverage.

To increase safety, residents should take the following precautions. Residents with automobiles should park them in designated spaces. Observe all building security procedures and keep room doors locked at all times, even when occupied. Notify Residence Education staff or the UPD of any unfamiliar faces or unusual incidents within residence buildings or property.

Source: Department of Housing and Residential Education

## Security Policies and Procedures

All non-residential buildings, except the library, will be secured by key or electronic door control by the UPD nightly by 11:00 p.m. It is recognized that there will be some need for after hours and weekend access to buildings. After hours, a faculty or staff I.D. is required for access. Anyone working after hours (11:00 p.m.) or on weekends should notify the UPD. Students working in the building after hours are required to have in their possession a student pass (authorized by college deans) and photo identification. Holiday access scheduling is treated as weekend access.

Access to University housing facilities is limited to residents, escorted guests and University staff. Facilities are accessed via card access. The campus facilities are maintained by Facility Services and patrolled by the officers of the UPD and University Housing and Residential Education staff. The police officers and community service officers regularly test the emergency phones and submit work orders for repair, recommend the trimming of shrubbery for safety reasons, and conduct periodic lighting surveys. Officers report the need for replacement of lights and any other physical hazards they notice. Periodic crime prevention surveys are conducted when a crime trend occurs or upon the physical changes of office space and equipment when requested by an administrator. Many buildings, offices, labs, computer rooms and areas of campus have alarms, which are monitored by the UPD.



Lighting improvements are constantly being evaluated. Improvements have included the placement of high intensity sodium vapor lights in buildings, in parking lot areas, in areas with heavy landscaping and trees, and along pathways frequently traveled by students. Emergency telephones are located at the entrances of all University housing facilities and at many locations throughout the campus. All emergency telephones are connected directly to the UPD.

Students are encouraged to report any problems with the campus environment to faculty advisors, coaches and the Division of Student Affairs staff, or any campus administrator. The UPD maintains an anonymous crime tip line at 909-537-7786. The UPD, Counseling and Psychological Services, and the Division of Student Affairs will accept confidential and anonymous reports of crime for inclusion in the annual statistical report.

Source: UPD

## Escort Services

The UPD provides an escort service to all students, faculty, and staff. The service is available upon request, on a "first call - first served" basis. UPD Community Service Officers (CSOs) are trained student assistants equipped with police radios and will respond to the request. If a CSO is not available, a police officer will respond to the request. The CSO or officer will escort the person to their car or other locations on campus. This service is available 24 hours a day, seven days a week. Call 909-537-5165 or 909-537-7777.

Source: UPD

## Available Crime Prevention Presentations and Prevention of Violence in the Workplace

CSUSB has established a team of individuals to respond, and provide training, to prevent or recognize early warning signs of potential violence. The team consists of members from the UPD, Counseling & Psychological Services, Human Resources and a variety of other entities on campus. Individual consultations, counseling, presentations, and workshops are offered upon request. Requests can be made by calling UPD at 909-537-5165 or Human Resources at 909-537-5138.

Established University faculty, staff and UPD procedures will serve as the mechanisms for resolving situations of violence or threats of violence. Each allegation of violence will be taken seriously. Individuals are encouraged to report acts of violence, threats of violence, or any other behavior which, by intent, act or outcome, harms another person.



**Members of the University Police Department are available to provide the following presentations to staff, faculty and students:**

Personal Safety, Sexual Assault Prevention, Prevention of Auto Theft and Auto Burglary, dealing with Distressed Individuals, Emergency Preparedness, Self Defense, Use of Pepper Spray, New First Time Freshman, Family Members and Transfer Student Orientation, safety presentations to children and parents, and any other topics related to protecting personal and state property. We do encourage participation in our crime prevention programs and ask for your assistance in keeping our community safe. These programs are offered throughout the quarter or upon request. Crime Prevention brochures are also available on our web site at: <http://police.csusb.edu/resources/crimePrevention.html>

Source: UPD/Human Resources

## **Emergency Notifications**

In accordance with federal and state law, CSUSB has adopted and follows emergency notification procedures for any significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus.

CSUSB has deployed a variety of communication tools, such as Informacast and the Connect-Ed Emergency Notification System (ENS). Informacast provides the capability for emergency notifications to be sent to specific buildings throughout the campus. Connect-Ed allows the University to send important information and instructions during emergency situations to students, faculty, and staff via home phones, cellular phones, text messaging and e-mail, messages to TTY/TDD receiving devices for the hearing impaired, campus phones and speakers, wireless electronic message boards, and the public address system. This is to ensure that the desired message is received by the campus community, or a particular area on campus or groups within campus community thereof. Messages can be sent simultaneously to multiple numbers and devices to ensure the campus community receives important messages during emergency situations.

Once an immediate threat or hazard to campus safety has been identified and activation of ENS is deemed an appropriate response, the following positions may initiate a message: the President, Vice President for Administration and Finance, UPD Command Staff, UPD Watch Commander, Emergency Management and Preparedness Coordinator, UPD Communication, on scene Incident Commander, or a Public Information Officer. Without delay, and taking into account the safety of the community, the content of the notification will be determined and the notification will be sent unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency. Adequate follow up information will be provided when applicable.

CSUSB ENS is checked annually in announced tests by the Emergency Management and Preparedness Coordinator, and may be conducted simultaneously with the campus wide



evacuation drills. Notification will be made with a campus wide e-mail for announced tests. CSUSB is not currently conducting any unannounced tests. Testing is documented each time it occurs with a description of the test/exercise, the date, and the time.

San Bernardino Police Department (SBPD), San Bernardino County Sheriff's Department (SBSD) and UPD routinely communicate with each other via shared radio frequencies and/or phones regarding situations that either agency may become aware of that may warrant an emergency response. The UPD/SBPD Memorandum of Understanding (MOU) further outlines the coordination between these police departments. To facilitate further dissemination to the larger surrounding community, the SBPD will be kept apprised of the situation. SBPD uses systems including, but not limited to, reverse 911 via SBSB, Nixle, and various social media applications to disseminate critical information.

UPD encourage all members of our community to ensure their contact information is current by logging in to their My Coyote portal and reviewing and updating, as necessary, their contact information. CSUSB will only use the "Home," "Cellular," and "Emergency Text Alert Message" telephone fields for emergency notification.

Source: UPD/Risk Management

## Emergency Response and Evacuation Procedures

CSUSB will utilize available media to notify the campus community upon the confirmation by UPD officers of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus.

When warranted, the police department will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless the notification will, in the professional judgment of responsible authorities, compromise efforts to assist victims or to contain, respond to, or otherwise mitigate the emergency.

Once notified, the Office of Strategic Communications will employ a variety of communication tools, such as the Blackboard-Connect messaging system, which allows the University to send voice messages to home, work and cellular phones; text messages to cellular phones, PDAs and other text-based devices; messages to TTY/TDD receiving devices for the hearing impaired; campus speaker phones; traditional e-mail; wireless electronic message boards; and the public address system, to ensure that the desired message is received by the campus community.

The Office of Strategic Communication will be responsible for ensuring that emergency information is disseminated to the local media for release to the surrounding community.



CSUSB will test the emergency response and evacuation procedures on an annual basis through participation in drills, exercises, and appropriate follow-through activities designed to assess and evaluate emergency plans and capabilities. The campus emergency manager will be responsible for documenting the University's efforts in this regard.

Procedures regarding evacuations are available to the campus community year-round in the CSUSB Emergency Management Plan (available online and in select offices throughout the campus), the Disaster Preparedness Quick Reference Guide (conspicuously displayed in campus offices and classrooms), and the CSUSB Emergency Operations Reference Pamphlet for Faculty, Staff, and Students (distributed to the campus community and available at the police department).

CSUSB maintains an agreement with local law enforcement agencies for mutual aid assistance. The local law enforcement agencies will assist in a critical emergency or disaster occurring on the campus.

Source: UPD/Risk Management

## Timely Warning Policy

In accordance with federal and state law, CSUSB has adopted and follows procedures that require the issuance of a timely warning when certain offenses occur on campus, on public property within, or immediately adjacent to, the campus, or in or on non-campus buildings or property owned or controlled by CSUSB, when it is determined that such occurrences represent a serious or continuing threat to the campus community.

The purpose of a timely warning advisory is to alert the campus community about any reported crime that represents a continuing or serious threat to the safety of the campus community and/or to heighten safety awareness of students. The circumstances of any specific situation, coupled with the police department's assessment of the threat potential, will dictate the need and manner of issuance of a Campus Timely Warning. Timely Warning notices are typically issued for the following Uniform Crime Reporting (UCR) Program and National Incident Based Reporting System (NIBRS) crime classifications: criminal homicide, robbery, aggravated assault, burglary, and major incidents of arson and sex offenses on a case-by-case basis, depending on the facts of the case and the information known by the UPD.

Example: if an assault occurs between two students who have a disagreement, there may be no ongoing threat to other CSUSB campus community members and a Timely Warning Notice would not be distributed. In cases involving sexual assault, they are often reported long after the incident occurred, thus there is no ability to distribute a "timely" warning notice to the community. Sex offenses will be considered on a case-by-case basis, depending on when and where the incident occurred, when it was reported, and the amount of information known by the UPD.





With the occurrence of such a crime, a campus official listed below will make the decision, on a case-by-case basis, in compliance with the Jeanne Clery Act and considering the facts surrounding the crime, including factors such as the nature of the crime, continuing danger to the campus community, and the possible risk of compromising law enforcement efforts. The Chief of Police, or designee, reviews all reports to determine if there is an on-going or serious threat to the campus community and if the distribution of a Timely Warning Notice is necessary. Timely Warning Notices are typically written by the Chief of Police or designee. Timely Warning Notices are distributed as listed in the chart below.

Timely Warnings will be distributed in a manner intended to reach the entire campus community. Timely Warnings will be provided to students and employees in a manner that is timely, that withholds the names of the victims as confidential, and that will aid in the prevention of similar occurrences.

Timely Warnings will contain the following information:

- a. Description of the incident (type of crime, time, date and location)
- b. Physical description of the offender
- c. Composite drawing or photograph of the offender, if available
- e. Description of injuries or use of force, if relevant
- f. Crime Prevention Tips
- g. Emergency contact information (phone numbers and web sites)
- h. Date the campus crime alert bulletin was issued

Timely Warnings will be issued as soon as pertinent information is available. The primary system of delivery for issuing a Timely Warning notice is e-mail distribution. Dissemination of Timely Warnings may include, but are not limited to, Campus-wide e-mail, UPD web page, Nixle account (which can be found at <http://police.csusb.edu> on the [Alert](#) page), the University's Connect-Ed system, and prominent posting of notices on campus buildings, when an offense occurs in or around a particular building.

All persons within the CSUSB community are strongly encouraged to report crimes to the UPD or other designated CSAs to trigger timely warnings when appropriate.



<b>System to use</b>	<b>Primary and Backup Message Creator</b>	<b>Authority for approving and sending messages</b>	<b>Primary Message Sender</b>	<b>Backup Message Sender</b>
<b>PRIMARY</b>				
Campus-wide e-mail to all Students, Faculty and Staff	University Police Command Staff	University Police Command Staff	Admin. & Finance Vice President	University Police Command Staff, or designee
<b>SECONDARY</b>				
<b>System to use</b>	<b>Primary and Backup Message Creator</b>	<b>Authority for approving and sending messages</b>	<b>Primary Message Sender</b>	<b>Backup Message Sender</b>
Web Site	University Police Command Staff	University Police Command Staff	University Police – Support Services Supv.	Information Technology
Connect-Ed	University Police Command Staff	University Police Command Staff	Strategic Communication	Information Technology
Nixle	University Police Command Staff	University Police Command Staff	University Police – Support Services Supv.	University Police Supervisors
Posting on Building(s)	University Police Command Staff	University Police Command Staff	University Police Personnel	University Police Supervisor

Source: UPD



## Missing Student Notification

Students who reside in an on-campus student housing facility will be provided a “Contact Information” form to be completed, which will remain confidential and registered by the Housing Department of Housing and Residential Education.

In accordance with the Higher Education Opportunity Act; Public Law 110-315 (<http://www2.ed.gov/policy/highered/leg/hea08/index.html>), regarding the new regulations to campus safety requirements and emergency procedures, the Department of Housing and Residential Education must inform you that:

- If missing, all students under 18 years of age and not emancipated from their parent or guardian will automatically have their parent or guardian notified immediately.
- If missing, the local law enforcement will still be notified if a student chooses not to register a contact person.
- All official missing student reports will be referred immediately to an institutional police or campus security department or local law enforcement agency with jurisdiction in the area.
- If a student is determined to have been missing for 24 hours, CSUSB administration will contact University Police, and the student will be determined missing. A Student Affairs designee will contact family/parents immediately to inform them of their student missing status.

Source: Department of Housing and Residential Education

## Alcohol, Drugs, and Weapons Policy

UPD officers enforce laws regulating the use of alcoholic beverages and underage drinking. CSUSB is committed to maintaining a safe and healthy environment for the campus community. Alcohol and other drugs should not interfere with the University's educational mission. All CSUSB students, faculty members, staff members, and administrators are subject to local, state, and federal laws regarding the unlawful possession, distribution, or use of alcohol or illegal drugs.

The unlawful manufacture, distribution, dispensing, possession or use of illegal drugs on the University campus or at any University-sponsored event, on or off-campus, is prohibited. No one may use illegal substances, or abuse legal substances, including alcohol, in a manner which impairs performance of assigned tasks. A complete description of these regulations is contained in the CSUSB policy on alcoholic beverages on campus and the CSUSB drug policy. The policy is available on the CSUSB Policy Page, at <http://policies.csusb.edu/alcoholpolicy.htm>, or can be



obtained at Human Resources, the UPD, and the Office of the Vice President for Student Affairs. Excessive use of alcohol and other drugs is a serious health problem in itself, but alcohol and drug abuse can also contribute to a host of other health risks. CSUSB provides a variety of alcohol and drug programs and services to assist students and employees. Many of these programs and services are free or are covered by student fees or employee benefits. Please also see Community Services for additional resources (<https://www.csusb.edu/alcohol-drug-education/drug-information>).” The use of alcoholic beverages must be in compliance with California State Law and is strictly limited to persons 21 years of age or older. The possession, transportation, and/or consumption of alcohol by individuals under 21 years of age are strictly prohibited.

The sale or consumption of alcohol beverage on campus is prohibited, except for special events and pre-designated areas. Violations of this policy will result in disciplinary action leading to probation, possible eviction, and prosecution. Refer to the [campus policy](#) for details.

The UPD strictly enforces Federal and State laws, as well as the University's zero-tolerance policy, for the use and sale of illegal drugs. Violators are subject to University discipline, criminal prosecution, and removal from University Housing. Students found in violation of University alcohol, drug, and weapons policies may be subject to academic probation, suspension, or expulsion.

Employees in violation of the University alcohol and drug policies may be subject to corrective action, dismissal, or be required to participate fully in an approved counseling or rehabilitation program. Applicable legal sanctions under local, State, and Federal law for the unlawful possession or distribution of illicit drugs and alcohol range from probation, diversion, imprisonment in the county jail for less than one year, to imprisonment in state prison. A police officer can take the license from any driver suspected of driving under the influence of alcohol and/or drugs who refuses to take a blood alcohol test.

Firearms and other dangerous weapons of any kind are not permitted on campus or in the Residential Community. Intentional use, possession, or sale of firearms or any other dangerous weapon is strictly prohibited on campus by State law and/or University policy.

CSUSB's alcohol prevention strategies include prevention education, as well as reactionary sanctions when students have been found responsible for violation of the Standards for Student Conduct. As a prevention program, CSUSB's Health Center and Peer Health Educators offers a Buzzed 101 workshop, which presents information about safety, risks, health consequences, and tips for harm reduction and abstinence through games and activities. CSUSB utilizes Rethinking Drinking booklets (created by the National Institute on Alcohol Abuse and Alcoholism and the National Institutes of Health). These booklets are provided to students to help them consider the risks of alcohol use, and consider making changes to their use of alcohol. Additionally, alcohol counseling and recovery meetings are discussed as options for further support. CSUSB also utilizes the CHOICES program to educate students in small groups. CHOICES is a reflective journaling program which helps students to see patterns in their drinking behaviors, as well as possible health and safety risks. Students are then supported in risk-



reduction techniques and provided with campus resources (including counseling and recovery groups) for additional support.

Source: UPD/Student Conduct

## Hate Crimes

"Hate Crimes" as defined in the California Penal Code of 422.6 means "any act of physical intimidation or physical harassment, physical force or physical violence, or the threat of physical force or physical violence, that is directed against any person or group of persons because of the ethnicity, race, national origin, religion, sex, sexual orientation, disability, or political/religious beliefs of that person or group." The Clery Act defines hate crimes as "a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim." Incidents of hate violence can be reported to the UPD, Counseling and Psychological Services, and Student Conduct & Ethical Development. The University does not condone hate violence and is charged with ensuring that the rights guaranteed by state law and the U.S. Constitution are protected for all people regardless of their race, religious creed, color, national origin, ancestry, disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran's status. The University investigates all crimes as a result of biasness. These investigations are encompassed under the Hate Crimes statute, and categories are not reported.

2015 – There were no reported hate crimes.

Source: UPD

## CSU Systemwide Policy Prohibiting Discrimination, Harassment, and Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking

The California State University does not discriminate on the basis of gender, which includes sex and 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,<sup>1</sup> 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). The protection against discrimination on the basis of gender or sexual orientation includes sexual harassment, sexual misconduct, and gender-based dating and domestic violence and stalking.

<sup>1</sup> Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq., and its implementing regulations, 34 C.F.R. Part 106 ("Title IX"); the Violence Against Women Reauthorization Act of 2013 (20 U.S.C. 1092(f)) (VAWA), also known as the Campus Sexual Violence Elimination Act (Campus SaVE Act); Title VII of the Civil Rights Act of 1964; the California Fair Employment and



*Housing Act (Cal. Govt. Code §12940 et seq.); the California Equity in Higher Education Act (Cal. Educ. Code §66250 et seq.); California Education Code §§ 67385.7, 67390-91; the Governor's California Campus Blueprint to Address Sexual Assault; and California Government Code §11135; among other applicable laws.*

**The CSU prohibits:**

1. Discrimination, including harassment because of any Protected Status: i.e.- age, disability, gender, genetic information, gender identity or expression, nationality, marital status, race or ethnicity, religion, sexual orientation, and veteran or military status;
2. Retaliation for exercising rights under this policy, opposing discrimination or harassment because of a Protected Status, or for participating in any manner in any related investigation or proceeding;
3. Dating and domestic violence, and stalking;
4. Sexual misconduct of any kind, which includes sexual activity engaged in without Affirmative Consent; and,
5. Employees from entering into a consensual relationship with any student or employee over whom he or she exercises direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority. CSUSB shall respond promptly and effectively to all complaints of discrimination, harassment, retaliation, sexual misconduct, dating and domestic violence, and stalking, and shall take appropriate action to prevent, correct, and discipline conduct that violates this policy. CSU Executive Order 1096 is intended to protect the rights and privacy of the complainant and the respondent, as well as other individuals involved.

Employees and students who are found to have violated CSU Executive Order 1096 shall be subject to discipline commensurate with the violation. If employee discipline is warranted, it shall be administered in a manner consistent with applicable collective bargaining agreements, CSU policies, and legal requirements. Student discipline shall be administered in accordance with 5 Cal. Code Regs. § 41301 and CSU Executive Order 1098, or any superseding CSU Executive Order, if applicable.

**Sex Discrimination** means an adverse action taken against an individual because of gender or sex (including sexual harassment, sexual violence, 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. Both men and women can be victims of sex discrimination.

**Sexual Harassment**, a form of sex discrimination, is unwelcome verbal, nonverbal or physical conduct of a sexual nature that includes, but is not limited to sexual violence, sexual advances, requests for sexual favors, and indecent exposure, where:

- a. Submission to, or rejection of, the conduct by the complainant is explicitly or implicitly used as the basis for any decision affecting the complainant's employment or academic status or progress, or access to benefits and services, honors, programs,



or activities available at or through the University; *or*

- b. Such 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*
- c. The conduct is sufficiently severe, persistent, or pervasive that its effects, 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 that are unrelated to coursework.

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.

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.

**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. When it is based on gender, domestic violence and stalking also constitute sexual misconduct. Sexual misconduct may include 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). 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. The Clery definitions and descriptions of sexual offenses can be found on Page 85 of this report in the section titled "Clery Crime Definitions."

**Affirmative Consent** means an informed, affirmative, voluntary, conscious and mutual decision



by each participant to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean affirmative consent, nor does silence mean affirmative 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 (or other sexual acts). 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. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time, including after penetration. Once affirmative 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 he or she is asleep, unconscious, or is incapacitated due to the influence of drugs, alcohol or medication so that he or she could not understand the fact, nature, or extent of the sexual activity. A person is incapacitated if he or she lacks 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. Intoxication or incapacitation from drugs or alcohol does not diminish a 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 of age) is never consensual, because a minor is considered, by law, 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; or
- The person was unable to communicate due to a mental or physical condition.





It shall not be a valid excuse to alleged lack of affirmative consent 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; or
- The respondent did not take reasonable steps in the circumstances known to the respondent.

**Domestic Violence** is abuse committed against someone who is a current or former spouse, current or former cohabitant, someone with whom the abuser has a child, someone with whom the abuser 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. 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 husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.<sup>6</sup>

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 himself or herself, or another. Abuse does not include non-physical emotional distress or injury.

<sup>6</sup> *Cal. Penal Code § 13700(b) and Cal. Family Code § 6211.*

**Dating Violence** is 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.<sup>7</sup> 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 himself or herself, or another. Abuse does not include non-physical emotional distress or injury.

<sup>7</sup> *Cal. Penal Code § 13700(b).*

**Stalking** means a repeated course of conduct directed at a specific person (when based on gender or sex) that places that person in reasonable fear for his or her or others' safety, or to suffer substantial emotional distress.<sup>8</sup> 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; and
- **Substantial Emotional Distress** means significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling.

### **Who to Contact If You Have Complaints, Questions or Concerns**

***Call 9-1-1 if you are in the midst of any kind of emergency, immediate harm, or threat of harm.***

CSUSB has designated a Title IX Coordinator to monitor and oversee overall compliance with laws and policies related to nondiscrimination based on sex. The campus Title IX Coordinator is available to explain and discuss: your right to file a criminal complaint (in cases of sexual violence); the University's relevant complaint process, and your right 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.

If you have experienced sexual violence you are encouraged to ***seek immediate assistance from police and healthcare providers*** for your physical safety, emotional support, and medical care. The campus Title IX Coordinator is available to assist you in notifying the University Police, if you wish. University Police can escort you to a safe place and transport you to a hospital or a sexual assault response center for a medical examination, if needed. University Police can also provide access to a confidential sexual assault advocate. If you would prefer not to notify the University Police or local police, you are strongly encouraged to seek assistance from the campus Title IX Coordinator, who can provide you with information on your options, rights, and remedies.

### **CSU San Bernardino Campus**

#### **Title IX Coordinator**

- Cristina Martin ([cristina.martin@csusb.edu](mailto:cristina.martin@csusb.edu))
- Location: SMSU-103A
- Phone: 909-537-5669
- Academic Year - Monday-Friday (8:00 a.m. to 4:30 p.m.)
- Summer – Monday-Thursday (7:00 a.m. to 5:30 p.m.)

#### **University Police**

- Nina Jamsen ([nina.jamsen@csusb.edu](mailto:nina.jamsen@csusb.edu))
- Location: UP (NW corner of campus, next to the A Parking Lot)
- Phone: 909-537-5165

#### **Local Police (CSUSB Main Campus)**

- San Bernardino Police Department  
700 N. D Street, San Bernardino CA 92401 / Phone: 909-383-5311
- San Bernardino County Sheriff Department  
655 East Third Street, San Bernardino CA 92415 / Phone: 909-387-8313



### **Local Police (PDC Campus)**

- Riverside Sheriff's Office, Palm Desert Station  
73520 Fred Warning Drive, Palm Desert CA 92260 / Phone: 760-836-1600

### **U.S. Department of Education, Office for Civil Rights:**

- 800-421-3481 or [ocr@ed.gov](mailto:ocr@ed.gov)
- If you wish to fill out a complaint form online with the OCR, you may do so at:  
<http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

### **The White House Task Force to Protect Students from Sexual Assault**

<https://www.notalone.gov/>

### **Medical & Counseling Services**

Student Health/Counseling Center  
<http://healthcenter.csusb.edu/>

### **Woman's Resource Center**

<http://studentunion.csusb.edu/departments/wrc>

### **Off-Campus Services**

Office on Violence Against Women  
<http://www.ovw.usdoj.gov/>

### **San Bernardino Sexual Assault Services**

<http://www.sbsas.org> or by phone 800-656-4673 or 909-885-8884

### **Rape, Abuse, Incest National Network**

<http://www.rainn.org/>

### **San Bernardino County 211 Health & Social Services Information & Referrals**

<http://www.211sb.com/default.htm>

### **Your Reporting Options**

***The University's primary concern is the safety of its campus community members.*** The use of alcohol or drugs never makes the victim at fault for sexual misconduct. If you have experienced sexual misconduct, dating or domestic violence, or stalking you should not be deterred from reporting the incident out of a concern that you might be disciplined for related violations of drug, alcohol, or other University policies. Except in egregious circumstances, University students or employees who are victims of sexual misconduct shall not be subject to discipline for related violations of University policy.

You have several reporting options, and you may pursue one or more of these options at any time. It is your right to have a friend, family member, Sexual Assault Victim's Advocate, or other representative present with you while reporting the incident. You also have the right to have a sexual assault counselor, Sexual Assault Victim's Advocate, and/or support person of your



choice present with you during a rape examination.

The Campus Title IX Coordinator or Sexual Assault Victim's Advocate can assist you in notifying the police, if you choose.

**Criminal:** Reporting to University Police and/or local police is an option at any time. If you choose not to report to the police immediately, you 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 your behalf.

**Administrative:** You may report to the Campus Title IX Coordinator, who will provide you with written and verbal information regarding applicable University complaint procedures for investigating and addressing the incident. The Title IX Coordinator will also provide you with information regarding resources available to you, as well as information regarding your rights and options. Contact information for the Title IX Coordinator is listed above.

The Campus Title IX Coordinator will also discuss with you any reasonable interim remedies the University may offer, prior to conclusion of an investigation or potential disciplinary action, to reduce or eliminate negative impact on you and provide you with available assistance. Examples include: adjustment to work assignments, course schedules, or supervisory reporting relationship; requiring the respondent to move from University-owned or affiliated housing; immediately prohibiting the respondent from coming to the University; or prohibiting the respondent from contacting the parties involved in the reported incident. These options may be available to you whether or not you choose to report the incident to University Police or local law enforcement. The Title IX Coordinator remains available to assist you and provide you with reasonable remedies requested by you throughout the reporting, investigative, and disciplinary processes, and thereafter.

If it is determined that University policy<sup>9</sup> was violated, the respondent will be subject to discipline, up to and including, dismissal from University employment or expulsion from the University. You are entitled to be accompanied to any related meeting or proceeding by an advisor of your choice, including a Sexual Assault Victim's Advocate or domestic violence.

<sup>9</sup> Executive Order 1096 (Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking Against Employees and Third Parties and Procedure for Addressing Such Complaints by Employees and Third Parties); 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).

**Health/Counseling/Clergy:** You may choose to seek advice and assistance from physicians, psychotherapists, professional counselors, clergy, sexual assault and domestic violence counselors and advocates, including individuals who work or volunteer for them.



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

You 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. If the incident occurs on campus, a criminal restraining order can be obtained from the **San Bernardino Superior Court, located at 247 West Third Street, San Bernardino, CA 92415**. A family law protective order can be obtained from the Family Law Division of the **San Bernardino Superior Court, located at 351 North Arrowhead Avenue, San Bernardino, CA 92415**. Restraining orders can protect victims who have experienced, or are reasonably in fear of, physical violence, sexual misconduct, domestic violence, dating violence and stalking. University Police and your campus Title IX Coordinator can offer assistance with obtaining a protective or restraining order.

**Non-reporting:** You are strongly encouraged to report any incidents to the University Police and/or campus Title IX Coordinator so that steps may be taken to protect you and the rest of the campus community. However, non-reporting is also an option.

### **How to File a Complaint under University Complaint Procedures**

Federal and state laws require that the CSU adopt and publish complaint procedures that provide for prompt and equitable resolution of sex discrimination complaints, including sexual harassment and sexual violence.

CSU Executive Order 1096 sets forth the University's systemwide policy and complaint procedure for discrimination, harassment and retaliation complaints **made by third parties and employees** not eligible to file a complaint or grievance under a collective bargaining agreement or whose collective bargaining agreement incorporates the CSU systemwide complaint procedure.

CSU Executive Order 1097 is the systemwide policy and complaint procedure for all complaints of discrimination, harassment, or retaliation **made by students** against the CSU, a CSU employee, other CSU students, or a third party.

The campus Title IX Coordinator is available to provide you with written and verbal information regarding the applicable University complaint procedure for investigating and addressing your reported incident. You can file a report in-person at the Title IX Office located in SMSU 103 or online at <http://titleix.csusb.edu> by using the "File a Report Here" icon. Contact information for the Title IX Coordinator is listed above.

### **Sexual Violence and Confidentiality—Know Your Options**

We encourage victims of sexual misconduct, dating or domestic violence, or stalking to talk to someone about what happened, so you can get the support you 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. This information is intended to make you aware of the various reporting and confidential disclosure options available to you, so you can make informed choices about where to turn for help. The University encourages victims to talk to someone identified in one or more of these groups.

As explained below, some employees are required by law to maintain near complete confidentiality; talking to them is sometimes called "privileged communication." Other employees may talk to a victim in confidence, and generally only report to the University that an incident occurred without revealing any personally identifying information. Some 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. A report to these employees constitutes a report to the University, and generally creates a legal obligation for the University to investigate the incident and take appropriate steps to address the situation.

### **Privileged and Confidential Communications**

*Physicians, Psychotherapists, Professional Counselors and Clergy*<sup>10</sup> – Physicians, psychotherapists, professional, licensed counselors, and clergy who work or volunteer on or off-campus, and who provide 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 to anyone else at the University, including the Title IX Coordinator, without your consent. You can seek assistance and support from physicians, psychotherapists, professional, licensed counselors, and clergy without triggering a University investigation that could reveal your identity or the fact of your disclosure. *However, see limited exceptions below regarding when health care practitioners must report to local law enforcement agencies. Health care practitioners should explain these limited exceptions to you, if applicable.*

<sup>10</sup> *Cal. Evid. Code § 990 et seq., § 1010 et seq., and § 1030 et seq.*

Following is the contact information for professional counselors and physicians (if any) on campus:

- **Counseling and Psychological Services**

Phone: 909-537-5040

<http://psychcounseling.csusb.edu>

- **Student Health Center**

Phone: 909-537-5241

<http://healthcenter.csusb.edu>

*Sexual Assault and Domestic Violence Counselors and Advocates*<sup>11</sup>– Sexual assault and domestic violence counselors and advocates who work or volunteer on or off-campus in sexual assault centers, victim advocacy offices, women's centers, and health centers (including all individuals who work or volunteer in these centers and offices, as well as non-professional counselors or advocates, and those who act in that role under their supervision) may talk to you



without revealing any information about you or the incident of sexual violence to anyone else at the University, including the Title IX Coordinator, without your consent. You can seek assistance and support from these counselors and advocates without triggering a University investigation that could reveal your identity or that you disclosed an incident to them. *However, see limited exceptions below regarding when sexual assault and domestic violence counselors and advocates must report to local law enforcement agencies. Counselors and advocates should explain these limited exceptions to you, if applicable.* The following contact information is a source for sexual assault and domestic violence victims to contact counselors and advocates:

<sup>11</sup> *Cal. Evid. Code § 1035 et seq. and § 1037 et seq.*

### **Student Health/Counseling Center – 909-537-5241**

If you speak only to a physician, professional counselor, clergy member, sexual assault counselor, domestic violence counselor, or advocate, you must understand that the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the perpetrator, if you choose to maintain confidentiality.

Even so, these individuals will still assist you in receiving other necessary protection and support, such as victim advocacy, disability, medical/health or mental health services, or legal services. They may not, however, be able to assist you with University academic support or accommodations, or changes to University-based living or working schedules, or assist with adjustments to course schedules. Only the University and the Title IX Coordinator can assist with those matters (see below). 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. These counselors and advocates can provide you with that assistance, if you wish. These counselors and advocates 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:** 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 he or she provides medical services for a **physical condition** to a patient/victim who he or she knows, 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, domestic violence, and dating violence).<sup>12</sup> This exception does **not** apply to sexual assault and domestic violence counselors and advocates. Health care practitioners should explain this limited exception to you, if applicable.

<sup>12</sup> *Assaultive or abusive conduct is defined to include a list of 24 criminal offenses, including sexual battery, incest, rape, spousal rape, abuse of a spouse or cohabitant, and any attempt to commit these crimes. Cal. Penal Code §§ 11160-11163.2.*

Additionally, under California law, **all** professionals described above (physicians,



psychotherapists, professional counselors, 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.<sup>13</sup> These professionals will explain this limited exception to you, 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;<sup>14</sup> or (2) the court, if compelled by court order or subpoena in a criminal proceeding related to the sexual violence incident.<sup>15</sup> If applicable, these professionals will explain this limited exception to you.

<sup>13</sup> *Cal. Penal Code §§ 11164-11174.3; see also CSU Executive Order 1083 or any superseding executive order.*

<sup>14</sup> *Cal. Evid. Code § 1024.*

<sup>15</sup> *Cal. Evid. Code § 1035.4.*

### **Reporting to University or Local Police**

If you report certain sex offenses to local or University Police, the police are required to notify you that your name will become a matter of public record, ***unless confidentiality is requested.***<sup>16</sup> If you request that your identity be kept confidential, your name will not become a matter of public record and the police will not report your identity to anyone else at the University, including the Title IX Coordinator. University Police will, however, report the facts of the incident itself to the Title IX Coordinator, being sure not to reveal to the Title IX Coordinator your name and/or identity, 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, your name and/or identity will not be revealed.

### **Reporting to the Title IX Coordinator and Other University Employees**

Most University employees have a duty to report incidents of sexual misconduct when they are on notice of it. When you tell the Title IX Coordinator or another University employee about an incident, you have the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

<sup>16</sup> *Cal. Penal Code § 293; Cal. Gov. Code § 6254(f).*

***In all cases, the University strongly encourages victims to report sexual misconduct, dating and domestic violence, and stalking directly to the Title IX Coordinator.***

As detailed above in the Privileged and Confidential Communications section, all University employees ***except*** physicians, licensed counselors, and sexual assault counselors and advocates, must report to the Title IX Coordinator all relevant details about any sexual violence





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 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 shared only with individuals responsible for handling the University's response to the incident. The University will protect the privacy of individuals involved except as otherwise required by law or University policy. A 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 reported incident. 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.

**The Title IX Coordinator can be reached at:**  
**TITLE IX COORDINATOR – 909-537-5669**

If you request of the Title IX Coordinator or another University employee that your identity remain completely confidential, the Title IX Coordinator will explain that the University cannot always honor that request and guarantee complete confidentiality. If you wish 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 you. Under those circumstances, the Title IX Coordinator will determine whether your 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 your 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 inform you prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University's response. The Title IX Coordinator will remain mindful of your well-being, and will take ongoing steps to protect you from retaliation or harm, and work with you to create a safety plan. The Title IX Coordinator will also provide you with a written explanation of the victim's rights and options once a report of dating violence, domestic violence, sexual assault, or stalking is reported to the university, whether the crime occurred on or off-campus. Retaliation against you, whether by students or employees, will not be tolerated. The University and Title IX Coordinator will also:

- Provide interim remedies requested by you, if they are reasonably available, regardless of whether you choose to report sexual misconduct, dating or domestic violence, or stalking to the University Police or local police;
- Assist you in accessing other available victim advocacy, academic support, counseling, disability, medical health or mental health services, visa and immigration assistance, student



financial aid, and legal assistance both on and off-campus;

- Provide other security and support, which could include issuing a no-contact order, helping arrange a change of campus-based living or working arrangements or course schedules (including for the respondent pending the outcome of the investigation) or adjustments for assignments, tests, or work duties; and
- Inform you of your right to report a crime to University Police or local police, and provide you with assistance if you wish to do so.

The University will not require you to participate in any investigation or disciplinary proceeding if you do not wish to participate.

The University will not generally notify parents or legal guardians of your report unless you are under the age of 18 or you provide the University with written permission to do so.<sup>17</sup>

*<sup>17</sup> If there is a health and safety issue (e.g., immediate threat to self or others), the University may notify parents or legal guardians, regardless of the victim's age, as allowed under the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g).*

Under California law, and pursuant to University policy, all 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.<sup>18</sup> However, the identity of the person who reports, and the report itself, are confidential and disclosed only among appropriate agencies.<sup>19</sup>

*<sup>18</sup> Cal. Penal Code §§ 11164-11174.3; see also CSU Executive Order 1083 or any superseding executive order.*

*<sup>19</sup> Cal. Penal Code § 11167(d).*

Because the University is under a continuing legal obligation to address the issue of sexual misconduct, dating and domestic violence, and stalking campus-wide, any such reports (including non-identifying reports) may also prompt the University to consider broader remedial action, such as increased monitoring, supervision or security at locations where the reported incident occurred; increased education, training, and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revision of policies and practices.

The Office of the Ombuds, if available on your specific campus, provides confidential, neutral, and informal dispute resolution services, provides information about University policies and procedures, and makes referrals. However, in sexual misconduct cases, California law mandates that the Ombuds, as well as all other University employees (except for physicians, licensed counselors, sexual assault counselors and advocates, as discussed in the Privileged and Confidential Communications section of this policy above), report these incidents to the



Title IX Coordinator.

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

## **Remedies and Enforcement**

**Interim and Ultimate Remedies.** The University is required to provide victims who experience sexual misconduct, dating or domestic violence, or stalking with reasonably available interim remedies, if requested, regardless of whether the victim chooses to report the misconduct to the University Police or local law enforcement. Victims should be notified of options for avoiding contact with the respondent, including changes to the respondent's or purported victim's employment, academic or living situations, as appropriate. For example, the Campus may prohibit the parties from having any contact with each other pending the outcome of the Campus investigation and any ensuing discipline proceeding. Campuses should minimize the burden on the victim and should not, as a matter of course, remove victims from work assignments, job sites, classes or housing while allowing the respondent to maintain the status quo. Other possible interim (and ultimate) steps may include providing an escort between Campus locations in extraordinary cases where safety may be endangered; changes to employee work areas, work assignments or reporting relationships; providing students with academic support services such as tutoring or allowing students to re-take a course or withdraw from a course without penalty and without adverse effect on their academic records; and reviewing any disciplinary actions proposed to be taken against an alleged victim to see if there is a causal connection between the misconduct forming the basis for the proposed discipline and the alleged sex discrimination, sexual harassment, sexual misconduct, dating or domestic violence, or stalking. The Title IX Coordinator shall assist and provide the purported victim with reasonable remedies as requested throughout the reporting, investigative, and disciplinary processes, and thereafter.

**Victim Rights and Resources.** Victims also should be made aware of their rights under Title IX, VAWA/Campus SaVE Act and related legislation, and any available resources, such as counseling, health, and mental health services, as well as the right to file a complaint with University Police and/or local law enforcement. Campuses must also ensure that persons know how to report any subsequent problems, and the Campus Title IX Coordinator or other appropriate Campus representatives should follow-up to determine whether any retaliation or new incidents of misconduct have occurred.

When addressing sexual misconduct, dating or domestic violence or stalking, campuses should consider both on and off-campus resources, including local rape crisis centers, municipal law enforcement agencies, district attorneys' offices, and forensic medical examination sites. This allows campuses to draw upon the expertise and resources of a broader group of professionals, thereby marshalling and maximizing time-sensitive services and resources.

**Note:** The University will keep confidential accommodations and protective measures provided



to the victim unless maintaining the confidentiality would hinder the University from providing the accommodations or protective measures.

### **Campus, Civil, and Criminal Consequences of Committing Acts of Sex Discrimination, Sexual Harassment, and Sexual Misconduct**

Individuals alleged to have committed sexual misconduct, dating or domestic violence, or stalking may face criminal prosecution by law enforcement and may incur penalties as a result of civil litigation. In addition, employees and students may face discipline/sanctions at the University. Employees may face sanctions up to and including dismissal from employment, per established CSU policies and provisions of applicable collective bargaining agreements. Students and employees charged with sex discrimination, sexual harassment or sexual misconduct will also be subject to discipline, pursuant to University policies, and will be subject to appropriate sanctions.<sup>20</sup>

In addition, during any investigation, the University may implement interim measures in order to maintain a safe and non-discriminatory educational and working environment. Such measures may include immediate interim suspension of the accused from the University, a required move from University-owned or affiliated housing, an adjustment to work or course schedule, or prohibition from contact with parties involved in the alleged incident.

<sup>20</sup> *Executive Order 1096 (Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and Procedure for Handling Discrimination, Harassment and Retaliation Complaints by Employees and Third Parties); Executive Order 1097 (Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Students and Systemwide Procedure for Handling Discrimination, Harassment and Retaliation Complaints by Students).*

### **The Importance of Preserving Evidence**

It is important to take steps to preserve and collect evidence; doing so preserves the full range of options available to victims, be it through the University's administrative complaint procedures or criminal prosecution. To preserve evidence: (1) do not wash your face or hands; (2) do not shower or bathe; (3) do not brush your teeth; (4) do not change clothes or straighten up the area where the assault took place; (5) do not dispose of clothes or other items that were present during the assault, or use the restroom; and (6) seek a medical exam immediately. If you already cleaned up from the assault, you can still report the crime, as well as seek medical or counseling treatment. You may consult with the campus Title IX Coordinator or sexual assault victim resource center for assistance as well.

Source: Executive Order 1095 Attachment C

### **CSUSB Programming for Prevention and Awareness of Sexual Assault**

CSUSB must implement preventative education programs to promote the awareness of CSU policies against sex discrimination, sexual harassment, sexual misconduct, dating and domestic violence, and stalking, and to make victim resources available, including comprehensive victim services. Programs must include primary prevention and awareness programs: (1) for all new



students and new employees; (2) refresher programs at least annually for all students; (3) refresher programs twice a year for all students who serve as advisors in residence halls; (4) refresher programs annually for all student members of fraternities and sororities; (5) refresher programs annually for all student athletes and coaches; and, (6) refresher programs annually for all employees consistent with their role in responding to and reporting incidents. Ongoing prevention and awareness campaigns for all students and employees shall also be conducted.

CSUSB must assess which student organizations participate in activities that may place students at risk and ensure that they receive annual supplemental trainings focused on situations the group's members may encounter.

Primary prevention programs include programming, initiatives, and strategies informed by research or assessed for value, effectiveness or outcome that are intended to stop sexual misconduct, dating or domestic violence, or stalking before they occur through the promotion of positive and healthy behaviors that foster mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions. CSUSB mandatory training programming includes a multi-faceted approach for students who prefer to take either an online-based program, in-person bystander intervention workshop, or to attend relevant school-sponsored events such as speakers, performances, or workshops relating to the topics of sexual misconduct, dating and domestic violence, or stalking.

Bystander Intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of sexual misconduct, dating or domestic violence, or stalking. It includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening and identifying safe and effective intervention options, and taking action to intervene.

Awareness programs include community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.

To ensure that all students receive the necessary information and training enumerated above on sexual misconduct, dating and domestic violence, and stalking, CSUSB imposes a consequence, i.e. registration hold on those students who do not participate in and complete such mandatory training.

### **Primary Sexual Assault Prevention Training Programs**

The goal of the CSUSB Sexual Assault Prevention and Training Plan, in addition to ensuring full compliance with Federal and State law and CSU policy, is the commitment to create an atmosphere in which all students have the right to participate fully in CSU programs and activities free from discrimination, harassment, and retaliation. These prevention and training programs are programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence,



sexual assault, and stalking before they occur, through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

**Bystander intervention** means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures, and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene. Based on a social science model that predicts that most people are unlikely to help others in certain situations, a bystander is anyone who observes an emergency or a situation that looks like someone could use some help. They must then decide if they are comfortable stepping in and offering assistance. Research has found that people tend to struggle with whether helping out is their responsibility, and one of the major obstacles to intervention is something called diffusion of responsibility, which means that if several people are present, an individual is less likely to stop and help out because he or she believes someone else will. The University wants to promote a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. People may not always know what to do even if he or she wants to help. Below is a list of some ways to be an active bystander. If you or someone else is in immediate danger, dial 9-1-1. This could be when a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt.

- Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are OK.
- Confront people who seclude, hit on, and try to make out with, or have sex with, people who are incapacitated.
- Speak up when someone discusses plans to take sexual advantage of another person.
- Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
- Refer people to on and off-campus resources for support in health, counseling, or with legal assistance.

**Risk reduction** describes options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence. Risk reduction includes the act of using your common sense, situational awareness, and trusting your instincts to reduce the risk of being a victim of sexual assault.

The following are some strategies to reduce one's risk of sexual assault, dating or domestic violence, stalking, or harassment:

- Be aware. Does your partner: Threaten to hurt you or your children? Say it's your fault if he or she hits you and then promises it won't happen again (but it does)? Put you down in public? Force you to have sex when you don't want to? Follow you? Send you unwanted messages and gifts?



- Be assertive. Speak up.
- Watch out for dates and/or anyone who tries to get you drunk or high.
- Clearly communicate limits to partners, friends, and acquaintances.
- Never leave a party with someone you don't know well and trust.
- Trust your feelings; if it feels wrong, it probably is.
- Learn all you can and talk with your friends. Help them stay safe.
- If you have limits, make them known as early as possible.
- Tell a sexual aggressor "NO" clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.
- Report incidents of violence to law enforcement and campus authorities.
- ***In an emergency, call 9-1-1.***

### **"What can I do in order to help reduce my risk of being an initiator of Sexual Misconduct?"**

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk of being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- **DON'T MAKE ASSUMPTIONS** about consent, about someone's sexual availability, about whether they are attracted to you, about how far you can go, or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity, then you **DO NOT** have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension, and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves. **Incapacitation means a person is unable to give valid consent.**
- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.



## CAMPUS AWARENESS AND ONGOING INFORMATION CAMPAIGNS

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

In 2014, CSUSB joined the White House Initiative: It's On Us. As a result, CSUSB initiated an annual CSUSB It's On Us: Call to Action Week.

### Sexual Assault Awareness Month

An on-campus committee titled the Sexual Violence Prevention Partners was created. Led by the Title IX Office, the committee includes representatives of the Health Center, Counseling and Psychological Services, Women's Resource Center, PRIDE Center, Peer Educators, Student Affairs administrators, Student Union staff, students, and faculty. The Sexual Violence Prevention Partners collaborated on Sexual Assault Awareness Month.

CSUSB programming initiatives:

- **"It's Not Her Fault."** Monday, April 25, 2016, 4-5:30pm, SMSU Events Center. Hear from Dr. John Foubert, an expert on rape prevention--what Rape Myth Culture is and how society perpetuates its existence.
- **Netflix and Chill?** Thursday, April 14, 2016, Noon-2pm, SMSU FourPlex. This interactive workshop presented by VOICE peer educators will cover the concepts of communication, boundaries and negotiating consent.
- **Ending LBGTQ+ Sexual Violence.** Thursday, March 3, 2016, Noon-1:30pm, SMSU Fourplex. This workshop will cover myths and facts about LBGTQ+ sexual violence, statistics, barriers unique to the community, definitions and a survivor testimonial.
- **Domestic Violence: Why I Stayed.** Thursday, February 25, 2016, Noon-1:30pm, SMSU Events Center. Come and hear Beverly Gooden, a survivor of domestic violence, who created and introduced the hashtag #WhyIStayed that led to a global movement.
- **Healthy Relationships.** Thursday, February 11, 2016, 6-7:30pm, Mojave Lobby (Housing). This workshop will cover the difference between healthy, unhealthy and abusive relationships, the seven qualities of a healthy relationship and how to "fight fair."
- **Healthy, Unhealthy or Abusive?** Tuesday, February 16, 2016, 12-1:30pm, Lower Commons/Eucalyptus Room. This workshop will cover the difference between healthy, unhealthy and abusive relationships, the seven qualities of a healthy relationship and how to "fight fair."
- **Stalking on Campus, "Know It. Name It. Stop It."** Wednesday, January 27, 2016, 6-8pm, Village Square. This is an interactive presentation by V.O.I.C.E., a group of students dedicated to utilizing prevention education to reduce the number of CSUSB students impacted by interpersonal violence.
- **Tony Porter, Speaker,** November 12, 2016, 6-8 p.m., Coussoulis Arena. An important evening of powerful messages about manhood and the role of men in preventing domestic and sexual violence. Tony will also provide insight on how a man's liberation is





tied to the liberation of women. Students are encouraged to attend and take advantage of this event as one of the options to fulfill the Federal and State mandatory "End Sexual Violence" Training required each academic year. Bring your Coyote ID to be scanned at the end of the event for credit.

- **Dating / Domestic Violence and Healthy Relationships**, Thursday, October 15, 2016, 12-1:30pm, Lower Commons (CO-104). This workshop will focus on the 7 qualities of a healthy relationship, how to "fight fair," and the difference between healthy, unhealthy, and abusive relationships.
- **Dating / Violence Does Not Equal Love**, Monday, October 19, 2016, 12-2pm, SMSU Events Center. This workshop will focus on the warning signs, types of abuse, cycle of violence, why victims stay, and how to support a survivor through interactive activities and survivor testimony.
- **Dating / Domestic Violence and the LGBTQ Community**, Wednesday, October 21, 2016, 12-1:30pm, Lower Commons (CO-104). This presentation will focus on creating a common language, types of abuse, cycle of violence, how to support a survivor, and identifying unique barriers that LGBTQ survivors face.
- **Sexual Assault: Causes and Solutions**, Monday, October 26, 2016, 12-2pm, SMSU FourPlex. Guest speaker Tammy Smith, from San Bernardino Sexual Assault Services, will present.
- **"Private Violence" Film Screening**, Tuesday, October 13, 2016, 2-4pm, SMSU Theater. This film is about two survivors of domestic violence.
- **Dating/Domestic Violence 101**, Wednesday, October 7, 2016, 10-11:30am, Lower Commons Pine Room. This presentation focused on the warning signs, types of abuse, cycle of violence and why victims stay.
- **Bystander Intervention Workshops**: These workshops discusses safe ways to intervene when witnessing potentially harmful behavior, or preventing negative behavior before it occurs.
- **"See Something, Say Something" Campaign**: Campus-wide effort to report anything that looks suspicious or seems out-of-place directly to UPD by dialing or texting 911. Information can also be shared by contacting UPD dispatch at 909-537-7777, Crime TipLine at 909-537-7786, We Tip at 800-78-CRIME, or e-mailing [ReportCrime@CSUSB.edu](mailto:ReportCrime@CSUSB.edu). Callers may remain anonymous when reporting suspicious activity or crimes in progress.

Source: Title IX Office

## **Sex Offenders - Megan's Law**

The Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. 16921) requires convicted sex offenders to register their status with the UPD 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 CSUSB. UPD does not maintain a public database of registrants at CSUSB. Public information that is available about sex offenders in California is on the California Department of Justice Megan's Law website:



<http://www.meganslaw.ca.gov/index.aspx?lang=ENGLISH>. Sex offenders can be queried by name, or by their residence zip code, county, city, or address. Additionally, this site has a map lookup to view sex offenders who live within a specified radius of a location, such as within a specific radius around your residence, place of work, or around CSUSB.

### **Megan's Law**

Megan's Law permits law enforcement agencies to advise the public about registered sex offenders from whom they may be at risk. Megan's Law information is available at the California Department of Justice, Office of the Attorney General's website at [meganslaw.ca.gov](http://meganslaw.ca.gov). Megan's Law does not make information public about sex offender registration specific to a college or University.

For more information regarding Megan's Law, call the Parents for Megan's Law Helpline at 888-ASK-PFML.

### **California Penal Code Section 290.01**

(a) (1) Commencing October 28, 2002, every person required to register pursuant to Sections 290 to 290.009, inclusive of the Sex Offender Registration Act who is enrolled as a student of any university, college, community college, or other institution of higher learning, or is, with or without compensation, a full-time or part-time employee of that university, college, community college, or other institution of higher learning, or is carrying on a vocation at the university, college, community college, or other institution of higher learning, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall, in addition to the registration required by the Sex Offender Registration Act, register with the campus police department within five working days of commencing enrollment or employment at that university, college, community college, or other institution of higher learning, on a form as may be required by the Department of Justice. The terms "employed or carries on a vocation" include employment whether or not financially compensated, volunteered, or performed for government or educational benefit. The registrant shall also notify the campus police department within five working days of ceasing to be enrolled or employed, or ceasing to carry on a vocation, at the university, college, community college, or other institution of higher learning.

Source: UPD/Title IX

## **Self-Defense Course**

A self-defense course is offered. This is a program of realistic, self-defense tactics and techniques. It is a comprehensive course that begins with awareness, prevention, risk reduction and avoidance, while progressing on to the basics of hands-on defense training. The course is not a martial arts program and is taught by certified instructors. Self-defense courses are currently being taught at many colleges and universities. The growing, widespread acceptance of these courses is primarily due to the ease, simplicity, and effectiveness of our tactics, solid research, and unique teaching methodology.



The Santos Manuel Student Union Women’s Resource and Pride Centers offered eight self-defense classes throughout 2015 at our main campus at CSUSB. The dates of these classes were: two on March 19<sup>th</sup>, April 21, April 22, May 12, July 21, August 27, and November 16. The classes were facilitated by Lauren Roselle, a well-respected certified instructor who teaches throughout Southern California. At the CSUSB campus the classes were held in the Student Union. At our Palm Desert campus, the classes were facilitated in the Indian Wells building. The classes were approximately 2 to 3 hours in length with the exception of an abbreviated presentation at our Take Back the Night Event on April 22<sup>nd</sup>. The course focuses on prevention and personal safety awareness and physical techniques used to escape an attack. The feedback has been consistently positive and we will continue to offer these classes to our students, staff and faculty.

Source: UPD/Student Conduct

## **Additional Listing of Organizations that Provide Assistance to Rape Victims**

### **On Campus:**

<b>Agency</b>	<b>Phone Number</b>
Emergency	9-1-1
University Police Department (Non-emergency)	909-537-5165 or 909-537-7777
Student Health Services	909-537-5241
Counseling & Psychological Services	909-537-5040
Title IX Coordinator	909-537-5669

### **Campus organizations which provide sexual assault prevention programs:**

<b>Organization</b>	<b>Phone Number</b>
University Police Department	909-537-5165

### **Off-Campus Assistance:**

<b>Organization</b>	<b>Phone Number</b>
United Way - San Bernardino County Assistance	2-1-1
San Bernardino County Rape Crisis Center San Bernardino	909-885-8884
San Bernardino County Rape Crisis Center Redlands	909-335-8777
Yucaipa Outreach Center	909-790-9374
San Bernardino County Rape Crisis Center Victorville	760-952-0041



National R.A.I.N. Hotline

800-656-4673

Source: UPD/Title IX

## Counseling and Psychological Services

The UPD works closely with Counseling and Psychological Services (CAPS). UPD refers persons to CAPS on a regular basis, and we work as a team in dealing with sensitive situations. Both UPD officers and CAPS counselors have received training in threat assessment, and counselors routinely encourage their clients to report crimes to the UPD for purposes of crime prevention. Counseling sessions are considered privileged and the holder of the privilege is the client. Crime information may be forwarded anonymously at the request of the client. Counselors do not disclose information to UPD without the consent of the client, unless there is an immediate threat to safety or as required by law. Any reporting of statistics to comply with this act is done by reporting numbers, not names, in order to maintain confidentiality.

Counseling services are available to students at no cost. The staff consists of professionally trained and licensed counselors and psychologists and supervised graduate students and post-doctoral interns. Counselors are also available for consultations and can be reached at 909-537-5040.

Source: Health Center (CAPS)

## Institutional Disciplinary Action

The Office of Student Conduct and Ethical Development at CSUSB responds to student behaviors that occur on campus, at University related events (including Study Abroad), or that have a significant impact on members of our campus community. Students found responsible for behavior(s) that violate the Standards for Student Conduct (see Section 41301 of Title 5 of the California Code of Regulations) may be subject to a disciplinary action, including disciplinary probation (during which a student would not be considered to be in good standing with the University), suspension, or expulsion. Suspension and expulsion include both CSUSB and the entire CSU system. In addition, students may be required to complete or participate in additional educational sanctions.

CSUSB will, upon written request, disclose to the victim of a crime of violence (as that term is defined in Section 16 of Title 18, United States Code), or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is determined to be the perpetrator of such crime or offense. If the victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the victim for disclosure purposes. Compliance with this provision does not constitute a violation of the Family Educational Rights and Privacy Act (FERPA).



Further information is available at: <http://studentaffairs.csusb.edu/studentconduct/> or by calling 909-537-7172.

### **Executive Order 1098-Revised: Student Conduct Procedures**

These procedures are established pursuant to Title 5, California Code of Regulations, Section 41301, and govern all Student disciplinary matters systemwide. (For matters involving allegations of discrimination, harassment, retaliation, sexual misconduct, domestic and dating violence, and stalking please see section Article IV of CSU Executive Order Student Conduct Procedures, also accessible at – <http://studentaffairs.csusb.edu/studentconduct.index.html>)

### **Article III: Proceedings in Cases Not Involving Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking**

This Article sets forth the procedures that govern all student disciplinary matters systemwide **not** involving allegations of discrimination, harassment, retaliation, sexual misconduct, dating or domestic violence, or stalking.

#### **A. Complaint Intake/Investigation**

1. Whenever it appears that the Student Conduct Code has been violated, an oral or written complaint should be directed to the Student Conduct Administrator as soon as possible after the event takes place.
2. The Student Conduct Administrator shall promptly: investigate each complaint submitted, determine whether it is appropriate to charge a student with violation of the Student Conduct Code, and consider whether the University should implement an interim suspension (pursuant to Article VI), withdrawal of consent to remain on campus, or no contact orders concerning one or more members of the University community.
3. Investigations shall be concluded within **forty (40) working days** after a complaint has been made.

#### **B. Notice of Conference**

1. Within **ten (10) working days** after the investigation is complete, the student Conduct Administrator shall notify the student in writing that a conference has been scheduled or that the student is directed to promptly schedule a conference with the Student Conduct Administrator.
2. The Notice of Conference shall include the following information:
  - a. The sections of the Student Conduct Code and other campus policies that are the subject of the charges;
  - b. A factual description of the student's alleged conduct that forms the basis for the charges;
  - c. The proposed sanction or range of sanctions;
  - d. The location on the campus where the student can view his or her discipline file, including the location (or copies) of the campus policies that were violated;
  - e. Notification of any immediate, interim suspension (see Article VI) and/or withdrawal of consent to remain on campus;<sup>3</sup>



- f. Notification of the student's right to be accompanied at the conference by an advisor and the campus policy regarding use of attorneys; and
  - g. A copy of this Executive Order or notice of where the student may obtain a copy. If an interim suspension has been imposed or consent to remain on campus has been withdrawn by the time the Notice of Conference is sent, a copy of this Executive Order shall be enclosed, along with any other campus policy referenced in the Notice of Conference.
3. The conference with the student shall be conducted as follows:
    1. The conference shall not be recorded.
    2. The Student Conduct Administrator controls the conference and may exclude any advisor who materially disrupts the conference.
    3. The conference requirement is waived if the student fails to attend the conference or otherwise declines to cooperate.
  4. The Student shall respond to the charges of misconduct at the conference. The Student Conduct Administrator shall determine which cases are appropriate for resolution (via written resolution agreement), taking into consideration the results of the investigation and any additional information provided by the student during any conferences. If agreement can be reached with the student as to an appropriate disposition, the matter shall be closed and the terms of the disposition shall be put in writing and signed by the student and the University after the student has been given a reasonable opportunity to review the proposed resolution agreement with an advisor of the student's choice. Suspension of one academic year or more, expulsion, withdrawal in lieu of suspension or expulsion, 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 any resolution agreement.
  5. If the student admits violating the Student Conduct Code, but no agreement can be reached with respect to the sanction, the student may request a hearing on the sanction only.
  6. Nothing in this Executive Order shall prevent the student and the University from entering into a voluntary resolution of an actual or anticipated student disciplinary case at any time, provided that the student is first given a reasonable opportunity to review any proposed resolution agreement with an advisor of their choice.

### **C. Notice of Hearing**

1. The Student Conduct Administrator shall issue a Notice of Hearing within **ten (10) working days** after the conference has concluded.
2. The Notice of Hearing shall be issued under the following circumstances:
  - a. If the student fails to attend the conference or otherwise declines to cooperate;
  - b. If the matter is not closed or the disposition is not memorialized in writing promptly after the conference; or
  - c. If the student admits violating the Student Conduct Code, but no agreement can be reached with respect to the sanction.



3. The Notice of Hearing shall include the following information:
  - a. The sections of the Student Conduct Code and other campus policies that are the subject of the charges;
  - b. A factual description of the student's alleged conduct that forms the basis for the charges;
  - c. The proposed sanctions;
  - d. Notification that neither the Hearing Officer nor the president is bound by the proposed sanction, and that the Hearing Officer may recommend, and/or the president may set, a more severe sanction;
  - e. The date, time and place of the hearing;
  - f. The location on the campus where the student may view his or her discipline file, including the location (or copies) of the campus policies that were violated and any related investigation report;
  - g. Notification that the student may be accompanied at the hearing by an advisor, and the campus policy regarding use of attorneys. If attorneys are allowed, notification shall be given that any person who intends to bring an attorney as their advisor must inform the Student Conduct Administrator of the attorney's name, address and phone number at least **five (5) working days** before the hearing. Failure to provide this notice in a timely manner will result in exclusion of the attorney from the hearing;
  - h. Notification that the student can waive the right to a hearing by accepting the proposed sanction;
  - i. Notification of any immediate, interim suspension (see Article VI) and/or withdrawal of consent to remain on campus; and,
  - j. A copy of this Executive Order or notice of where the student may obtain a copy. If an interim suspension has been imposed or consent to remain on campus has been withdrawn by the time the Notice of Hearing is sent, a copy of this Executive Order shall be enclosed, along with any other campus policy referenced in the Notice of Hearing.
4. The Student Conduct Administrator shall schedule the hearing promptly, but in any event no sooner than **ten (10) working days** after, and no later than **twenty (20) working days** after, the date of the Notice of Hearing.
5. A notice to appear at hearing shall be sent to any University-related witnesses at least **five (5) working days** before the hearing at the University-assigned or other primary e-mail addresses linked to these persons' University accounts.
6. The Notice of Hearing may be amended at any time, and the Student Conduct Administrator may (but is not required to) postpone the hearing for a reasonable period of time. If the notice is amended after a hearing is underway, the Hearing Officer may (but is not required to) postpone the hearing for a reasonable period of time.

#### D. Hearing

1. The hearing is closed to all persons except the Student Conduct Administrator, the student charged, an advisor; the Hearing Officer, and one person to assist



the Hearing Officer in recording the hearing. Any parties or witnesses who will be testifying shall attend the hearing in person unless the Student Conduct Administrator permits an exception (e.g., participation via videoconference or telephone). A police or security officer may also be present if deemed appropriate or necessary by the vice president for Student Affairs or the Hearing Officer. The University will cooperate in providing University witnesses wherever possible, provided that they are identified at least **five (5) working days** before the hearing.

2. Hearings are intended to be educational rather than adversarial. The Hearing Officer controls the hearing. The Student Conduct Administrator and the student charged each put on the evidence in their case and may each ask questions of the witnesses in whatever manner the Hearing Officer deems appropriate.
3. The Hearing Officer may ask questions of any witness, the student charged, the complainant, or the Student Conduct Administrator.
4. Formal rules of evidence applied in courtroom proceedings (e.g., California Evidence Code) do not apply in the hearing. All information that responsible persons are accustomed to rely upon in the conduct of serious affairs is considered. Hearsay may be considered and will be given the weight appropriate under all of the circumstances. Unduly repetitive information may be excluded.
5. The Hearing Officer shall make an official audio recording of the hearing (with assistance, at the Hearing Officer's discretion). The recording is University property. No other recording of the hearing is permitted. The audio recording shall be retained by the Student Conduct Administrator in accordance with the campus records/information retention and disposition schedule.
6. If the student charged or complainant fails to appear at the hearing without good cause, the hearing shall nevertheless proceed. The student charged may not be found to have violated the Student Conduct Code solely because the student charged failed to appear at the hearing. Nor may the student charged be found not to have violated the Student Conduct Code solely because a complainant or witness failed to appear at the hearing.
7. The Hearing Officer is responsible for maintaining order during the hearing and makes whatever rulings are necessary to ensure a fair hearing. Abusive or otherwise disorderly behavior that causes a material disruption is not tolerated. The Hearing Officer may eject or exclude anyone (including the student charged and/or the student's advisor) whose behavior causes a material disruption.
8. The Hearing Officer's decisions regarding procedural issues are final.
9. Where there is more than one student charged with misconduct in connection with a single occurrence or related multiple occurrences, the Student Conduct Administrator and the students charged may agree to a single hearing. A student may request consolidation of his or her case with others, or the Student Conduct Administrator may initiate the consolidation (subject to FERPA and other applicable privacy laws). The Student Conduct Administrator makes consolidation decisions, which are subject to review by the Hearing Officer and thereafter are final.





10. At any time during the hearing, the student may waive the right to a hearing and accept the proposed sanction. Such a waiver must be in writing.

#### **E. Standard of Proof; Report and Recommendations of the Hearing Officer**

1. After the hearing, the Hearing Officer shall make findings of fact and conclusions about whether the student violated the Student Conduct Code. The standard of proof the Hearing Officer shall use is whether the University's charge is sustained by a Preponderance of the Evidence. It is the University's burden to show that it is "more likely than not" that the student violated the Student Conduct Code.
2. The Hearing Officer's report shall be based only on the information received at the hearing. The Hearing Officer shall not, prior to preparing the report, have substantive communications about the facts of the case with the student Conduct Administrator, the complainant, the student charged, or the witnesses, unless both the Student Conduct Administrator and the student charged are present.
3. The Hearing Officer shall submit a written report of findings and conclusions to the president, along with any recommended sanctions. The report shall be submitted to the University president within **ten (10) working days** after the hearing.

#### **F. Final Decision/Notification**

The president shall review the Hearing Officer's report and issue a final decision.

1. The president may impose the recommended sanctions, adopt a different sanction or sanctions, reject sanctions altogether, or refer the matter back for further findings on specified issues. If the president adopts a different sanction than what is recommended by the Hearing Officer, the president must set forth the reasons in the final decision letter. The president's final decision letter shall be issued within **ten (10) working days** after receipt of the Hearing Officer's report.
2. The president shall send his or her decision electronically to the student at the University-assigned or other primary e-mail address linked to the student's University account.

### **University Disciplinary Action in Cases Involving Discrimination, Harassment, Domestic Violence, Dating Violence, Sexual Assault or Stalking Complaints**

Matters involving discrimination, harassment, retaliation, sexual misconduct, domestic and dating violence, and stalking shall be resolved through the appropriate Executive Order (1095R, 1096R, 1097R). Student complaints are resolved under EO 1097R and a report including findings of facts and conclusions about whether a student violated the Student Conduct Code shall be processed through Executive Order 1098R in accordance with Article IV. Investigations and hearings are conducted by those who, at a minimum, receive annual trainings on the issues related to dating violence, domestic violence, sexual misconduct and stalking, as well as how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. Complaints involving employees or third parties are resolved under EO 1096R



and employees may be subject to disciplinary action under the applicable personnel policies or collective bargaining agreements.

The CSU is committed to maintaining an inclusive community that values diversity and fosters tolerance and mutual respect. We embrace and encourage our community differences in age, disability, race or ethnicity, gender, gender identity or expression, nationality, religion, sexual orientation, genetic information, veteran or military status, and other characteristics that make our community unique. All students have the right to participate fully in CSU programs and activities free from discrimination, harassment, and retaliation. The CSU prohibits harassment of any kind, including sexual harassment, as well as sexual misconduct, dating and domestic violence, and stalking. Such behavior violates University policy and may also violate state or federal law.

CSUSB, in accordance in CSU Executive Orders 1097 and 1098, will adhere to the following procedures for prompt and equitable resolution of sex discrimination complaints, including harassment and sexual violence, domestic violence, dating violence and stalking for all CSUSB students.

**Executive Order 1098-Revised: Student Conduct Procedures:**

**Article IV. Proceedings in Cases Involving Allegations of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking**

This Article sets forth the procedures that govern all student disciplinary matters systemwide involving allegations of discrimination, harassment, retaliation, sexual misconduct, dating or domestic violence, or stalking.

**A. DHR Administrator**

In accordance with Executive Orders 1096R and 1097R (or superseding Executive Orders), the DHR Administrator investigates complaints of discrimination, harassment, and retaliation based on all protected statuses except gender, determines whether a student violated the Student Conduct Code, and prepares a report that includes findings and conclusions about whether the student violated the Student Conduct Code. Unless the determination is appealed as provided in Executive Orders 1096R or 1097R, it is final and binding in all subsequent proceedings.

**B. Title IX Coordinator**

The Title IX Coordinator (or designee) is responsible for investigating complaints of gender discrimination, harassment and retaliation, including sex discrimination and sexual harassment, as well as complaints of sexual misconduct, domestic and dating violence, and stalking. (See Executive Orders 1095R, 1096R and 1097R, or superseding Executive Orders.) In accordance with Executive Orders 1096R and 1097R, the Title IX Coordinator investigates those complaints, determines whether a student violated the Student Conduct Code, and prepares a report that includes findings of facts and conclusions about whether the student violated the Student Conduct Code. Unless the determination is appealed as provided in Executive Orders 1096R or 1097R, it is final and binding in all subsequent proceedings.

**C. Confidentiality**



Information provided to University employees in connection with any complaint shall be considered private and may be shared with other University employees and law enforcement exclusively on a "need to know" basis. The University shall endeavor to honor any complainant's or alleged victim's request for confidentiality; however, it must also weigh requests for confidentiality against its duty to provide a safe and nondiscriminatory environment for all members of the campus community. Confidentiality, therefore, cannot be ensured. The Title IX Coordinator or DHR Administrator will determine whether confidentiality is appropriate given the circumstances of each incident. Executive Order 1095 identifies those categories of University employees who are required by law to maintain near or complete confidentiality (for example, in connection with allegations of sexual misconduct). Questions about rights and options with respect to confidentiality should be directed to the Campus Title IX Coordinator or DHR Administrator.

#### **D. Complaint/Investigation/Findings**

1. Complaints by students against students shall be investigated according to the procedures set forth in Executive Order 1097R, or the superseding Executive Order. The DHR Administrator or the Title IX Coordinator shall notify the Student Conduct Administrator of the status of any such complaint, including any appeal to the Chancellor's Office (CO), as well as the investigation results (including findings, conclusions, and any interim remedies afforded to the complainant). Where the investigative report finds a violation or the finding of a violation is sustained after appeal, the Student Conduct Administrator will initiate student conduct proceedings. The Student Conduct Administrator and the DHR Administrator or Title IX Coordinator will consult with respect to appropriate sanctions and remedies.
2. Complaints by CSU employees or third parties, as defined in Executive Order 1096R (e.g., vendors, auxiliary employees or campus visitors) against students shall be investigated according to the procedures set forth in Executive Order 1096R. The DHR Administrator or the Title IX Coordinator shall notify the Student Conduct Administrator of the status of any such complaint, including any appeal to the CO, as well as the investigation results (including findings, conclusions, and any interim remedies afforded to the complainant). Where the investigative report finds a violation or the finding of a violation is sustained after appeal, the Student Conduct Administrator will initiate student conduct proceedings. The Student Conduct Administrator and the DHR Administrator or Title IX Coordinator will consult with respect to appropriate sanctions and remedies.
3. Unless the CO notifies the campus that an appeal has been filed, investigative findings pursuant to Executive Orders 1096R or 1097R (or the superseding Executive Order) become final **eleven (11) working days** after the date of the Notice of Investigation Outcome issued pursuant to those Executive Orders. If an appeal is filed, the investigative findings do not become final until the appeal has been exhausted.

#### **E. Conference with Complainant**

The Student Conduct Administrator shall offer the complainant(s) the opportunity to confer with the Student Conduct Administrator. Any conference with the complainant(s)



shall occur within **ten (10) working days** after the Student Conduct Administrator receives the final investigation report – or, if an appeal was filed, the final appeal outcome. The purpose of the conference is to provide an opportunity for the complainant to provide input concerning appropriate sanctions and remedies in light of the investigative findings. Therefore, it should take place before the Notice of Conference, described in section F, is served on the student charged. The complainant may be accompanied by an advisor.

**F. Notice of Conference and Conference With the Student Charged**

1. Within **ten (10) working days** after the Student Conduct Administrator receives the final investigation report, or, if an appeal was filed, the final appeal outcome, and after the complainant has been given **ten (10) working days** to have a conference with the Student Conduct Administrator, the Student Conduct Administrator shall notify the student charged in writing that a conference has been scheduled or that the student is directed to promptly schedule a conference with the Student Conduct Administrator.
2. The Notice of Conference shall include:
  - a. The sections of the Student Conduct Code and other campus policies that are the subject of the proposed discipline;
  - b. The proposed sanction or range of sanctions, including sanctions designed to provide remedies to the complainant(s);
  - c. The location on the campus where the student can view his or her discipline file, including the location (or copies) of the campus policies that were violated;
  - d. Notification of any immediate, interim suspension (see Article VI) and/or withdrawal of consent to remain on campus<sup>5</sup>;
  - e. Notification of the student's right to be accompanied at the conference by an advisor; and
  - f. A copy of this Executive Order or notice of where the student may obtain a copy. If an interim suspension has been imposed or consent to remain on campus has been withdrawn by the time the Notice of Conference is sent, a copy of this Executive Order shall be enclosed, along with any other campus policy referenced in the Notice of Conference.
3. Conference with student charged and/or complainant:

The conference with the student and any conference with the complainant(s) shall be conducted as follows:

  - a. The conference shall not be recorded;
  - b. The Student Conduct Administrator controls the conference and may exclude any advisor who materially disrupts the conference;
  - c. The conference requirement is waived if the student or complainant(s) fails to attend the conference or otherwise declines to cooperate.
4. The Student Conduct Administrator shall, in consultation with and agreement from the DHR Administrator or Title IX Coordinator, determine which cases are appropriate for resolution (via written resolution agreement), taking into consideration the investigation report and any additional information provided by the student charged and the complainant(s) during any conferences. If a



proposed resolution agreement can be reached with the student charged as to an appropriate disposition, the terms of the proposed disposition shall be put in writing and signed by the student and the University after the student has been given a reasonable opportunity to review the proposed resolution agreement with an advisor of the student's choice. The student charged must be informed that any proposed resolution may be appealed by the complainant and is not final until any such appeal is exhausted. Suspension of one academic year or more or expulsion, withdrawal in lieu of suspension or expulsion, and withdrawal with pending misconduct investigation or disciplinary proceedings shall be entered on the student's transcript permanently without exception; this requirement shall not be waived in connection with any resolution agreement.

5. The Student Conduct Administrator shall promptly notify the DHR Administrator or the Title IX Coordinator of the outcome of the conferences with the Student and the Complainant(s). If the case does not proceed to hearing, the DHR Administrator (or the Title IX Coordinator) shall at that time:
  - a. Notify the complainant(s) of the outcome of the conference, including any proposed resolution agreement as well as the complainant's right to appeal any proposed resolution agreement to the CO pursuant to Article IV. J;
  - b. Take any appropriate further steps to address the effects of any discrimination, harassment, retaliation, sexual misconduct, dating or domestic violence, or stalking;
  - c. Identify and address any remaining systemic or other patterns of discrimination, harassment, retaliation, sexual misconduct, dating or domestic violence, or stalking at the campus.
6. Discipline cases may be resolved through the conference process. It is, however, not appropriate for a complainant to be required to "work out the problem" directly with the student charged, and in no event should any meeting between complainant and the student be required.

#### **G. Notice of Hearing on Sanctions**

1. If not resolved, the Student Conduct Administrator shall issue a Notice of Hearing promptly after the conference. Simultaneous notice shall also be provided to the complainant and the DHR Administrator or the Title IX Coordinator. The Notice of Hearing shall be issued within **five (5) working days** after the conference has concluded.
2. The Notice of Hearing shall be issued under the following circumstances:
  - a. If the student charged fails to attend the conference or otherwise declines to cooperate;
  - b. If the matter is not closed or the disposition is not memorialized in writing promptly after the conference; or
  - c. No agreement can be reached with respect to the sanction.
3. The Notice of Hearing shall include the following information:
  - a. The sections of the Student Conduct Code and other campus policies that are the subject of the proposed sanctions;



- b. The proposed sanctions, including sanctions designed to provide protection/remedies to the complainant(s);
  - c. Notification that neither the Hearing Officer nor the president is bound by the proposed sanction, and that the Hearing Officer may recommend, and/or the president may set, a more severe sanction;
  - d. The date, time and place of the hearing;
  - e. The location on the campus where the student may view his or her discipline file, including the location (or copies) of the campus policies that were violated, and any related investigation report;
  - f. Notification that the student charged and the complainant each may be accompanied at the hearing by an advisor. Notification shall be given that any person who intends to bring an attorney must inform the Student Conduct Administrator of the attorney's name, address and phone number at least **five (5) working days** before the hearing. Failure to provide this notice in a timely manner will result in exclusion of the attorney from the hearing;
  - g. Notification that the student can waive the right to a hearing by accepting the proposed sanction, subject to the complainant's right to appeal (subject to the approval of the DHR Administrator or Title IX Coordinator);
  - h. Notification of any immediate, interim suspension (see Article VI) and/or withdrawal of consent to remain on campus<sup>6</sup> ; and
  - i. A copy of this Executive Order or notice of where the student and/or complainant may obtain a copy. If an interim suspension has been imposed or consent to remain on campus has been withdrawn by the time the Notice of Hearing is sent, a copy of this Executive Order shall be enclosed, along with any other campus policy referenced in the Notice of Hearing.
4. The Student Conduct Administrator shall schedule the hearing promptly, but in any event no sooner than **ten (10) working days** after, and no later than **twenty (20) working days** after, the date of the Notice of Hearing.
  5. A notice to appear at hearing shall be sent to any University-related witnesses and to the complainant(s) at least **five (5) working days** before the hearing at the University-assigned or other primary e-mail addresses linked to these persons' University accounts.
  6. The Notice of Hearing may be amended at any time, and the Student Conduct Administrator may (but is not required to) postpone the hearing for a reasonable period of time. If the notice is amended after a hearing is underway, the Hearing Officer may (but is not required to) postpone the hearing for a reasonable period of time.
  7. The DHR Administrator or Title IX Coordinator retain ultimate authority regarding whether a proposed resolution agreement may be entered into after the Notice of Hearing has been issued, or after the hearing has commenced. Factors to consider will vary based on the facts and circumstances of the specific case.

#### **H. Hearing on Sanctions**



The findings and conclusions of the investigations conducted in accordance with Executive Orders 1096R and 1097R (or the superseding Executive Order), once any appeals are exhausted, are final and binding. The hearing is limited to determining appropriate sanctions; the findings of the investigation are not under review.

1. The hearing is closed to all persons except the Student Conduct Administrator; the student charged; the complainant(s); their respective advisors; appropriate witnesses while they are testifying; any other alleged victims while they are testifying, together with their advisors; the Hearing Officer; and one person to assist the Hearing Officer in recording the hearing. All parties and witnesses who will testify must attend the hearing in person unless the Student Conduct Administrator permits an exception (e.g., participation via videoconference or telephone). A police or security officer may also be present if deemed appropriate or necessary by the vice president for Student Affairs or Hearing Officer. The University will cooperate in providing University witnesses wherever possible, provided that they are identified at least **five (5) working days** before the hearing.
2. The Hearing Officer controls the hearing. Except as provided in Article IV. H, sections 6-8 below, the Student Conduct Administrator and the student charged each put on the evidence in their case and may each ask questions of the witnesses in whatever manner the Hearing Officer deems appropriate.
3. The Hearing Officer may ask questions of any witness, the student, the complainant, Student Conduct Administrator, the Title IX Coordinator or the DHR Administrator.
4. The complainant(s) may be present while evidence is being presented concerning the charges that relate to him or her, unless the Hearing Officer grants a request that the Complainant(s) be excused during certain testimony to protect privacy rights and/or pursuant to FERPA.
5. The DHR Administrator or the Title IX Coordinator may attend the hearing in its entirety.
6. Questions may not be posed to complainants about their past sexual behaviors involving any persons other than the student charged.
7. The Hearing Officer shall ask any questions of the complainant and other witnesses on behalf of the student charged (who shall give the Hearing Officer a written list of questions), unless the complainant(s) or witness(es) expressly waives this requirement and consents to questioning directly by the student.
8. The Hearing Officer shall ask any questions of the student and other witnesses on behalf of the complainant (who shall give the Hearing Officer a written list of any such questions), unless the complainant in question expressly waives this requirement.
9. The investigation report and any CO Appeal Response prepared pursuant to Executive Orders 1096R or 1097R (or the superseding Executive Order) shall be entered into evidence at the hearing, redacted as appropriate to protect private (e.g. contact) information or as otherwise required by law.
10. Formal rules of evidence applied in courtroom proceedings (e.g., California Evidence Code) do not apply in the hearing. All information that responsible



persons are accustomed to rely upon in the conduct of serious affairs is considered. Hearsay may be considered and will be given the weight appropriate under all of the circumstances. Unduly repetitive information may be excluded.

11. The Hearing Officer shall make an official audio recording of the hearing (with assistance, at the Hearing Officer's discretion). The recording is University property. No other recording of the hearing is permitted. The audio recording shall be retained by the Student Conduct Administrator in accordance with the campus records/information retention and disposition schedule.
12. If the student charged fails to appear at the hearing without good cause, the hearing shall nevertheless proceed.
13. The Hearing Officer is responsible for maintaining order during the hearing and makes whatever rulings are necessary to ensure a fair hearing. Abusive or otherwise disorderly behavior that causes a material disruption is not tolerated. The Hearing Officer may eject or exclude anyone (including the student, the complainant, and advisors) whose behavior causes a material disruption.
14. Where there is more than one student facing sanctions in connection with a single occurrence or related multiple occurrences, the Student Conduct Administrator and the students charged may agree to a single hearing. A student may request consolidation of his or her case with others, or the Student Conduct Administrator may initiate the consolidation (subject to FERPA and other applicable privacy laws). The Student Conduct Administrator makes consolidation decisions, which are subject to review by the Hearing Officer and thereafter are final.
15. At any time during the hearing, and subject to the approval of the DHR Administrator or Title IX Coordinator, the student charged may waive the right to a hearing and accept the proposed sanction, subject to the complainant's right to appeal. Such a waiver must be in writing. The DHR Administrator or Title IX Coordinator retain ultimate authority regarding whether a proposed resolution agreement may be entered into after the Notice of Hearing has been issued, or after the hearing has commenced. Factors to consider will vary based on the facts and circumstances of the specific case.
16. The Hearing Officer shall submit a written report to the president recommending sanctions, if any, as well as any recommendations regarding additional remedies, including but not limited to restricting the student's contact with, or physical proximity to, the complainant or other persons. The report shall include any mitigating or aggravating factors relied upon by the Hearing Officer in reaching the recommendations. The report shall be submitted within **ten (10) working days** after the hearing.

The Hearing Officer's report shall be based only on the investigative report and the information received at the hearing. The Hearing Officer shall not, prior to preparing the report, have substantive communications about the facts of the case with the Student Conduct Administrator, the complainant, the student, the witnesses, or DHR Administrator or the Title IX Coordinator, unless both the Student Conduct Administrator and the student are present.

#### **I. President's Sanction Decision/Notification**





The president shall review the investigative report and the Hearing Officer's report and issue a decision concerning the appropriate sanction.

1. The president may impose the recommended sanctions, adopt a different sanction or sanctions, or reject sanctions altogether. If the president adopts a different sanction than what is recommended by the Hearing Officer, the president must set forth the reasons in the decision letter. The president's decision letter shall be issued within **ten (10) working days** after receipt of the Hearing Officer's report.
2. The president shall simultaneously send the decision electronically to the student charged and complainant(s) at the University-assigned or other primary e-mail address linked to their University accounts. The decision shall also be sent to the Student Conduct Administrator and the Hearing Officer.
3. The decision letter shall include:
  - a. The outcome of the hearing on sanctions, including any sanction imposed and the name of the student charged; and
  - b. A copy of the Hearing Officer's report, redacted as appropriate or as otherwise required by law.
  - c. Notice of the complainant's and student's right to appeal to the CO.
4. The president shall also send the decision to the DHR Administrator or the Title IX Coordinator so that they may determine whether any additional remedies or steps shall be afforded or undertaken in order to maintain a safe and nondiscriminatory University environment.
5. Unless the CO notifies the campus that an appeal has been filed, the president's sanction decision become final **eleven (11) working days** after the date of the decision letter.

#### **J. Appeal of Sanction to the Chancellor's Office**

The complainant and student charged each may file an appeal of the president's decision of appropriate sanctions to the CO no later than **ten (10) working days** after the date of the president's decision letter. The complainant may also appeal any proposed sanctions agreed to as part of a proposed resolution agreement with the student charged either in the conference procedure described above or at any time thereafter. Such an appeal must be filed within **ten (10) working days** after the date of notice to the complainant of the proposed resolution agreement.

1. The appeal request shall be in writing and shall indicate the basis of the appeal. Sanction appeals are limited to a determination as to whether the sanction is reasonable under the facts and circumstances as determined by the investigation and whether any prejudicial procedural errors occurred during the hearing. The CO may conduct an interview with the appealing party to clarify the written appeal, at the CO's discretion.
2. A sanction decision appeal shall be addressed to:

Equal Opportunity and Whistleblower Compliance Unit  
Systemwide Human Resources  
Office of the Chancellor  
401 Golden Shore, 4th Floor



Long Beach, California 90802  
[eo-wbappeals@calstate.edu](mailto:eo-wbappeals@calstate.edu)

3. Acknowledgement of 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, the campus DHR Administrator or Title IX Coordinator, and the campus president (or designee).
  4. Reasonable accommodations. The CO will provide reasonable accommodations to any party or witness with a qualified disability during the appeal process upon request by the person needing the accommodation. A reasonable accommodation may include an extension of time to file or respond to an appeal. The timeframe for CO response to an appeal will automatically be adjusted for the time needed, if any, to provide reasonable accommodations
  5. Scope of review. The CO appeal review shall be limited in scope to determining whether the sanction is reasonable under the facts and circumstances as determined by the investigation and whether any prejudicial procedural errors occurred during the hearing. The CO appeal review will not involve a new investigation and will not consider evidence that was not introduced during the investigation or hearing. The record will be limited to the record at the hearing.
  6. CO appeal response. The CO shall issue a final appeal response to the parties, the DHR Administrator or Title IX Coordinator, and the campus president (or designee) no later than **ten (10) working days** after receipt of the written appeal unless the timeline has been extended under Article V. E of Executive Orders 1096R or 1097R (or the superseding Executive Order).
  7. The CO appeal response shall include a summary of the issues raised on appeal, a summary of the evidence considered, the determination(s) reached regarding the issues identified within the written appeal, a decision about whether the president's sanction decision is reasonable, and, where applicable, a decision regarding the final sanction.
  8. Notification of CO appeal response. A copy of the CO final appeal response shall be forwarded to the complainant and student charged, the DHR Administrator or Title IX Coordinator, and the president (or designee).
- K. Other Student Conduct Code Violations Related to Incidents of Sexual Misconduct, Dating or Domestic Violence, or Stalking**
- Alleged victims and witnesses should not be deterred from reporting any incidents of sexual misconduct, dating or domestic violence, or stalking out of a concern that they might be disciplined for related violations of drug, alcohol, or other University policies. The University's primary concern is the safety of the campus community; therefore, a person who participates as a complainant or witness in investigations or proceedings involving sexual misconduct, dating or domestic violence, or stalking shall not be subject to discipline for related violations of the Student Conduct Code at or near the time of the incident unless the University determines the violation was egregious, including but not limited to plagiarism, cheating, academic dishonesty, or conduct that places the health and safety of another person at risk.



### **Complaint Procedures - Students**

Pursuant to Executive Order 1097-Revised, a “student,” defined as an applicant for admission to the CSU, an admitted CSU student, an enrolled CSU student, a CSU extended education student, a CSU student between academic terms, a CSU graduate awaiting a degree, a CSU student currently serving a suspension or interim suspension, and a CSU Student who withdraws from CSUSB while a disciplinary matter (including investigation) is pending, may file a complaint related to discrimination, harassment, retaliation, sexual misconduct, dating or domestic violence or stalking. Below is a summary of the CSU Executive Order 1097R procedure timeline. For a full understanding and complete text, please consult CSU Executive Order 1097-Revised - 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:

<http://studentaffairs.csusb.edu/studentconduct/executiveOrders.html>

**Immediately following an act/action/incident that falls under Executive Order 1097R**, or as soon as possible thereafter, students who believe they are or may have been victims of discrimination, harassment, retaliation, sexual misconduct, dating or domestic violence or stalking, may initiate the **Campus Procedure for Responding to Complaints (Article III of Executive Order 1097R)** to receive information about the procedures that exist for resolving such matters. All incidents should be reported to the Title IX Coordinator in-person at SMSU 103, or online at <http://titleix.csusb.edu> in the “File a Report Here” icon, even if a significant amount of time has passed. However, delaying a report or complaint may impede the ability to conduct an investigation or take appropriate remedial actions.

**For the purpose of CSU Executive Order 1097R**, “working days” are defined as Monday through Friday, excluding all official holidays or campus closures at the campus where the complaint originated or at the Chancellor’s Office (CO) where the Complaint Appeal is reviewed.

- (1) **Within ten (10) working days** after receipt of a complaint, an intake interview shall be conducted with the complainant.
- (2) **Within ten (10) working days** after reviewing all written complaints and the information received during the intake interview, the Discrimination/Harassment/Retaliation (DHR) Administrator or Title IX Coordinator will notify the complainant that the complaint has been accepted for investigation and the timeline for completion of the investigation. If the DHR Administrator or Title IX Coordinator determines the complainant has failed to state a Complaint within the scope of CSU Executive Order 1097, he or she will provide the Complainant with written notice of this determination within **ten (10) working days**. The DHR Administrator or Title IX Coordinator will also inform the complainant that if additional information is provided, the complaint will be reviewed again.
- (3) **Within sixty (60) working days** after the intake interview, the investigator shall complete the investigation, write and submit an investigation report to the campus designated DHR Administrator or Title IX Coordinator. If this timeline is extended pursuant to Article V. E, it



shall not be extended for a period longer than an additional **thirty (30) working days** from the original due date.

- (4) **Within ten (10) working days** of receiving the investigation report, the DHR Administrator or Title IX Coordinator shall review the investigation report and notify the parties in writing of the investigation outcome. If the DHR Administrator or Title IX Coordinator performed the investigation, he or she shall simultaneously notify the parties in writing of the investigation outcome within **ten (10) working days** of completing the investigation report. The Notice shall indicate whether or not CSU Executive Order 1097 was violated and the complainant's and respondent's right to file an appeal under this policy.
- (5) **Within ten (10) working days** after the date of the Notice of Investigation Outcome, the student may file a written appeal with the CO.
- (6) **Within thirty (30) working days** after receipt of the written appeal, the CO designee shall respond to the appealing party, unless the timeline has been extended pursuant to Article IV. G. or Article V. E. A separate notification shall be provided to the non-appealing party, indicating whether or not the allegations were substantiated on appeal by a Preponderance of the Evidence.
- (7) **Closure.** The CO Appeal Response is final and concludes the complaint and appeal process under CSU Executive Order 1097.

**Pursuant to Executive Order 1097R, Article V. E, the timelines noted above may be extended as follows:**

The timeline for the procedures contained within CSU Executive Order 1097R may be extended for any reason deemed to be legitimate by the campus investigator/CO Appeal reviewer or by mutual agreement of the parties. The timelines stated within CSU Executive Order will be automatically adjusted for a reasonable time period that should not exceed an additional **thirty (30) working days** for a campus investigation or an additional **thirty (30) working days** for a reopened campus investigation under Article IV. The complainant and respondent shall receive written notification of any period of extension.

The complaint procedure outlined in CSU Executive Order 1097R provides students a process to address alleged violations of CSU Executive Order by the CSU, a CSU employee, another student, or a third party by filing a report with the Title IX Coordinator at SMSU 103 or online at <http://titleix.csusb.edu> using the "File a Report Here" icon, or with the DHR Coordinator in Human Resources, located in SH-110. Whenever a campus determines that the allegation(s) are outside the scope of the CSU Executive Order, the campus shall promptly notify the student in writing. All complaints and related investigations against respondents who are sworn University public safety officers shall be governed by CSU Executive Order 1097R, the applicable collective bargaining agreement, and by the Public Safety Officers Procedural Bill of Rights Act (POBR). The campus DHR Administrator/Title IX Coordinator shall work with the campus Chief of Police, or designee, to investigate complaints against sworn public safety officers. Consultation with the Office of General Counsel is recommended.



CSUSB will respond to all complaints and will take appropriate action to prevent, correct, and discipline conduct that violates CSU Executive Order 1097-Revised- 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. To report alleged violations, a student may submit a formal written Complaint to the DHR (Discrimination, Harassment, and Retaliation) Administrator or Title IX Coordinator (sex discrimination, sexual harassment, sexual misconduct, dating and domestic violence, and stalking). The date of receipt shall be deemed to be the complaint filing date. The DHR Administrator/Title IX Coordinator shall offer reasonable accommodations to students who are unable to submit a complaint because of a qualified disability.

Complaints should be brought forward as soon as possible after the conduct occurs. While there is no stated timeframe for making a complaint, prompt reporting will better enable the campus to respond to the complaint, determine the relevant issues, and provide an appropriate remedy and/or action. All incidents should be reported even if a significant amount of time has passed. However, delaying a report or complaint may impede the ability to conduct an investigation or take appropriate remedial actions.

The Campus will respond to all reports of alleged violations of CSU Executive Order 1097R, whether or not the report is submitted as a formal written complaint. However, the response may be limited if information contained in the report is insufficient to verify violation(s) of CSU Executive Order 1097R.

**A. Campus Early Resolution Process.** Complainants who believe they have experienced discrimination, harassment, retaliation, sexual misconduct, dating or domestic violence, or stalking under CSU Executive Order 1097R may initiate the Early Resolution process prior to, or instead of, filing a complaint. The purpose of the Early Resolution process is to explore whether the complainant's concern can be resolved by the campus without an investigation.

CSU Executive Order 1097 neither prevents nor requires the use of the Early Resolution process. Under no circumstance shall a complainant be required to use the Early Resolution process to address prohibited behaviors. It is not appropriate for a complainant to be required to "work out the problem" directly or mediate with the respondent. Mediation cannot be used, even on a voluntary basis, to resolve sexual misconduct, dating or domestic violence, or stalking complaints. In other matters, where voluntary mediation is requested, no meeting between the Complainant and the Respondent should occur without involvement by appropriate campus administrators, including the DHR Administrator or Title IX Coordinator.

Where the allegations involve sexual misconduct, dating or domestic violence, or stalking, the complainant shall be advised to immediately file a complaint under Article III,B.



**1. To initiate the Early Resolution Process.** The complainant should contact his or her Campus DHR (Discrimination, Harassment, or Retaliation) Administrator, in SH 110, or Title IX Coordinator (sex discrimination, sexual harassment, sexual misconduct, dating and domestic violence, and stalking) at SMSU 103, phone 909-537-5669, or online at <http://titleix.csusb.edu> “File a Report Here” icon. The DHR Administrator or Title IX Coordinator shall promptly meet with the complainant to discuss his or her concern and possible resolutions as appropriate.

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

**2. Participation in the Early Resolution Process.** Participation 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 DHR Administrator or 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 CSU Executive Order 1097R.

The campus shall attempt to resolve the complainant’s concern(s) quickly and effectively. The DHR Administrator or Title IX Coordinator shall meet with the complainant, the respondent, and any other persons or witnesses they may determine to be necessary.

**3. Final Early Resolution.** 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 DHR Administrator/Title IX Coordinator shall inform the Student Conduct Administrator of the outcome of the Early Resolution process, including any Interim Remedies 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 Early Resolution process is terminated, and the termination effective date. The complainant shall be provided written notification of his or her right to file a complaint pursuant to Article III, B. 1.



**4. Confidentiality.** Other than consulting with their respective advisors, both the complainant and the respondent shall keep the details of the Early Resolution process confidential until the process is concluded. If the matter is not resolved and an investigation is conducted, the complainant and the respondent shall maintain confidentiality until the conclusion of the campus investigation and CO Appeal Review process, if any.

**5. Termination of Early Resolution Process.** The complainant shall be notified that the complainant or the campus may at any time elect to terminate the Early Resolution process. In that event, the DHR Administrator or Title IX Coordinator shall promptly notify the complainant and the respondent in writing that the Early Resolution process has terminated, the effective date thereof, and inform the complainant of his or her right to file a complaint pursuant to Article III, B. 1.

**B. Campus Investigation Process.** Campuses will investigate complaints of discrimination, harassment, retaliation, sexual misconduct, dating or domestic violence, or stalking unless an Early Resolution is reached, whether or not a formal written complaint is submitted. The DHR Administrator or Title IX Coordinator will determine whether to open an investigation after making a preliminary inquiry into the allegations. An investigation may not be warranted where the reported information is insufficient.

In cases where the complainant does not want to pursue an investigation, the DHR Administrator/Title IX Coordinator should inform the complainant that the ability to take corrective action may be limited. The campus may determine that circumstances warrant initiating an investigation even if a complaint has not been filed and independent of the intent or wishes of the complainant. In cases involving sexual misconduct, dating or domestic violence, or stalking, when determining whether to go forward with an investigation, the Title IX Coordinator should consider the seriousness of the allegation(s), the age of the complainant, whether there have been other complaints against the respondent, and the risk to the campus community if the respondent's alleged conduct remains unaddressed.

**1. Filing a Complaint.** Any Student may file a complaint reporting discrimination, harassment, retaliation, sexual misconduct, dating or domestic violence, or stalking under CSU Executive Order 1097R subject to the following exceptions:

a. Complaints of student employees that arise out of their employment. Such complaints shall be governed by Executive Order 1096, or any superseding executive order.

b. Complaints by a student about his/her academic adjustments and/or accommodations to a campus's educational program related to his/her qualified Disability. Such inquiries



and complaints shall be directed to the Campus Director, Disabled Student Services (DSS), and shall be governed by CSU Coded Memorandum AA 2014-08, or any superseding policy.

c. Complaints against a president shall be filed with the Chancellor's Office (CO). However, complaints against a president shall be processed by the Campus if the president's role in the alleged incident was limited to a decision on a recommendation made by another administrator, and the president had no other substantial involvement in the matter.

d. For Complaints against CO employees, the responsibilities identified in CSU Executive Order 1097R- 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, as those of the president are the responsibilities of the chancellor. Complaints that involve allegations against the chancellor or a member of the Board of Trustees shall be referred to the chair or vice chair of the Board and the CO Title IX Coordinator for processing and investigation.

**2. Complaint Requirements.** The complainant may submit a written complaint to the DHR Administrator or Title IX Coordinator. The date the complaint is received in the appropriate office shall be deemed to be the complaint filing date. The DHR Administrator/Title IX Coordinator shall offer reasonable accommodations to complainants who are unable to submit a written complaint because of a qualified disability.

The complainant may complete the Incident Reporting Form at <https://cm.maxient.com/reportingform.php?CSUSanBernardino> or, in the alternative, submit a written signed statement containing the following information:

- a. The complainant's full name, address (including e-mail address) and telephone number(s);
- b. The name of the respondent and job title, position or student status, if known;
- c. The protected status that is the basis for any alleged discrimination, harassment, or retaliation, the respondent's activity that is the basis for the alleged retaliation, or whether dating or domestic violence, or stalking is alleged;
- d. A clear, concise statement of the facts that constitute the allegations including pertinent date(s) and sufficient information to identify any individuals who may provide relevant information during the course of any investigation;
- e. A statement verifying that the information provided is true and accurate to the best of the complainant's knowledge;





- f. The term and year of the complainant's most recent active academic status or the term and year in which he or she sought admission to CSUSB;
- g. The full name, address and telephone number of the complainant's advisor, if any;
- h. The specific harm resulting from the allegations;
- i. The specific remedy sought;
- j. The complainant's signature; and,
- k. The date on which the complaint is submitted.

**3. Intake interview.** The DHR Administrator or Title IX Coordinator shall meet with the complainant as soon as possible, but no later than **ten (10) working days** after the complaint was received. The complainant shall make him/herself available for this meeting.

- a. The meeting shall serve as the initial intake interview with the complainant and will:
  - i. Explain the investigation procedure and timelines and answer any questions about them;
  - ii. Inform the complainant of his or her rights, including the right to have an advisor throughout the process;
  - iii. Provide the opportunity for the complainant to complete and sign a complaint form, if not already done; and,
  - iv. Discuss Interim Remedies, as appropriate.
- b. In cases alleging sexual misconduct, dating or domestic violence, or stalking, the Title IX Coordinator shall also:
  - i. Inform the complainant of the right to file a criminal complaint;
  - ii. Offer to assist the complainant with filing a criminal complaint;
  - iii. Assure the complainant that such filing will not significantly delay the campus investigation;
  - iv. Advise the complainant of available resources such as the UPD, campus Sexual Assault Victim's Advocate, student health service center or psychological counseling center; and
  - v. Provide **written** information, as directed under Executive Order 1095, to any student who reports to the campus that he or she has been a victim of sexual misconduct, dating or domestic violence, or stalking.
- c. Prior to or during the initial interview with the respondent, the DHR Administrator or Title IX Coordinator shall:
  - i. Explain the investigation procedure and timelines and answer any questions about them;
  - ii. Inform the respondent of his or her rights, including the right to have an advisor throughout the process;



- iii. Provide the respondent with a copy of CSU Executive Order 1097R - 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;
- iv. Provide the respondent with a description of the complainant's allegations against the respondent;
- v. Provide the respondent a full opportunity to respond to the allegations, including scheduling other meeting(s), accepting documentary evidence, and accepting respondent's list of potential witnesses; and,
- vi. Discuss any Interim Remedies, as appropriate.

**4. Advisor.** The complainant and the respondent may elect to be accompanied by an advisor to any meeting or interview regarding the complaint (See definition in Article VI).

**5. Confidentiality.** Information regarding the complaint may be shared on a "need to know" basis with other campus employees, and with law enforcement (with the complainant's written consent), except for some limited exceptions (See Executive Order 1095). The DHR Administrator and/or Title IX Coordinator shall endeavor to honor any request for confidentiality; however, the DHR Administrator and/or Title IX Coordinator shall also weigh requests for confidentiality against CSUSB's duty to provide a safe and nondiscriminatory environment for all members of the campus community. **Confidentiality, therefore, cannot be ensured.**

The Title IX Coordinator receives all complainant requests for confidentiality involving cases of sexual misconduct, dating or domestic violence, or stalking, and determines if the request can be honored under the facts and circumstances of the particular case (See Executive Order 1095).

**6. Complaint Accepted for Investigation.** The DHR Administrator or Title IX Coordinator will review all written complaints and the information received during the intake interview. If the DHR Administrator or Title IX Coordinator determines that the complaint falls within the scope of CSU Executive Order 1097R, he or she will notify the complainant within **ten (10) working days** that the complaint has been accepted for investigation and the timeline for completion of the investigation.

If the DHR Administrator or Title IX Coordinator determines the complainant has failed to state a complaint within the scope of CSU Executive Order 1097R, he or she will provide the complainant with written notice of this determination within **ten (10) working days**. The DHR Administrator or Title IX Coordinator will also inform the complainant that if additional information is provided, the complaint will be reviewed again. The DHR Administrator or Title IX Coordinator will maintain a record of the complaint and the



reasons the complaint was deemed not within the scope of CSU Executive Order 1097R.

The DHR Administrator or Title IX Coordinator shall determine whether the complaint should be processed through another campus office or University procedure available to the complainant. If appropriate, the DHR Administrator or Title IX Coordinator shall direct the complainant to that procedure as soon as possible.

**7. Investigation Procedure.** The DHR Administrator or Title IX Coordinator shall promptly investigate the complaint or assign this task to another investigator on a case-by-case basis. If assigned to another investigator, the DHR Administrator or Title IX Coordinator shall monitor, supervise, and oversee all such delegated tasks, including reviewing all investigation reports before they are final to ensure that the investigation was sufficient, appropriate, impartial, and in compliance with CSU Executive Order 1097.

The complainant and the respondent shall have equal opportunities to present relevant witnesses and evidence in connection with the investigation. Upon inquiry, the complainant and respondent shall be advised of the status of the investigation.

Before reaching a final conclusion or issuing a final investigation report, the investigator shall have: a) advised the parties, or have offered to do so, verbally or in writing, of any evidence upon which the findings will be based; and, b) given the parties an opportunity to respond to the evidence, including presenting further relevant evidence, information or arguments that could affect the outcome. The investigator will not reach a final conclusion or issue an investigation report until giving careful consideration to any such relevant evidence, information or arguments provided by the parties. The investigator retains discretion and authority to determine relevance.

The investigation shall be completed no later than **sixty (60) working days** after the intake interview, unless the timeline has been extended pursuant to Article V. E. The timeline should not be extended for a period longer than an additional **thirty (30) working days** from the original due date.

On occasion, a criminal investigation may be initiated by a law enforcement agency over the same allegations that are reported in a complaint filed under CSU Executive Order 1097-Revised - 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. A pending (campus or local) police investigation is a separate investigation and it does not relieve a campus of its responsibility to timely investigate complaints under CSU Executive Order 1097R. Thus, a campus may not wait until the conclusion of a police



investigation to commence its own investigation. Although it may be necessary to temporarily delay the investigation while the police are gathering evidence, once notified that the police have completed the fact gathering portion of their investigation, the campus must promptly resume and complete its own investigation. In cases involving sexual misconduct, dating or domestic violence, or stalking, see the “Coordination with Criminal Investigations and Proceedings” section of Executive Order 1095.

**8. Investigation Report.** Within the investigation period stated above, the Investigator shall prepare an investigation report. The report shall include a summary of the allegations, the investigation process, the Preponderance of the Evidence standard, a detailed description of the evidence considered, and appropriate findings. Relevant exhibits and documents, if any, shall be attached to the written report. The report shall be promptly provided to the DHR Administrator or Title IX Coordinator, if applicable. The DHR Administrator or Title IX Coordinator shall review the investigation report to assure compliance with CSU Executive Order 1097R before proceeding further.

**9. Notice of Investigation Outcome.** Within **ten (10) working days** of issuance of the final investigation report, the DHR Administrator or Title IX Coordinator shall simultaneously notify the complainant and respondent in writing of the outcome of the investigation. The notice shall include a summary of the allegations, the investigative process, the Preponderance of the Evidence standard, the evidence considered, the findings of fact, a determination as to whether CSU Executive Order was violated, and if so, any remedies to be afforded to the complainant (such as an order that the accused not contact the complainant). The notice shall advise the complainant and respondent of their right to file an appeal under CSU Executive Order 1097 and to request a copy of the final investigation report with exhibits/attachments, if any, redacted as appropriate. The Notice shall be delivered to the parties in a manner which guarantees delivery within **two (2) working days** (e-mail delivery is acceptable). Where a complaint is made against another student and CSU Executive Order is found to have been violated, the DHR Administrator or Title IX Coordinator shall 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.

## **Appeal Review – Chancellor’s Office**

**A. Filing an Appeal to the CO.** Any complainant or respondent who is not satisfied with a campus investigation outcome may file an appeal with the CO no later than **ten (10) working days** after the date of the Notice of Investigation Outcome.



**B. Written Appeal.** The appeal shall be in writing and shall be based on one or more of the appeal issues listed below:

1. The investigation outcome is unsupported by the evidence, based on the Preponderance of the Evidence standard;
2. Prejudicial procedural errors impacted the investigation outcome to such a degree that the investigation did not comply with CSU Executive Order 1097R; or
3. New evidence not available at the time of the investigation.

**Timeline.** The CO shall respond to the appealing party no later than **thirty (30) working days** after receipt of the written appeal, unless the timeline has been extended as specified in Article V. E.

### **Student Disciplinary Proceedings**

**Discipline.** Student discipline shall be administered in accordance with Title 5 of the Cal. Code of Regulations § 41301 and Executive Order 1098 Revised -Student Conduct Procedures, or any superseding executive order. Discipline for students includes, but is not limited to, probation, suspension, and expulsion. Suspension of one academic year or more, expulsion, withdrawal in lieu of suspension or expulsion, and withdrawal with pending misconduct investigation or disciplinary proceeding shall be entered on the student's transcript permanently without exception; this requirement cannot be waived in connection with any resolution agreement.

### **Complaint Procedures – Employees and Third Parties**

CSU Executive Order 1096 Revised- Systemwide Policy Prohibiting Discrimination, Harassment, and Retaliation Against, 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 provides a systemwide procedure for handling allegations of discrimination, harassment, retaliation, sexual misconduct, dating and domestic violence, and stalking by certain individuals. Below is a summary of the CSU Executive Order 1096R procedure timeline. For a full understanding and complete text, please consult CSU Executive Order 1096.

**Immediately following an act/action/incident that falls under CSU Executive Order 1096R-** Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and Procedure for Handling Discrimination, Harassment and Retaliation Allegations by Employees and Third Parties, or as soon as possible thereafter, complainants who believe they are or may have been victims of discrimination, harassment, retaliation, sexual misconduct, dating or domestic violence or stalking, may initiate the **Campus Procedure for Responding to Complaints (Article III of Executive Order 1096R)** to receive information



about the procedures that exist for resolving such matters. All incidents should be reported even if a significant amount of time has passed. However, delaying a report or complaint may impede the ability to conduct an investigation or take appropriate remedial actions.

**For the purpose of CSU Executive Order 1096R**, “working days” are defined as Monday through Friday, excluding all official holidays or campus closures at the campus where the complaint originated or at the CO where the Complaint Appeal is reviewed.

### **Basic Timeline for Complaint Procedures**

- (1) **Within ten (10) working days** after receipt of a complaint, an intake interview shall be conducted with the complainant.
- (2) **Within ten (10) working days** after reviewing all written complaints and the information received during the intake interview, the Discrimination/Harassment/Retaliation (DHR) Administrator or Title IX Coordinator will notify the complainant that the complaint has been accepted for investigation and the timeline for completion of the investigation. If the DHR Administrator or Title IX Coordinator determines the complainant has failed to state a complaint within the scope of CSU Executive Order 1096R, he or she will provide the complainant with written notice of this determination within **ten (10) working days**. The DHR Administrator or Title IX Coordinator will also inform the complainant that if additional information is provided, the complaint will be reviewed again.
- (3) **Within sixty (60) working days** after the intake interview, the investigator shall complete the investigation, write and submit an investigation report to the campus designated DHR Administrator or Title IX Coordinator. If this timeline is extended pursuant to Article V. E, it shall not be extended for a period longer than an additional **thirty (30) working days** from the original due date.
- (4) **Within ten (10) working days** of receiving the investigation report, the DHR Administrator or Title IX Coordinator shall review the investigation report and notify the parties in writing of the investigation outcome. If the DHR Administrator or Title IX Coordinator performed the investigation, he or she shall notify the parties in writing of the investigation outcome within **ten (10) working days** of completing the investigation report. The notice shall indicate whether or not CSU Executive Order 1096R was violated and the complainant’s and respondent’s right to file an appeal under the CSU Executive Order.
- (5) **Within ten (10) working days** after the date of the Notice of Investigation Outcome, the complainant may file a written appeal with the CO.
- (6) **Within thirty (30) working days** after receipt of the written appeal, the CO designee shall respond to the appealing party, unless the timeline has been extended pursuant to Article IV. G or Article V. E. A separate notification shall be provided to the non-appealing party, indicating whether or not the allegations were substantiated on appeal by a Preponderance of the Evidence.
- (7) **Closure.** The CO Appeal Response is final and concludes the complaint and appeal process under CSU Executive Order 1096R.



**Pursuant to Executive Order 1096R-** Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and Procedure for Handling Discrimination, Harassment and Retaliation Allegations by Employees and Third Parties, **Article V. E, the timelines noted above may be extended as follows:**

The timeline for the procedures contained within CSU Executive Order 1096R may be extended for any reason deemed to be legitimate by the campus investigator/CO Appeal reviewer or by mutual agreement of the parties. The timelines stated within the CSU Executive Order will be automatically adjusted for a reasonable time period that should not exceed an additional **thirty (30) working days** for a campus investigation or an additional **thirty (30) working days** for a reopened campus investigation under Article IV. The complainant and respondent shall receive written notification of any period of extension.

### **Complaint Process: Employees and Third Parties Complaint Proceedings**

**Campus Investigation Process.** Campuses will investigate complaints of discrimination, harassment, retaliation, sexual misconduct, dating or domestic violence, or stalking involving Employees, Student Employees, and Third Parties under Executive Order 1096R unless an Early Resolution is reached, whether or not a written complaint is submitted in-person at SMSU 103 or online at <http://titleix.csusb.edu> using the “File a Report Here” icon. The DHR Administrator/Title IX Coordinator will determine whether to open an investigation after making a preliminary inquiry into the allegations. An investigation may not be warranted where the reported information is insufficient.

In cases where the complainant does not want to pursue an investigation, the DHR Administrator/Title IX Coordinator should inform the complainant that the ability to take corrective action may be limited. The campus may determine that circumstances warrant initiating an investigation even if a complaint has not been filed and independent of the intent or wishes of the complainant. In cases involving sexual misconduct, dating or domestic violence, or stalking, when determining whether to go forward with an investigation, the Title IX Coordinator should consider the seriousness of the allegation(s), the age of the complainant, whether there have been other complaints against the respondent, and the risk to the campus community if the respondent’s alleged conduct remains unaddressed.

**1. Filing a Complaint.** Any employee or third party may file a complaint reporting discrimination, harassment, retaliation, sexual misconduct, dating or domestic violence, or stalking under CSU Executive Order 1096R- Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and Procedure for Handling Discrimination, Harassment and Retaliation Allegations by Employees and Third Parties subject to the following exceptions:



- a. Complaints of student employees that arise out of their status as a student. Such complaints shall be governed by Executive Order 1097R- 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 or any superseding executive order.
- b. Complaints against a president shall be filed with the Chancellor's Office (CO). However, complaints against a president shall be processed by the campus if the president's role in the alleged incident was limited to a decision on a recommendation made by another administrator, and the president had no other substantial involvement in the matter.
- c. For complaints against CO employees, the responsibilities identified in CSU Executive Order 1096R- Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and Procedure for Handling Discrimination, Harassment and Retaliation Allegations by Employees and Third Parties as those of the president are the responsibilities of the chancellor. Complaints that involve allegations against the chancellor or a member of the Board of Trustees shall be referred to the chair or vice chair of the Board and the CO Title IX Coordinator for processing and investigation.

**2. Complaint Requirements.** The complainant may submit a written complaint to the DHR Administrator or Title IX Coordinator. The date the complaint is received in the appropriate office shall be deemed to be the complaint filing date. The DHR Administrator/Title IX Coordinator shall offer reasonable accommodations to complainants who are unable to submit a written complaint because of a qualified disability.

The complainant may file a report online at <http://titleix.csusb.edu> using the "File a Report Here" icon or, in the alternative, submit a written signed statement to SMSU 103, phone 909-537-5669, containing the following information:

- a. The complainant's full name, address (including e-mail address) and telephone number(s);
- b. The name of the respondent and job title, position or student status, if known;
- c. The protected status that is the basis for any alleged discrimination, harassment, or retaliation, the respondent's activity that is the basis for the alleged retaliation, or whether dating or domestic violence, or stalking is alleged;
- d. A clear, concise statement of the facts that constitute the allegations including pertinent date(s) and sufficient information to identify any individuals who may provide relevant information during the course of any investigation;
- e. A statement verifying that the information provided is true and accurate to the best of the complainant's knowledge;
- f. The day, month and year of the complainant's most recent employment or the day, month and year in which he or she applied for employment with CSUSB;
- g. The full name, address and telephone number of the complainant's advisor, if any;
- h. The specific harm resulting from the allegations;
- i. The specific remedy sought;





- j. The complainant's signature; and,
- k. The date on which the complaint is submitted.

**3. Intake interview.** The DHR Administrator or Title IX Coordinator shall meet with the complainant as soon as possible, but no later than **ten (10) working days** after the complaint was received. The complainant shall make him/herself available for this meeting.

- a. The meeting shall serve as the initial intake interview with the complainant and will:
  - i. Explain the investigation procedure and timelines and answer any questions about them;
  - ii. Inform the complainant of his or her rights, including the right to have an advisor throughout the process;
  - iii. Provide the opportunity for the complainant to complete and sign a complaint form, if not already done; and,
  - iv. Discuss reasonable Interim Remedies, as appropriate.
- b. In cases alleging sexual misconduct, dating or domestic violence, or stalking, the Title IX Coordinator shall also:
  - i. Inform the complainant of the right to file a criminal complaint;
  - ii. Offer to assist the complainant with filing a criminal complaint;
  - iii. Assure the complainant that such filing will not significantly delay the campus investigation;
  - iv. Advise the complainant of available resources such as the UPD, campus Sexual Assault Victim's Advocate, student health service center or psychological counseling center; and
  - v. Provide **written** information, as directed under Executive Order 1095, to any complainant who reports to the campus that he or she has been a victim of sexual misconduct, dating or domestic violence, or stalking.
- c. Prior to or during the initial interview with the respondent, the DHR Administrator or Title IX Coordinator shall:
  - i. Explain the investigation procedure and timelines and answer any questions about them;
  - ii. Inform the respondent of his or her rights, including the right to have an advisor throughout the process;
  - iii. Provide the respondent with a copy of CSU Executive Order - Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and Procedure for Handling Discrimination, Harassment and Retaliation Allegations by Employees and Third Parties;
  - iv. Provide the respondent with a description of the complainant's allegations against the respondent;
  - v. Provide the respondent a full opportunity to respond to the allegations, including scheduling other meeting(s), accepting documentary evidence, and accepting Respondent's list of potential witnesses; and,



vi. Discuss any Interim Remedies, as appropriate.

**4. Advisor.** The complainant and the respondent may elect to be accompanied by an advisor to any meeting or interview regarding the complaint.

**5. Confidentiality.** Information regarding the complaint may be shared on a “need to know” basis with other campus employees, and with law enforcement (with the complainant’s written consent), except for some limited exceptions. (See Executive Order 1095 Revised.) The DHR Administrator and/or Title IX Coordinator shall endeavor to honor any request for confidentiality; however, the DHR Administrator and/or Title IX Coordinator shall also weigh requests for confidentiality against CSUSB’s duty to provide a safe and nondiscriminatory environment for all members of the campus community. **Confidentiality, therefore, cannot be ensured.**

The Title IX Coordinator receives all complainant requests for confidentiality involving cases of sexual misconduct, dating or domestic violence, or stalking, and determines if the request can be honored under the facts and circumstances of the particular case. (See CSU Executive Order 1095R).

**6. Complaint Accepted for Investigation.** The DHR Administrator or Title IX Coordinator will review all written complaints and the information received during the intake interview. If the DHR Administrator or Title IX Coordinator determines that the complaint falls within the scope of CSU Executive Order 1096R- Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and Procedure for Handling Discrimination, Harassment and Retaliation Allegations by Employees and Third Parties, he or she will notify the complainant within **ten (10) working days** that the complaint has been accepted for investigation and the timeline for completion of the investigation.

If the DHR Administrator or Title IX Coordinator determines the complainant has failed to state a complaint within the scope of CSU Executive Order 1096R, he or she will provide the complainant with written notice of this determination with **ten (10) working days**. The DHR Administrator or Title IX Coordinator will also inform the complainant that if additional information is provided, the complaint will be reviewed again. The DHR Administrator or Title IX Coordinator will maintain a record of the complaint and the reasons the complaint was deemed not within the scope of CSU Executive Order 1096R.

The DHR Administrator or Title IX Coordinator shall determine whether the complaint should be processed through another campus office or University procedure available to the complainant. If appropriate, the DHR Administrator or Title IX Coordinator shall direct the complainant to that procedure as soon as possible.



**7. Investigation Procedure.** The DHR Administrator or Title IX Coordinator shall promptly investigate the complaint or assign this task to another investigator on a case-by-case basis. If assigned to another investigator, the DHR Administrator or Title IX Coordinator shall monitor, supervise, and oversee all such delegated tasks, including reviewing all investigation reports before they are final to ensure that the investigation was sufficient, appropriate, impartial, and in compliance with CSU Executive Order 1096R.

The complainant and the respondent shall have equal opportunities to present relevant witnesses and evidence in connection with the investigation. Upon inquiry, the complainant and respondent shall be advised of the status of the investigation.

Before reaching a final conclusion or issuing a final investigation report, the investigator shall have: a) advised the parties or have offered to do so, verbally or in writing, of any evidence upon which the findings will be based; and, b) given the parties an opportunity to respond to the evidence, including presenting further relevant evidence, information or arguments that could affect the outcome. The investigator will not reach a final conclusion or issue an investigation report until giving careful consideration to any such relevant evidence, information or arguments provided by the parties. The investigator retains discretion and authority to determine relevance.

The investigation shall be completed no later than **sixty (60) working days** after the intake interview, unless the timeline has been extended pursuant to Article V. E. The timeline should not be extended for a period longer than an additional **thirty (30) working days** from the original due date.

On occasion, a criminal investigation may be initiated by a law enforcement agency over the same allegations that are reported in a complaint filed under CSU Executive Order 1096R. A pending (University or local) police investigation is a separate investigation and it does not relieve a campus of its responsibility to timely investigate complaints under CSU Executive Order 1096R. Thus, a campus may not wait until the conclusion of a police investigation to commence its own investigation. Although it may be necessary to temporarily delay the investigation while the police are gathering evidence, once notified that the police have completed the fact gathering portion of their investigation, the campus must promptly resume and complete its own investigation. In cases involving sexual misconduct, dating or domestic violence, or stalking, see the “Coordination with Criminal Investigations and Proceedings” section of Executive Order 1095R.

**8. Investigation Report.** Within the investigation period stated above, the investigator shall prepare an investigation report. The report shall include a summary of the allegations, the investigation process, the Preponderance of the Evidence standard, a detailed description of the evidence considered, and appropriate findings. Relevant exhibits and documents, if any, shall be attached to the written report. The report shall be promptly provided to the DHR



Administrator or Title IX Coordinator, if applicable. The DHR Administrator or Title IX Coordinator shall review the investigation report to assure compliance with CSU Executive Order 1096R before proceeding further.

**9. Notice of Investigation Outcome.** Within **ten (10) working days** of issuance of the final investigation report, the DHR Administrator or Title IX Coordinator shall notify the complainant and respondent in writing of the outcome of the investigation. The notice shall include a summary of the allegations, the investigative process, the Preponderance of the Evidence standard, the evidence considered, the findings of fact, a determination as to whether CSU Executive Order 1096R was violated, and if so, any remedies to be afforded to the complainant. The notice shall advise the complainant and respondent of their right to file an appeal under CSU Executive Order 1096R and to request a copy of the final investigation report with exhibits/attachments, if any, redacted as appropriate. The notice shall be delivered to the parties in a manner which guarantees delivery within **two (2) working days** (e-mail delivery is acceptable). Where a complaint is made against a student and CSU Executive Order 1096R is found to have been violated, the DHR Administrator or Title IX Coordinator shall 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.

**Appeal Review – Chancellor’s Office**

**A. Filing an Appeal to the CO.** Any complainant or respondent who is not satisfied with a campus investigation outcome may file an appeal with the CO no later than **ten (10) working days** after the date of the Notice of Investigation Outcome.

**B. Written Appeal.** The appeal shall be in writing and shall be based on one or more of the appeal issues listed below:

1. The investigation outcome is unsupported by the evidence, based on the Preponderance of the Evidence standard;
2. Prejudicial procedural errors impacted the investigation outcome to such a degree that the investigation did not comply with CSU Executive Order 1096; or
3. New evidence not available at the time of the investigation.

**Timeline.** The CO shall respond to the appealing party no later than **thirty (30) working days** after receipt of the written appeal unless the timeline has been extended as specified in Article V.

Source: Student Conduct Office and Title IX and Gender Equity Office



## Crime Statistics

Reportable Crime	Year	On Campus	Residence Facilities	Non-Campus Buildings	Public Property	# of Unfounded
Murder/Non-Negligent Manslaughter	2013	0	0	N/A	0	0
	2014	0	0	N/A	0	0
	2015	0	0	N/A	0	0
Manslaughter by Negligent	2013	0	0	N/A	0	0
	2014	0	0	N/A	0	0
	2015	0	0	0	0	0
Sex Offense - Forcible	2013	2	2	N/A	0	0
Sex Offense – Non-Forcible (Incest or Statutory)	2013	0	0	N/A	0	0
Rape	2014	2	1	N/A	0	0
	2015	2	1	N/A	0	0
Fondling	2014	3	0	N/A	0	0
	2015	6	1	N/A	0	0
Incest	2014	0	0	N/A	0	0
	2015	0	0	N/A	0	0
Robbery	2013	0	0	N/A	0	0
	2014	1	0	N/A	0	0
	2015	5	0	N/A	1	0
Aggravated Assault	2013	6	3	N/A	0	0
	2014	0	0	N/A	0	0
	2015	1	1	N/A	0	0
Burglary	2013	8	4	N/A	0	0
	2014	10	5	N/A	0	1
	2015	3	2	N/A	0	0
Motor Vehicle Theft	2013	13	0	N/A	0	0
	2014	9	0	N/A	0	1
	2015	21	0	N/A	0	0



Arson Arson – cont.	2013	0	0	N/A	0	0
	2014	0	0	N/A	0	0
	2015	0	0	N/A	0	0

Reportable Crime	Year	On Campus	Residence Facilities	Non-Campus Buildings	Public Property
Domestic Violence	2013	NR	NR	N/A	NR
	2014	5	2	N/A	0
	2015	3	1	N/A	1
Dating Violence	2013	NR	NR	N/A	NR
	2014	3	3	N/A	0
	2015	2	1	N/A	0
Stalking	2013	NR	NR	N/A	NR
	2014	1	1	N/A	0
	2015	2	0	N/A	0

### HATE CRIMES

Reportable Crime	Year	On Campus	Residence Facilities	Non-Campus Buildings	Public Property	# of Unfounded
Murder/Non-Negligent Manslaughter	2013	0	0	N/A	0	0
	2014	0	0	N/A	0	0
	2015	0	0	N/A	0	0
Manslaughter by Negligent	2013	0	0	N/A	0	0
	2014	0	0	N/A	0	0
	2015	0	0	N/A	0	0
Sex Offense - Forcible	2013	0	0	N/A	0	0
	2014	0	0	N/A	0	0
	2015	<b>Rape</b>				
Sex Offense – Non-Forcible (Incest or Statutory)	2013	0	0	N/A	0	0
	2014	0	0	N/A	0	0
	2015	<b>Fondling / Incest / Statutory Rape</b>				
Rape	2015	0	0	N/A	0	0
Fondling	2015	0	0	N/A	0	0



Incest	2015	0	0	N/A	0	0
Statutory Rape	2015	0	0	N/A	0	0
<b>Reportable Crime</b>	<b>Year</b>	<b>On Campus</b>	<b>Residence Facilities</b>	<b>Non-Campus Buildings</b>	<b>Public Property</b>	<b># of Unfounded</b>
Robbery	2013	0	0	N/A	0	0
	2014	0	0	N/A	0	0
	2015	0	0	N/A	0	0
Aggravated Assault	2013	0	0	N/A	0	0
	2014	0	0	N/A	0	0
	2015	0	0	N/A	0	0
Burglary	2013	0	0	N/A	0	0
	2014	0	0	N/A	0	0
	2015	0	0	N/A	0	0
Motor Vehicle Theft	2013	0	0	N/A	0	0
	2014	0	0	N/A	0	0
	2015	0	0	N/A	0	0
Arson	2013	0	0	N/A	0	0
	2014	0	0	N/A	0	0
	2015	0	0	N/A	0	0
Simple Assault	2013	0	0	N/A	0	0
	2014	0	0	N/A	0	0
	2015	0	0	N/A	0	0
Larceny – theft	2013	0	0	N/A	0	0
	2014	0	0	N/A	0	0
	2015	0	0	N/A	0	0
Intimidation	2013	0	0	N/A	0	0
	2014	0	0	N/A	0	0
	2015	0	0	N/A	0	0
Destruction/ damage/ vandalism of property	2013	2	0	N/A	0	0
	2014	0	0	N/A	0	0
	2015	0	0	N/A	0	0

## ARRESTS



Reportable Crime	Year	On Campus	Residence Facilities	Non-Campus Buildings	Public Property
Illegal Weapons Violations	2013	0	0	N/A	0
	2014	2	0	N/A	0
	2015	1	1	N/A	0
Drug Law Violations	2013	3	0	N/A	0
	2014	6	2	N/A	1
	2015	4	1	N/A	1
Liquor Law Violations	2013	0	0	N/A	0
	2014	2	0	N/A	0
	2015	0	0	N/A	0

### DISCIPLINARY ACTIONS

Reportable Crime	Year	On Campus	Residence Facilities	Non-Campus Buildings	Public Property
Illegal Weapons Violations	2013	0	0	N/A	0
	2014	2	0	N/A	0
	2015	0	0	N/A	0
Drug Law Violations	2013	58	55	N/A	0
	2014	96	95	N/A	0
	2015	79	79	N/A	0
Liquor Law Violations	2013	103	99	N/A	0
	2014	132	132	N/A	0
	2015	138	138	N/A	0

**Note:** 2012/2013 - The expanded training and educational sanctioning collaborations across campus, establishment of a centralized online reporting system managed by the Chief Student Conduct Office, and establishment of disciplinary citations/referrals from UPD contributed to the increase in caseload trends.

Source: UPD





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