

Procedural Directive

**California State University
Northridge
Department of Police Services**



To: All Sworn Personnel
Subject: Procedures for Excluding Individuals from CSUN Pursuant to California Penal Codes 626.4 PC, 626.6 PC, and 602(q) PC
Directive Number: 2016-03
Date: December 18, 2019
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Approved: Gregory L. Murphy, Chief of Police

I. Objective:

To establish procedures for implementing the exclusions under sections 626.4, 626.6, and 602(q) of the California Penal Code (PC). These sections give the chief administrative officer of a campus (or an officer or employee designated by the chief administrative officer to maintain order on campus) the authority to exclude disorderly persons from the campus. The authority has been limited by a State Supreme Court decision (*Braxton v. Municipal Court* (1973) 10 Cal.3d138), which defines the basis for exclusion and requires that, in many cases, a hearing be held before an exclusion order is implemented. Section 626 PC also provides that an individual entering the campus after being excluded is in violation of a misdemeanor. Section 602(q) PC applies to individuals who refuse to leave a public building of a public agency, during the hours of closure, after being directed to do so (*In Re Bacon*, 240 Cal. App. 2d 34 (Cal. Ct. App. 1966)).

II. Procedures:

A. **Summary Exclusion of Student or Employee (includes Faculty) under Section 626.4 PC – 14-day:**

1. A CSUN sworn officer may exclude an individual from the campus and its facilities when the officer has reasonable cause to believe that the individual has incited or engaged in any activity which (1) willfully disrupts the peaceful conduct or activities of the CSUN campus or (2) is illegal under criminal statutes other than Section 626.4 PC. More

specifically, the individual's conduct or behavior *must constitute or incite a substantial and material physical disruption incompatible with the peaceful functioning of the campus and its facilities, or the exclusion must be necessary to prevent significant injury to persons on campus or University*. The circumstances may include, but are not limited to the following types of behavior: assault; battery; physical obstruction of ingress to and egress from buildings; refusal to leave a public building upon request after its regular closing; trespassing; destruction of property; incitement or participation in a riot; remaining at the scene of a riot after a lawful order to disperse; resisting a police officer; physical intimidation of students or instructors seeking to attend classes; or general conduct that disrupts the orderly function of campus activities and functions.

2. The excluded individual shall be given written notice of the exclusion (appendix A). The notice shall include the date and time it becomes effective, the 14-day duration of the exclusion, the report case number, and their right to a hearing. The notice shall be personally served by a sworn officer of the CSUN Department of Police Services (DPS).
3. In most cases the subject being excluded will be arrested or detained making it possible to serve the written notice in person. In rare cases in which this is not possible the notice shall be given verbally and followed up with the written notice sent by certified mail with return receipt requested and mailed at least by the next business day.
4. For all cases involving a 626.4 PC admonition being issued, the shift supervisor shall contact their respective shift commander to review the circumstances surrounding the issuance of a 14-day exclusion from CSUN order.
5. **Oral notification to and review of the circumstances surrounding the exclusion must be made to the Chief of Police within 24 hours so that a determination can be made whether to uphold or deny the exclusion.** The patrol commander who is notified of the admonition is responsible for notifying the Chief of Police as soon as possible. Upon assessing the situation, the Chief of Police will uphold or deny the exclusionary notice issued. The patrol commander will then notify the shift supervisor of the Chief's decision to uphold or deny the order.
6. Copies of the written notice and a written police report describing the basis for the exclusion shall be completed by the end of the investigating officer's work shift regardless of the day of the week, forwarded to the patrol shift supervisor for review and approval. The

report must include information as to when the notification was made to the Chief of Police and if the exclusion was upheld or denied within the 24-hour time frame. If the exclusion order is not confirmed within the 24-hour period, it shall automatically be nullified and the individual shall be notified in writing as soon as possible.

7. The written RIMS report shall include the following:
 - a. A description of the excluded individual, including, if available, the person's name, address and phone number;
 - b. A statement of facts giving rise to the exclusion of the individual; a reference to the statutes, if applicable, other than 626.4 PC, that allegedly have been violated or specific conduct that is disrupting the orderly operation of campus activities and functions.
 - c. The time the exclusion order was served and became effective; and the time the Chief of Police or Chief's designee upheld or denied the exclusion.
 - d. A summary of any action taken by the police (i.e., citation or arrest if applicable).

8. In the absence of the Chief of Police, the authority for review shall be referred to the Chief's designee per the chain of command.
 - a. An individual who has been excluded may submit a written request to the campus Judicial Affairs Officer (student), Employee Relations (employee), or Faculty Affairs (faculty) representative for a hearing. In all instances, the Judicial Affairs Officer, Employee Relations, and Faculty Affairs representative shall be notified of all student, employee, and exclusions, whether upheld or not, may rescind exclusions after reviewing the circumstances of each case.
 - b. Any student, employee, or faculty member, who has been excluded from campus who has not been reinstated as a result of a hearing, who knowingly enters or remains upon such campus or facility during the period for which consent has been withdrawn is in violation of a misdemeanor. In such instance, a supplemental narrative shall be completed on the original case report that summarizes the nature of the violation and the enforcement action taken.

B. 626.4 PC – 14-Day Exclusion of Student, Employee, or Faculty in Cases Not Involving an Immediate or Ongoing Risk of Significant Injury to Persons or Property or Substantial and Material Physical Disruption:

1. Upon arrival at the scene of a 626.4 PC-related incident/complaint that is deemed a cold call (i.e., not immediate or actively ongoing activities

- of concern), should a CSUN DPS sworn officer determine that there is reasonable cause to believe that an individual has and may continue to disrupt the peaceful conduct of the activities of the CSUN campus, they may make a formal recommendation to the Chief of Police, via the chain of command (i.e., shift supervisor to the respective patrol commander), that the individual be excluded from the campus subject to a review of the proposed exclusion via an administrative hearing.
2. The formal written recommendation, along with the related police report, will be forwarded to the Chief of Police upon review by the respective patrol commander. The recommendation shall describe the basis for said recommendation, with which the Chief of Police will review the report(s) and determine whether to accept or reject the recommendation. If the recommendation is accepted pertaining to a student, a written report shall be completed by the Chief of Police summarizing the basis of recommended exclusion, and forwarded to the Judicial Affairs Officer, who will notify the student to schedule a hearing. If the recommendation is accepted pertaining to an employee, the Chief of Police shall notify CSUN Employee Relations and summarize the basis of recommendation, and Employee Relations will notify the employee to schedule a hearing. If the recommendation is accepted pertaining to a faculty member, the Chief of Police will make appropriate notifications (i.e., Faculty Affairs, Office of the Provost, etc.). In absence of the Chief of Police, the responsibility for review shall be referred to the Chief's designee as per the chain of command.
 3. The exclusion order will not become effective until the Judicial Affairs Officer, Employee Relations, or Faculty Affairs representative has upheld it. If the Judicial Affairs Officer, Employee Relations, or Faculty Affairs representative sustains the exclusion, they will determine its duration, which may not exceed fourteen (14) calendar days from its implementation, and inform the Chief of Police. If the Judicial Affairs Officer, Employee Relations, or Faculty Affairs representative denies the exclusion, they will inform the Chief of Police.

C. **626.4 PC - Reinstatement of an Excluded Individual**

If at any time during a period of exclusion, information is presented to the Chief of Police that demonstrates the excluded employee, faculty member, or student no longer constitutes a substantial and material threat to the orderly operation of the campus, the Chief may consult with the Employee Relations or Faculty Affairs representative and/or Judicial Affairs officer, prior to lifting the exclusion order. In such instance, the Employee Relations, Faculty Affairs, and/or Judicial Affairs Officer will be responsible for personal notification of the individual, or via certified mail with return receipt, if the exclusion order has been lifted. Furthermore, if at any time during a period of exclusion, information is presented to the Chief of Police that demonstrates the excluded

non-student or non-employee no longer constitutes a threat to the peaceful conduct of the activities of the campus, the exclusion order shall be lifted, and a personal or certified mail with return receipt notification of the individual will be made by the Chief of Police.

D. Exclusion of Individuals who are not Students, Employees, or Faculty Members of the University under Section 626.6 PC – 7-day:

1. Under section 626.6 PC, a designated CSUN sworn officer may exclude an individual who is not a student or employee of the University and who is not required by his or her employment to be on the campus or other University facility, when it reasonably appears that the individual is committing an act likely to interfere with the peaceful conduct of the activities of the campus, or has entered the campus for the purpose of committing any such act.
2. Written notice of exclusion shall be provided (appendix B) to the individual by having notification personally served. The notice shall include the date and time it becomes effective, the seven-day duration of the exclusion, the related report case number, or if sent by certified mail, with return receipt requested. The notice shall inform the individual that if he or she reenters the campus or facility within seven (7) days, he or she will be in violation of a misdemeanor.
3. Unlike individuals excluded from campus under 626.4 PC, individual(s) excluded from the campus or other University facility under this section do not have the right to a hearing concerning the exclusion. If that individual fails to leave, or if the individual willfully and knowingly reenters the campus or facility within seven (7) days after being directed to leave, he or she is in violation of a misdemeanor punishable by law.
4. Whenever a designated CSUN DPS sworn officer has excluded an individual from the CSUN campus under the authority of section 626.6 PC, a written police report shall be submitted containing the following information:
 - a. A description of each individual excluded, including the person's name, address and phone number.
 - b. A statement of facts giving rise to the exclusion of the individual; a reference to the statutes, if applicable, other than 626.6 PC, that allegedly have been violated or conduct that disrupts the peaceful conduct of the activities of the campus.
 - c. The time the exclusion order was served and became effective.
 - d. A summary of any action taken by the police (i.e., citation or arrest if applicable).

This statement must describe the specific conduct of each individual, cite the pertinent section(s) of the California Penal Code or other

law(s) that the individual allegedly violated, and any action taken by the police with respect to issuing a citation or making an arrest.

5. Instances where a subject reenters the campus or facility within 7 days after being excluded, a supplemental narrative shall be completed on the original case report that summarizes the violation and enforcement action taken.

E. **602(q) PC - Trespass Acts Constituting Crimes**

Penal Code section 602(q) is a trespass law intended to preserve the security of public buildings during the hours when they are regularly closed against individuals who remain without lawful purpose. The section clearly sets forth the type of conduct forbidden, specifically describes the nature of the required warning to leave, and is sufficiently definite so that a person of ordinary understanding would know when he/she is violating it. (240 Cal. App. 2d 34, 49 Cal. Rptr. 322)

1. Penal Code section 602(q) states: *refusing or failing to leave a **public building** of a **public agency** during those hours of the day or night when the building is regularly closed to the public, upon being requested to do so by a regularly employed guard, watchperson, or **custodian** of the public agency owning or maintaining the building or property, if the surrounding circumstances would indicate to a reasonable person that the person has no apparent lawful business to pursue.* Violation of Penal Code section 602(q) is a misdemeanor.

Special Note: The Los Angeles City Attorney's Office defined the following definitions as it relates to the California State University, Northridge campus (October 2017):

- a) **Public Building:** Any building located on the campus of California State University, Northridge administered and operated by the Trustees of the California State University.
 - b) **Public Agency:** The Trustees of the California State University and its subsidiary campuses.
 - c) **Custodian:** The term "custodian" means the person in charge of the building at the time.
2. Upon arrival at the scene of a 602(q) PC- related incident/complaint a CSUN DPS sworn officer must determine the following:
 - a) The time as it relates to closure of the building (i.e., hours of the day or night when the building is regularly closed to the public)
 - b) Verify the Person Reporting (PR) is an employee of CSUN.

- c) Verify a directive to leave was given to the individual(s) involved by the PR (CSUN Employee).
 - d) The conduct and behavior of the individual(s) involved (i.e., refusing to leave).
3. Whenever a designated CSUN DPS sworn officer has arrested an individual from the CSUN campus under the authority of section 602(q) PC, an arrest report shall be completed containing the following information:
- a) A description of each individual arrested, including the person's name, address and phone number.
 - b) A statement of facts giving rise to the arrest of the individual; a reference to the statutes, if applicable, other than 602(q) PC, that allegedly have been violated.
 - c) A summary of any action taken by the police (i.e., citation or arrest/booking if applicable).

This statement must describe the specific conduct of each individual, cite the pertinent section(s) of the California Penal Code or other law(s) that the individual allegedly violated, and any action taken by the police with respect to issuing a citation or making an arrest.

III. Appendices

- A. 626.4 PC Admonition Form
- B. 626.6 PC Admonition Form

