



The California State University
SYSTEMWIDE HUMAN RESOURCES

The background of the top half of the page is a photograph of a modern, multi-story building with a glass and metal facade. Three flagpoles are in the foreground, flying the United States flag, the California state flag, and the CSU flag. A palm tree is visible on the left side of the frame.

OTHER CONDUCT OF CONCERN: SYSTEMWIDE GUIDANCE

SYSTEMWIDE HUMAN RESOURCES

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CALIFORNIA STATE UNIVERSITY'S COMMITMENT TO ADDRESSING OTHER CONDUCT OF CONCERN

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As the nation's largest and most diverse four-year public university, California State University's ("CSU") mission is to provide students with access to quality education that empowers them to become leaders in the changing workforce and to contribute to the public good. By reiterating core principles of fairness and accountability and providing clear guidelines on addressing harmful conduct within its learning, living and working environments, the CSU strengthens its commitment to ensuring all community members may access the benefits and opportunities of learning, living and working in an inclusive, supportive, respectful and caring environment.

BACKGROUND

In 2022, the CSU Board of Trustees engaged the Cozen O'Connor Institutional Response Group ("Cozen O'Connor") to conduct a systemwide assessment of the CSU's implementation of its programs to prevent and address discrimination, harassment and retaliation ("DHR") based on protected statuses, including sex and gender (under both federal and state laws). The goal of the engagement was to strengthen CSU's institutional culture by assessing current practices and providing insights, recommendations and resources to advance CSU's training, awareness, prevention, intervention, compliance and support systems under its [Nondiscrimination Policy](#).

The assessment involved visits to the Chancellor's Office ("CO") and the CSU's 23 universities, as well as extensive interviews, surveys and feedback from the CSU community. The systemwide and individual university reports revealed that unprofessional conduct falling outside CSU's Nondiscrimination Policy, as well as other policies and laws, was not always fully addressed in all cases and at all campuses. Cozen O'Connor recommended establishing guidance to ensure harmful conduct at all CSU universities is addressed regardless of whether it violates policy or law or could result in formal discipline. Cozen identified such conduct as "Other Conduct of Concern (OCC)." Simultaneously, an audit requested by the California Joint Legislative Audit Committee ("JLAC") and conducted by the California State Auditor ("CSA") recommended that CSU establish systemwide policies or procedures for addressing unprofessional or inappropriate conduct that does not rise to the level of sexual harassment. To ensure alignment with the unique administrative structures and communities of the 23 diverse CSU communities, the CSU obtained feedback from multiple stakeholder groups representing students, faculty, staff, administrators, presidents, trustees and union partners across each university and the CSU system. Based on this community-informed project, the CSU has established the following guidelines to address Other Conduct of Concern.

DEFINING OTHER CONDUCT OF CONCERN

For purposes of this guidance, the CSU defines OCC as conduct that does **not** violate CSU policies or local, state or federal laws and, therefore, does **not** warrant disciplinary action but that nevertheless negatively impacts the learning, living and working environment of the CSU community. Examples of OCC include but are not limited to intimidation, bullying, bias, micro-aggressions or harassment that does not violate the

Nondiscrimination Policy because it is not persistent, pervasive or severe. All reported instances of OCC will be addressed as described in these guidelines.

These guidelines do not establish new disciplinary procedures, processes, or policies. If it is determined that a report of OCC may warrant discipline, it will be referred to human resources, civil rights, faculty affairs, and/or student affairs professionals, as appropriate, and will be addressed through preexisting policies and disciplinary processes as detailed in the applicable CSU [Collective Bargaining Agreements](#) ("CBAs"), CSU's [Student Conduct Process](#) and [Student Conduct Code](#) (as set forth in 5 CCR § 41301), California Education Code § 89535 *et seq.*, CSU's Management Personnel Plan (as set forth in 5 CCR § 42720), and Title 5 of the California Code of Regulations regarding Discipline, §§ 43520-43526.

Addressing OCC has always been a core responsibility of supervisors and administrators in higher education. This guidance reminds and informs community members of what actions may follow a report of OCC and how university supervisors and administrators should respond to such reports. This guidance applies to all CSU students, employees (including executives), trustees and auxiliary employees.



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GUIDING PRINCIPLES OF OTHER CONDUCT OF CONCERN

- Any member of the CSU community, including trustees, presidents, vice presidents, managers, administrators, staff, faculty, students, auxiliaries and volunteers, can report OCC and are subject to this guidance. Individuals who experience or witness OCC are encouraged to promptly discuss their experience with their supervisor, applicable student affairs, human resources or faculty affairs administrator, or any administrator designated by their university with this responsibility (“Applicable Administrators”).
- The CSU will address reports of OCC, regardless of race, gender, age, sexual orientation, disability, religion or any other protected characteristic. Reports will be taken seriously, and appropriate and compassionate follow-up will be conducted to ensure that all individuals are treated fairly and with respect.
- Those who report OCC will be treated with care and provided with appropriate supportive services. Supportive services should be reasonable, temporary and responsive, and will be outlined in detail later in this guidance.
- Most instances of OCC will be addressed by supervisors or Applicable Administrators who have the closest working relationships with employees and students. Supervisors should consult with the relevant Applicable Administrator where necessary for assistance. Complicated instances of OCC, particularly where multiple individuals from different populations of the community are involved or where senior leaders are the subject of OCC, may need to be elevated to an Applicable Administrator as identified by each university.
- The goal of these guidelines is to provide support to individuals so that they feel heard, valued and cared for and so that conflicts may be productively resolved before they escalate into larger concerns.
- Universities have an obligation to encourage and support freedom of speech and expression, even when it is unpopular or controversial. Freedom of expression is a cornerstone of a democratic society and is essential to higher education. Freedom of expression also includes a responsibility to acknowledge and respect the rights of others to express differing opinions. While CSU will not discipline, sanction or stop students or employees from engaging in legally protected activities such as constitutionally protected expression, CSU recognizes that how students and employees choose to express themselves impacts others. It is these impacts that this guidance seeks to address – through non-disciplinary, respectful and appropriate action.
- How OCC is addressed depends on the nature of the conduct and its impact on the individuals involved. Conduct that can be addressed by supervisors through regular employee performance management may result in discussion, training, mentoring, coaching and education. Mediation, supportive services and restorative processes are voluntary and must be agreed upon by all parties.
- The CSU is committed to ensuring that all members of its community, including trustees, presidents, vice presidents, deans, associate deans and those in upper management roles (“Senior Leadership”), are held to the same expectations. Any instance of OCC involving Senior Leadership will be addressed with the same level of seriousness as any other member of the CSU community.
- The CSU will continue to offer training to all supervisors, academic leaders and Senior Leadership on management and communication best practices to ensure they are equipped to address conflict in the living, learning or working environment, and possess knowledge of resources at their university who can assist with more complicated instances of OCC.
- This guidance is not intended to supersede the rights and obligations provided under HEERA or applicable CBAs. Any actions taken under this guidance are subject to HEERA and applicable CBAs.

INFORMATION FOR THE CSU COMMUNITY: HOW TO REPORT AND WHAT COMES NEXT

Responsibility for addressing OCC depends on each university's administrative structure and roles, and the nature of the issue. University presidents are responsible for designating administrators (referred to in these guidelines as "Applicable Administrators") with the responsibility to address OCC, including reviewing OCC matters elevated to them and advising supervisors on how to appropriately respond. Presidents are also responsible for ensuring clear information is provided to their communities about how to report OCC, including on each university website.

- **Students:** Should report OCC to a dean (if the conduct occurred in class or another academic setting), seek a referral from a resident advisor to a Applicable Administrator (for OCC occurring in university housing), or to any other designated student affairs administrator(s).
- **Staff and Faculty:** Should report OCC to their supervisor or to human resources, faculty/academic affairs or other designated Applicable Administrator.
- **Senior Leadership:** Should report OCC to their immediate supervisor or other Applicable Administrator. If the Applicable Administrator finds that a report of OCC cannot be addressed by a neutral party at their university, they should consult with the Vice Chancellor for Human Resources. Trustees should report OCC to the Chair and Vice Chair of the Board of Trustees.
- **Volunteers or Visitors:** Should report OCC to human resources.

After a report on the OCC is received, employees and students may expect the following actions:

- **Acknowledgment.** The report should be acknowledged promptly by the supervisor or Applicable Administrator with sensitivity, care and compassion. The supervisor or Applicable Administrator should meet with the reporting individual as quickly as possible to discuss supportive services and learn all relevant details. The reporting person should also be informed of next steps.
- **Initial Review and Assessment.** The supervisor or Applicable Administrator will assess the reported conduct and determine what actions and/or referrals are needed (see further discussion below regarding assessing OCC).
- **Privacy.** The university will protect the privacy of everyone involved in a report of OCC to the greatest extent possible under applicable laws and CSU policies. The CSU and its universities will only share personally identifiable information about the individuals involved with OCC on a need-to-know basis (e.g., by those addressing and responding to the report, those interviewed for additional information when needed, and those involved in providing supportive services).
- **Supportive Services.** Supportive services are reasonable, temporary and individualized services offered to students and employees as a result of a report of OCC. Supportive services may be offered to both parties, are determined by the supervisor or Applicable Administrator pursuant to campus process or practice, are free and are not intended to be punitive or disciplinary. Supportive services are designed to restore or preserve access to educational programs and activities and/or the workplace. Services may be declined at any time and employees and students will not be penalized for doing so. Some examples of reasonable supportive services that may be offered include:
 - Facilitating open communication between all parties, led by the supervisor or Applicable Administrator.
 - Providing information on accessing counseling and mental health support and/or the university's Employee Assistance Program ("EAP").
 - Separating the involved parties, if necessary, to maintain a safe, neutral and productive environment.
 - Implementing temporary modifications to working, learning or living arrangements as needed.

- Modifications to or extensions of deadlines or other coursework. Temporary modifications of work, work location, class schedules or housing assignments.
- **Determination of Facts.** Depending on the situation, a supervisor, Applicable Administrator or person designated by the Applicable Administrator with this responsibility may need to gather additional facts by conducting interviews with all involved parties and bystanders, procuring information and documents, and summarizing all information regarding the instance of OCC. If there are no disputed facts, it may not be necessary to obtain further information.
- **Communication and Expectation Setting.** Regular communication and outreach should be maintained by the supervisor or Applicable Administrator with both the individual reporting OCC and the person whose conduct was reported. Both parties should be informed in writing of privacy protections and limitations. All parties should be informed when the issue is addressed, though specific outcomes may not be disclosed when confidentiality is required. Both individuals will also be reminded in writing that retaliation for reporting OCC or participating in activities addressed in this guidance is prohibited.
- **Referral to Other Divisions.** If it is determined at any time during the OCC process that all or any part of the reported conduct may warrant assessment for formal disciplinary action, that conduct and all supporting documentation will be referred to human resources, faculty affairs, civil rights and/or students affairs, as applicable, to be addressed through established disciplinary procedures.
- **Action.** A supervisor and/or Applicable Administrator may recommend proposed outcomes. A supervisor may address the action through regular employee performance management (e.g. discussion, training, mentoring, coaching, and/or education.) Mediation, supportive services and restorative processes are voluntary, must be agreed upon by all parties, and should be documented in writing.
- **Follow-Up.** The reporting party will be informed that the OCC has been addressed and that the matter will be monitored to ensure it does not recur.

ADMINISTRATIVE ACTIONS: GUIDANCE FOR SUPERVISORS AND ADMINISTRATORS

Supervisors and Applicable Administrators should always consider the following when evaluating OCC:

Does the conduct pose imminent harm to community members?

If so, follow campus safety protocols or call 9-1-1 immediately, as appropriate to the situation.

Does the conduct violate university policy(ies) and/or applicable laws warranting potential disciplinary action?

If so, the supervisor or Applicable Administrator should provide all information regarding the conduct to the appropriate university official in human resources, faculty affairs, student affairs or civil rights.

- *For potential violations of the Student Conduct Code, immediately refer to the appropriate Student Affairs Administrator.*
- *For potential violations of the CSU's Nondiscrimination Policy, immediately contact the university Title IX Coordinator/DHR Administrator, who will assess whether the reported actions, if proven true, would violate the CSU's Nondiscrimination Policy.¹*

¹ If it is determined during the Nondiscrimination Policy evaluation process that the conduct is not based on a protected status or was not "persistent, pervasive or severe" enough to be considered a violation of the Nondiscrimination Policy, the concern will be referred back to the Applicable Administrator to address the OCC and ensure a complete and appropriate response to all issues raised.

- For potential violations involving faculty policies, immediately refer to the Associate Vice President of Faculty Affairs or Applicable Administrator identified by campus process.
- For potential violations of any other university policies or the law by employees, including unprofessional conduct that may rise to the level of discipline, immediately refer to human resources.

Referrals and coordinated responses should be memorialized in writing. Each university is responsible for ensuring this process is documented and that follow-up actions are taken.

Does the conduct involve academic freedom or freedom of speech and expression?

The CSU is subject to responsibilities under federal and state law, even when speech is protected by the First Amendment.² In order to fulfill these obligations, the CSU will offer supportive services to those impacted by OCC. The CSU will not take any steps that abridge any person's rights as protected by the First Amendment and will not retaliate against or discipline anyone for expressing viewpoints in ways that are protected by the First Amendment. The university will, however, recognize and respond to the negative impact one person's protected comments or expressions may have on others by offering supportive services or similar actions.

If the OCC involves a student, was the student acting in their capacity as a student or as a student worker employed by the university?

If acting as a student, refer the individual to student affairs. If acting as a student employee, refer the individual to human resources (or to auxiliary human resources if employed by a CSU auxiliary).

Who is best positioned to address the conduct and provide support?

Supervisors with the most direct contact with employees and student affairs administrators trained to support students should address concerns wherever possible. If all information is known, OCC can be addressed without gathering additional facts. In such cases, supervisors (for employees) may address the conduct as part of regular performance management and professional development in alignment with any applicable CBAs. If additional information is needed, other university resources may be engaged. Complex instances of OCC may require collaboration amongst several university administrators – especially where multiple CSU populations are involved (students, employees, Senior Leadership, volunteers and guests).

If relevant to the specific instance of OCC, it may be necessary to identify other university officials who should also be notified of the conduct.

Applicable Administrators should engage civil rights, student affairs, faculty affairs, and/or human resources administrators as needed. Collaborative and consultative approaches will be necessary where, for example:

- *The individuals involved are from different community populations (e.g., students, student employees, faculty, staff, administrators, Senior Leadership, volunteers and guests).*
- *OCC is discovered during procedures or investigations involving university policy violations (e.g., under the Nondiscrimination Policy or during an audit). Those matters are not governed by the Nondiscrimination Policy but must still be addressed, as set forth in these guidelines.*
- *Each university is responsible for ensuring a prompt, compassionate and "warm" transition between offices to ensure that OCC is responded to and addressed in a timely and effective fashion.*

² See guidance set forth in the U.S. Department of Education, Office for Civil Rights (2024, May 7) [*Dear Colleague Letter: Protecting students from discrimination based on shared ancestry or ethnic characteristics*](#) (Publication No. ED-202405).

If needed, who should be identified to gather information?

The person delegated to gather facts should ideally be a university employee, and be objective, knowledgeable and trained, have no prior involvement in the reported conduct and be equipped to conduct an unbiased factual inquiry.

How should confidentiality be addressed?

All parties should be reminded that information regarding the report of OCC, facts gathered while the matter is addressed, and any resulting findings will only be shared with individuals directly involved in handling or resolving the matter, such as human resources and faculty affairs personnel, student affairs professionals, and the fact gatherer, if applicable.

How should the facts be determined?

Gathering facts may be initiated if more information is needed, when there are conflicting accounts of what occurred, the conduct involves multiple CSU populations (students, employees, etc.), or when bystanders and witnesses have first-hand knowledge of the reported OCC. In these instances, interviews with all individuals involved and any witnesses or bystanders may be necessary. Administrators will be respectful and impartial during interviews and will ensure all perspectives are heard. A final summary report should include all relevant information, witness statements, an evaluation of whether the conduct is OCC, and any proposed outcomes.

What if potential policy violations are discovered while gathering facts?

If policy or legal violations are discovered in the process of gathering facts, that information and all supporting documentation will be reported to the appropriate office and individual to be addressed through relevant university processes.

What outcomes are appropriate in response to the reported OCC that are found to be true?

Actions may include coaching or training to enhance communication or workplace conduct and facilitated discussions to address conflicts and repair relationships. In some instances, a restorative process may be appropriate, depending on the nature of the OCC. These processes are voluntary, must be mutually agreed upon, and are facilitated by a supervisor or professional trained in conflict resolution.

What forms of follow-up actions and documentation are required when addressing OCC?

OCC addressed directly by a supervisor may be documented in performance evaluations for employees and faculty as part of the normal performance management process or as determined by student affairs for students.

OCC that requires gathering additional facts and/or collaboration between offices should be documented more comprehensively. Communications and correspondence should be retained according to each university's policies, practices and applicable CBAs. The level of detail in documenting OCC will vary based on the scale and scope of the conduct. Documentation on more complex instances of OCC should include summaries of facts, findings and the proposed outcome.

After an outcome has been determined, all parties should be notified that the matter has been concluded. This written communication ensures that individuals understand that the university has taken appropriate action to address the concern.

Universities should ensure regular follow-up to ensure outcomes lead to meaningful improvements. The supervisor or Applicable Administrator should regularly check in with all involved to offer additional resources as needed. After the OCC has been addressed, supervisors and Applicable Administrators should continue monitoring the situation – whether in the workplace, academic setting or housing – to prevent recurrence.

Who should I contact if there are questions about this guidance?

Questions regarding this guidance may be referred to systemwide Human Resources for employees and systemwide Academic and Student Affairs for students. Administrators should consult with their campus counsel for legal questions.

RESPONSIBILITIES OF CSU UNIVERSITIES

Each university is responsible for informing their communities of this guidance and providing information about how to report OCC. Such information should be prominently available on the university's website and include contact information for offices and individuals charged with responding to OCC. Universities are also responsible for:

Identifying Applicable Administrators: Each CSU university is responsible for identifying administrators to oversee and advise on OCC. Contact information for Applicable Administrators should be widely shared and easily accessible to all community populations.

Promoting awareness and education: Universities may promote awareness campaigns addressing OCC through communications, websites and other media to ensure the community understands how to report OCC and what to expect during the process.

Educational initiatives: University and satellite campus efforts are essential for maintaining a culture of respect and professionalism. Prevention efforts may include training on subjects such as:

- Understanding and applying policies and procedures governing workplace conduct.
- Supervision and management.
- Recognizing and reducing implicit bias.
- Healthy relationships.
- Effective communication.
- Effective conflict resolution.
- Effective performance management.
- Having difficult conversations.

Encouraging feedback. All CSU universities should create opportunities for the university community to provide input on how OCC is addressed.

Monitoring trends and continuous improvement. Universities should regularly review reports and data to identify behavior trends and to enhance processes. Data collection methods, such as supervisor surveys and skill assessments, can inform improvements in university culture and help address recurring issues. Share insights with university and systemwide leadership to address potential concerns proactively.

Assessing success. All universities are encouraged to evaluate success in improving the climate and culture of their communities. Cultural change can be measured via several methods, including:

- **Surveys and feedback:** Climate surveys, exit interviews and focus groups can help track perceptions of inclusion, respect and overall university satisfaction over time.
- **Demographic data:** Changes in student enrollment, employee and leadership retention information, and graduation rates for underrepresented groups can indicate greater inclusion and improved satisfaction and well-being within the university community.

- **Cultural indicators:** Tracking OCC reports will gauge the effectiveness of cultural and environmental initiatives, which can be measured through competency assessments such as those described in the next section. These assessments may also be used to measure and improve communication skills, conflict management capabilities, performance management, etc.
- **Peer comparisons:** Benchmark cultural indicators, such as employee and student satisfaction, engagement, awareness of resources and perceptions of leadership, against data from peer institutions to identify strengths and areas for improvement.

Additional initiatives universities may consider include:

Establishing a central reporting hotline.

Recognition programs to reward individuals, programs and units that exemplify positive cultures or show significant improvements in culture (may be subject to bargaining).

Competency assessments. In 2021, the CSU identified a standard set of competencies for universities to utilize for their specific needs and culture. These core competencies are intended to:

- Align competencies with each university's organizational strategy, culture and vision to increase employee engagement and motivation.
- Map training and professional development activities to competencies to ensure these opportunities are cost-effective, goal-oriented and productive.
- Define the competencies required for each role to identify the workforce's skill gaps.

By measuring improvement across seven competencies identified by CSU's Systemwide Learning and Development team **for employees**, universities may track progress in the administrative skills necessary to facilitate cultural change. CSU's core leadership competencies include:

- **Inclusiveness:** Employees should promote the engagement, development and equitable treatment of *all* employees; demonstrate awareness of and respect for individual differences; support, through action and example, equal treatment and opportunity for all; actively engage in the rich background and diverse talents of employees to propel the organization forward; speak out against words or actions that are insensitive or inconsistent with the organization's mission and values.
- **Integrity:** Employees and students should act professionally and calmly when interacting with others in workplaces and learning environments; treat all with dignity, respect and fairness; honor commitments to others and model and maintain high ethical standards; earn trust by consistently aligning words and actions.
- **Communication.** Employees and students should communicate effectively with all audiences, both verbally and in writing; actively listen to others and incorporate new knowledge or perspectives into thinking; ensure that others have access to the information needed to work effectively; encourage open exchange of ideas and different points of view; communicate the truth with empathy, even when it is challenging or uncomfortable; solicit and value honest input.
- **Accountability.** Employees should plan and prioritize work to meet deadlines and outcomes; provide clear direction and delegate as needed; communicate roles, expectations and timelines; monitor work to ensure goals and deadlines are consistently met; execute work to quality standards.
- **Mission orientation.** Managers should develop priorities for areas of responsibility and formulate and implement effective strategies aligned with the organization's mission, values and priorities; demonstrate a personal commitment to student success and the organization.

- **Strategic thinking and alignment.** Managers should understand market, industry and environmental trends; address issues to create or sustain competitive advantage; uncover new opportunities to create value and leverage the organization's strengths; anticipate change and develop long-term plans.
- **Team building.** Managers should create an environment where people feel cared for and valued; foster collaboration and team effectiveness; work cooperatively and effectively with others; and build a group identity characterized by pride, trust and commitment.

RELEVANT CSU POLICIES

- [CSU Nondiscrimination Policy](#)
- [Complaint Procedures for Allegations of Retaliation for Having Made a Protected Disclosure under the California Whistleblower Protection Act](#)
- [Interim Systemwide Time, Place and Manner Policy](#)
- [CSU's Student Conduct Code](#)

OTHER RESOURCES

- [Cal. Education Code section 89535](#)
- [Collective Bargaining Agreements](#)
- [Title 5, Cal. Code Regs., Section 42723 \(a\)](#)
- [Title 5, Cal Code of Regs., Sections 43520-435206](#)
- [Title 5, Cal Code of Regs., Section 42720](#) (CSU Management Personnel Plan)
- [Student Conduct Process](#)
- [Collective Bargaining Agreements](#)



