

# GUIDANCE CONCERNING DISRUPTION OF UNIVERSITY ACTIVITIES

## INTRODUCTION

This guidance document is intended to assist Students, Employees and the public (Non-Affiliates) in interpreting and understanding the term “Disruption,” as used in [California State University Systemwide Time, Place and Manner Policy](#) (the TPM Policy).<sup>1</sup> It also provides general information regarding how the University can prevent and respond to Disruptions in real time in order to protect and ensure the exercise of Free Speech and Free Expression rights, safety for all persons, access for all to University Property and University Activities, and prevention of property damage.

It is critical to understand that addressing and responding to Disruption is an integral part of the University’s obligation to protect and uphold everyone’s constitutional rights. In all instances, the University seeks to preserve and promote the rights and responsibilities of Free Speech and Free Expression without Disruption, to respond fairly and reasonably to Disruption, Civil Disobedience, and Civil Disorder and to provide access, safety and security to all Students, Employees, and the public (Non-Affiliates) on University Property and within University Activities.

The goal of this guidance document is to bolster clarity, communication and education to address and diffuse issues before they reach a flash point, and to provide Students, Employees and the public ample opportunity to understand their rights and responsibilities when engaging in Free Speech and Free Expression, or when engaging in prohibited conduct like Disruption or unlawful activities. The application of this guidance and assessment of any Disruption or unlawful activity shall always be done in a content- and viewpoint-neutral manner without regard to substance or message.

## DEFINITIONS

**Civil Disobedience** is unlawful activity involving a planned or spontaneous demonstration by a person or group of people, which involves the active refusal to obey certain laws, demands, orders or commands of the University or law enforcement.

**Civil Disorder** is unlawful activity involving any public disturbance involving acts of actual or threatened violence by an assembly of three or more persons, which causes an immediate danger of or results in damage or injury to property or person.

**De-escalation** is the process of using strategies and techniques intended to decrease the intensity of a situation.

**Dispersal Order** is a lawful order communicated by the University or law enforcement personnel commanding individuals unlawfully assembled to disperse.

**Disruption** is undue interference with or disturbance of any University Activity, including any act that hinders, interferes, or impedes the orderly accomplishment or pursuit of a University Activity or to unduly interrupt the proper and orderly course of any lawful activity.

**Free Speech and Free Expression** is the right to peacefully assemble, associate, and express opinions, thoughts and ideas without interference, retaliation, or punishment from the government, as protected by the First Amendment to the U.S. Constitution. This right is not absolute, and does not include Disruptive activity, unlawful activity, illegal discrimination and harassment, defamation, terrorist threats, false advertising, vandalism, property damage, trespass, occupation (unauthorized entry, seizure, and/or control) of a building or facility, refusal to disperse, the promotion or incitement of actual or imminent violence or harm, or any prohibited activity set forth in the TPM Policy.

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<sup>1</sup> All capitalized terms used in this guidance document are defined in [CSU’s Systemwide Time, Place and Manner Policy](#) or in the Definitions in this document.

**University Activity**, whether scheduled or spontaneous, means events and functions hosted or approved by the University, including teaching and instruction; educational programs; athletics; cultural/arts programs; research; learning; administration; operations; speakers or presenters; as well as assemblies, marches, demonstrations and protests. University Activity also includes events and functions hosted by Employees, Students, Recognized Student Organizations and Non-affiliates which are in compliance with the TPM Policy.

**Unlawful Assembly** is whenever two or more persons assemble together to do an unlawful act, or to do a lawful act in a violent, boisterous or tumultuous manner. Boisterous or tumultuous manner has been interpreted by the courts to mean conduct which poses a clear and present danger of imminent violence.<sup>2</sup>

## **COORDINATION AND PLANNING FOR SUCCESSFUL AND SAFE UNIVERSITY ACTIVITIES**

Free Expression and Free Speech, robust discourse, and vigorous debate are essential to the CSU's mission. Acknowledging the significant role the unfettered exchange of information and ideas plays in learning and in a free society, the University will seek to ensure that individuals and groups have wide latitude to lawfully exercise their constitutional rights of Free Speech and Free Expression, and that their protected rights are not abridged or disrupted. The University will respond to and correct Disruption of these rights or any University Activities, which are violations of the TPM Policy, and may also be violations of other policies and the law (depending on the facts and circumstances of each situation).

Whether scheduled or spontaneous, the University will endeavor to reasonably assist with supporting, coordination, and planning all speakers, presenters, organizers and protesters engaging in Free Speech and Free Expression. The University is committed to working with all persons to ensure that they can successfully, safely and effectively communicate their messages and exercise their right to Free Speech and Free Expression without Disruption by:

1. Imposing and applying content- and viewpoint-neutral time, place and manner restrictions in accordance with the TPM Policy and the relevant Campus Addendum;
2. Communicating with event organizers and protesters before, during and after the activity (whether spontaneous or scheduled);
3. Assisting with coordinating and planning before the activity;
4. Coordinating and supporting participants during the activity (whether spontaneous or scheduled);
5. Curtailing and appropriately responding to Disruptions when they occur; and
6. Where appropriate, addressing violations of University policy and the law using existing fair and reasonable disciplinary processes.

The University will ensure that all persons can peacefully protest and express their views, including those views they disagree with. However, Free Speech and Free Expression rights do not give anyone the right to drown out or unduly disrupt other's speech, lawful activities, or University Activities, or to engage in unlawful activities.

## **UNIVERSITY RESPONSE TO DISRUPTIONS**

The following factors may be considered in determining whether conduct is a Disruption of a University Activity:

1. Whether the conduct unduly interrupts a person's Free Speech and Free Expression rights.
2. Whether the conduct unduly interferes with any person's ability to participate in a University Activity.
3. Whether the conduct unduly interferes with any person's ability to access University Activities and University Property.
4. Whether the nature of the conduct is continuous or repeated and impacts the quality of, or ability to effectively conduct, University Activities, functions, operations and/or administration.

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<sup>2</sup> Cal. Penal Code section 407.

5. Whether the conduct is a Prohibited Activity, as described and defined in [CSU's Systemwide Time, Place and Manner Policy \(Section VIII\)](#).
6. Whether the conduct is violent or involves the imminent threat of violence.
7. Whether the conduct incites an immediate breach of the peace.
8. Whether the conduct constitutes Civil Disobedience.
9. Whether the conduct constitutes Civil Disorder.
10. Whether the conduct constitutes an Unlawful Assembly.
11. Whether the conduct continues after the University issued a Dispersal Order.
12. Whether the conduct causes physical harm to persons or damage to property.
13. Whether the conduct unduly interferes with ingress or egress of any pedestrian or the free flow of any form of vehicular traffic.
14. In the case of a University Activity that involves a speaker or presenter:
  - a. Whether the conduct unduly interferes with the speaker's or presenter's ability to deliver the speaker's or presenter's message.
  - b. Whether the conduct unduly interferes with the audience's or any audience member's ability to receive the speaker's or presenter's message, including whether the conduct was loud enough to unduly interfere with the audience's or any audience member's ability to hear the speaker or presenter.

This list is not exhaustive and may include other disruptive or unlawful conduct not discussed above if the specific conduct causes undue interference with or disturbance of any University Activity, and/or hinders, interferes, or impedes the orderly accomplishment or pursuit of a University Activity or unduly interrupts the proper and orderly course of any lawful activity.

The University will engage in strategies and techniques intended to decrease and de-escalate the intensity of a situation and will engage in a measured and tiered approach when responding to protest activity and potential or actual Disruptions. If known ahead of time, the University will reach out and establish connections and relationships with protest organizers and participants ahead of protest activity. The University's ultimate goal is to support a successful Free Speech and Free Expression event.

If the University has actual knowledge that an assembly, march, demonstration or protest of any kind may result in Disruption or unlawful activity or observes activities where the participants are engaged in or about to engage in Disruption or unlawful activity in violation of the TPM Policy and/or the law, the University—through an appropriate representative—will confer as early as possible with the disrupters to communicate how to avoid or discontinue Disruption and have a successful and effective protest or demonstration. University representative(s) and/or a representative of the protest organizer are encouraged to make an announcement (written and/or verbal) before, at, or when the event begins—or throughout the event if warranted.

In order to ensure clear communication, the University may also post signs or flyers containing similar information at or near the event. Use of social media, pamphlets, QR codes, and similar methods of communication directing participants to helpful information regarding the TPM Policy is also strongly encouraged. The more information and communication that can be shared and emphasized, the more likely the event or activity can take place peacefully without Disruption. Each University is also required to "post at or near the principal entrances of each campus calling attention to the existence of regulations [TPM Policy and Campus Addendum] relating to the use of University Property and designating the place where copies thereof and directives issued by the campus president thereto may be examined."<sup>3</sup>

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<sup>3</sup>Tit. 5, Cal. Code. Regs., section 42354.

If spontaneous protests occur without any warning or notice, the above messaging, along with posted flyers and signs, and other methods of communication, should be provided as soon as possible. As the protest continues, the appropriate University official(s) should clearly communicate with the protestors to ensure they are able to engage in protest activities safely and in accordance with University policy.

In all cases, the most appropriate University representative (administrator, faculty or staff member, police representative, and/or mediator) should be identified by the Designated University Official and Response Team as the primary University representative(s) communicating with demonstrators and protesters during the event. Selected senior administrators should also be present and visible during the event absent good cause. The University should make every reasonable attempt to establish a consistent line of communication with identified leaders or organizers of the protest or demonstration. For leaderless groups, the University should communicate broadly to the group as a whole through conversation and dialog, social media, email, flyers, signage, or any other appropriate method to establish clear and consistent information sharing and communication.

To the extent Disruption occurs or continues to occur even after communication and dialog efforts like those described above, the campus should limit the use of force via law enforcement to that which is objectively reasonable considering the totality of the circumstances to manage the event and maintain public safety. The primary goal during a Disruption should be to establish and reestablish with deliberate speed an atmosphere conducive to communication and dialog in order to ensure the full respect of the rights and responsibilities of all parties, and to ensure safety for persons and property.

The University reserves the right to discontinue any activity and take any and all reasonable emergency measures whenever there is a threat to the health and safety of persons or property.

## **CONSEQUENCES FOR DISRUPTION (TPM POLICY, SECTION XI)**

Any consequences imposed for Disruption will (1) be imposed in accordance with existing disciplinary processes for Students and/or Employees, as outlined in the TPM Policy, CSU's Student Conduct Process and Code of Conduct, and applicable collective bargaining agreements; (2) be assessed in a content- and viewpoint-neutral manner; and (3) focus on the Disruption of a University Activity and not on the viewpoint of the alleged disrupter.

Any person whose conduct constitutes Disruption can also be asked to leave University Property (see TPM Policy Section XI.B.1.), and/or be referred to law enforcement for violation of applicable laws, including but not limited to violation of the rules for maintenance and government of buildings and grounds.<sup>4</sup>

## **RESOURCES**

### **[CSU's Systemwide Time, Place and Manner Policy \(Section V\)](#)**

Those engaged in the exercise of Free Speech and Free Expression rights shall not:

1. Disrupt class instruction or other scheduled academic, educational, or cultural/arts programs, speakers or performers on University Property, or the use of University libraries, other approved University Property uses and reservations, or other University resources or operations.
2. Obstruct pedestrian or vehicular traffic, or otherwise endanger persons or property.
3. Conduct their activity in or on University parking lots, parking structures, driveways, crosswalks, exits, fire lanes, streets, roadways, and/or obstruct walkways, doorways, passageways, or otherwise deny a person access to normally unrestricted University Property, or in any manner that blocks paths of vehicular or pedestrian travel.

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<sup>4</sup> Cal. Education Code section 89031: "The trustees may establish rules and regulations for the government and maintenance of the buildings and grounds of the California State University. Every person who violates or attempt to violate the rules and regulations is guilty of a misdemeanor."

4. Employ sound amplification (including but not limited to bullhorns or electronic speakers) that disrupts University Activities or interferes with the exercise of free speech by others or create noise in violation of local noise ordinances. See the applicable [Campus Addendum](#) for more information regarding sound amplification and local noise ordinances.
5. Engage in removal, relocation, theft, damage, or destruction of any University Property.
6. Harass or intimidate any person or impede or restrict the free movement of any person.
7. Create or cause unsafe conditions or congestion around doorways, entrances or exits, stairways, elevator lobbies, and escalators.
8. Fail to comply with directives of a University official acting in the performance of their duties. A “directive of a University official” includes an order to disperse because of an unlawful assembly, riot or unsafe condition. Failure to obey such an order may result in a determination that participants are engaging in an unlawful assembly, riot or unsafe condition and will result in the University exercising its authority to invoke emergency incident response tactics. These tactics could include the use of law enforcement resources, and could result in arrests, Employee and Student discipline, and appropriate sanctions against those participating in the unlawful assembly or riot.
9. Picket, rally, protest, parade, patrol, or otherwise demonstrate in the interior, indoor, or private portions of any University *housing* facility, including the residence of any University Employee on University Property when it is serving as a private residence and no public events are taking place.

Cal. Education Code § 89031 – Rules for Maintenance and Government of Buildings and Grounds; Violation is a Misdemeanor.

Use of CSU Buildings and Grounds, 5 California Code of Regulations, §§ 42350-42356.

CSU Standards for Student Conduct, 5 California Code of Regulations, §§ 41301-41302.

## **LEGAL RESOURCES FOR POLICE/LAW ENFORCEMENT**

Cal. Penal Code § 148.2 – Resisting, Delaying, or Obstructing Officers in the Discharge of their Duties

Cal. Penal Code § 403 – Disturbance of Public Assembly or Meeting.

Cal. Penal Code § 407 – Unlawful Assembly.

Cal. Penal Code § 408 – Rout and Unlawful Assembly; Punishment.

Cal. Penal Code § 409 – Riot, Rout, or Unlawful Assembly; Remaining Present After Warning to Disperse; Misdemeanor.

Cal. Penal Code § 409.7 – Closing Immediate Area Surrounding Any Emergency; Access by Members of News Media.

Cal. Penal Code § 415.5 – Disturbance of the Peace (University)

Cal. Penal Code § 416 – Assembly for Purpose of Disturbing Peace or Committing Unlawful Act; Refusal to Disperse; Misdemeanor

Cal. Penal Code § 602(k) – Trespass

Cal. Penal Code § 602(m) – Entering and Occupying Without Consent

Cal. Penal Code § 602(o) – Refusing or Failing to Leave

Cal. Penal Code § 602(y)

Cal. Penal Code § 602.1(b)

Cal. Penal Code § 647(e)

Cal. Penal Code § 602.10

Cal. Penal Code § 626.4 – Stay Away Order (Students and Employees).

Cal. Penal Code § 626.6 – Stay Away Order (Non-Affiliates).

[2022 POST Guidelines – Crowd Management, Intervention and Control](#)