

MURRAY

STATE COLLEGE

MURRAY STATE COLLEGE NOTICE OF NON-DISCRIMINATION:

Murray State College, in compliance with Title VI of the civil Rights Act of 1964, Executive Order 11246 as amended, Title IX of the Education Amendments of 1972, Americans with Disabilities Act of 1990, and other federal laws and regulations, does not discriminate on the basis of race, color, national origin, gender, sex, age, religion, handicap, or status as veteran in any of its policies, practices, procedures, education programs, or activities. This includes, but is not limited to, admissions, employment, financial aid, and educational services. Compliance responsibilities regarding Section 504 and Title IX of the Education Amendments Act of 1972 are assigned to and maintained by:

Quinton Jones, Executive Director of Student Affairs

Title IX Coordinator

MURRAY STATE COLLEGE

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580.387.7139

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Murray State College has identified the Executive Director of Student Affairs as the Title IX Coordinator. The coordinator will utilize a Title IX Committee comprised of administrative staff from institutional areas to contribute to and facilitate all requirements of Title IX. The investigation and records of the resolution conducted by the college are maintained confidentially. Information is shared internally between administrators who need to know, but a tight circle is kept. Where information must be shared to permit the investigation to move forward, the person bringing the accusation will be informed. Privacy of the records specific to the investigation are maintained in accordance with Oklahoma law and the federal FERPA statute. Any public release of information to comply with the open crime logs or timely warning provisions of the Clery Act will not release the names of victims or information that could easily lead to a victim's identification. Additionally, the college maintains privacy in relation to any accommodations or protective measures afforded to a victim, except to the extent necessary to provide the accommodations and/or protective measures.

In accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998, the MSC Police Department must keep a crime log of all reported crimes that occur on and near property owned or controlled by MSC for the most recent 60-day period. Additionally, the college must keep a fire log of all reported fires that occur in on-campus student housing facilities for the most recent 60-day period. Crime and Fire logs are open to public inspection, upon request, during normal business hours. Crime and Fire logs that are older than 60 days are available within two business days of a request for public inspection. An electronic version of the combined Daily Crime and Fire Log is posted on our website within two business days of receiving a

report, and is also made available, in hard-copy format, to walk-in customers from the Student Affairs Office located in Suite 104 of the Murray Hall Administration Building. The Student Affairs Office is open to the public Monday through Friday, 8:00a.m. to 5:00 p.m. Additionally, you may request Daily Crime and Fire Logs that aren't available on the website by e-mailing the Clery Compliance Coordinator qjones@mscok.edu.

Any complaints or inquiries regarding sexual harassment of a student by an employee or other student should be brought to the immediate attention of Campus Police or the Title IX Coordinator/Executive Director of Student Affairs. The college will investigate such claims promptly and thoroughly. If, for any reason, a student wishes to complain or inquire regarding sexual harassment, but feels it would not be appropriate to raise such issues with the Campus Police or the Title IX Coordinator/Executive Director of Student Affairs, the student may inquire or complain to The Director of Student Compliance as a designated Campus Security Authorities (CSA), and such inquiries or complaints will receive a prompt and thorough investigation. If harassment is established, the college will discipline the offender. Disciplinary action for violations of this policy can range from verbal or written warnings, up to and including immediate termination from employment or dismissal from the college for serious or repeated violations. When the college addresses these matters, even if it occurred off-campus, it must do so using procedures that comply with Title IX guidelines. [Clery Act ASR Compliance with VAWA-Violence Against Women Act Section 304 Reauthorization section known as the Campus SaVE Act.]

- When officials become aware of possible harassment, their first obligation is to investigate the information, whether the victim or a third party brought it to their attention.

- Institutions are expected to coordinate their law enforcement and Title IX responses to such complaints. While a campus police officer may conduct a law enforcement investigation, because the standards for criminal investigations are different, police investigations or reports are not determinative of whether sexual harassment or violence violates Title IX. Officers will report incidents of this type to the Title IX Coordinator if the complainant consents.

- When sexual assault is reported to campus law enforcement, in addition to conducting a law enforcement investigation, the department should notify complainants of their right to file a Title IX sex discrimination complaint with the college in addition to filing a criminal complaint.

1. Awareness

In an effort to reduce the risk of sexual misconduct as well as the crimes of rape, sexual assault, sexual harassment, stalking, dating violence and domestic violence occurring among its students, the college utilizes a range of campaigns, strategies and initiatives to provide awareness,

educational, risk reduction and prevention programming. It is our practice to offer programming to prevent domestic violence, dating violence, sexual assault and stalking each year. Educational programs are offered to raise awareness for all incoming students and employees, and are often conducted during new student and new employee orientation and throughout an incoming student's first semester. These programs and others offered throughout the year include strong messages regarding not just awareness, but also primary prevention and discuss institutional policies on sexual misconduct as well as the definitions of domestic violence, dating violence, sexual assault, stalking and consent in reference to sexual activity. Bystander engagement is encouraged through safe and positive intervention techniques and by empowering third-party intervention for advocacy and prevention such as calling for help, identifying allies.

Programs also offer information on risk reduction that strives to empower victims, how to recognize warning signals and how to avoid potential attacks, and do so without victim-blaming approaches. Throughout the year, ongoing awareness and prevention campaigns are directed to students and employees, and can be delivered in the form of campaigns, emails, guest speakers and events.

The following links provide educational opportunities regarding sexual misconduct:

Code Blue-Speak Out and Stand Up: Raising
Awareness about Sexual Assault Culture of
Silence-Stalking Awareness

Breaking the Silence Wasted Youth

2. Protective Measures

When any of the following events occur: gender-based violence, sexual assault, sexual harassment, sexual violence, sexual acts and sexual offenses considered to be sexual misconduct, rape, stalking, dating violence and domestic violence, the college takes the matter very seriously. The college employs interim protection measures such as interim suspension and/or no contact orders in any case where an offender's behavior represents a risk of violence, threat, pattern or predation. If a student/employee is accused of gender-based violence, sexual assault, sexual harassment, sexual violence, sexual acts and sexual offenses considered to be sexual misconduct, rape, stalking, dating violence and domestic violence, s/he is subject to action in accordance with the Murray State College Policy and Procedure as well as state and federal law. Anyone wishing to officially report such an incident may do so by contacting the Title IX Coordinator/Executive Director of Student Affairs at 580.387.7131. Anyone with knowledge about gender-based violence, sexual assault, sexual harassment, sexual violence, sexual acts and sexual offenses considered to be sexual misconduct, rape, stalking, dating violence and domestic violence is encouraged to report it immediately. MSC in compliance with Title IX publishes a notice of nondiscrimination, designated a Title IX Coordinator, and adopted and published grievance procedures as preventative measures against harassment.

3. Title IX Grievance Procedure

The Title IX Coordinator and Campus Police are trained in and respond to reports of gender-based violence, sexual assault, sexual harassment, sexual violence, sexual acts and sexual offenses considered to be sexual misconduct, rape, stalking, dating violence and domestic violence. These individuals are also trained on the college's procedures and any other procedures used for investigating or responding to gender-based violence, sexual assault, sexual harassment, sexual violence, sexual acts and sexual offenses considered to be sexual misconduct, rape, stalking, dating violence and domestic violence. Individuals who are likely to come into contact with the victims of sexual violence, including all law enforcement officers, are trained on how to identify covered sexual harassment and violence as well as how to respond under college procedures. They are trained on the psychological needs of the victims and survivors of sexual violence and are sensitive to the victims needs to prevent any re-victimization from occurring. Police should always be prepared to make referrals to counseling services available either on or off campus as listed in MSC procedures and assist with the identification of other resources available to victims and survivors. Important resources such as rape crisis centers, and on-campus women's centers or counseling departments may be utilized as part of the training portfolio.

With the consent of the complainant, information from a law enforcement investigation may also be used in the Title IX investigation "so long as it does not compromise the criminal investigation." Campus Police should be able to readily identify who to contact for their college's published procedures and reach out to them for a collaborative relationship.

Murray State College utilizes Safeline at 1.800. 522.SAFE for victim advocacy. Safeline is supported by Family Violence Prevention Services Act funding through Administration on Children, Youth and Families, U.S. Department of Health and Human Services. Publications are printed by Central Printing, is issued by the Office of the Attorney General and has been deposited with the Publications Clearinghouse of the Oklahoma Department of Libraries.

- a. A Grievance Procedure has been established for victims to utilize when filing complaints. Equal opportunities for both parties to present Witnesses and other evidence have the same rights in the appeal process. The grievance procedures will use the preponderance of the evidence standard to resolve complaints and both parties will be notified of the outcome of the complaint.
- b. If you are the victim of gender-based violence, sexual assault, sexual harassment, sexual violence, sexual acts and sexual offenses considered to be sexual misconduct, rape, stalking, dating violence and domestic violence, and you wish to file a grievance please follow the directions listed below:
 1. To file a formal grievance, College employees utilize the existing Employee Grievance Procedure.
 2. To file a formal grievance, MSC students utilize the existing Student Complaint and Grievance Procedure.

3. All complaints must be investigated immediately.
4. Complaints of gender-based violence, sexual assault, sexual harassment, sexual violence, sexual acts and sexual offenses considered to be sexual misconduct, rape, stalking, dating violence and domestic violence must be filed within 10 working days of the occurrence.

The Final Rule requires a school to investigate sexual harassment allegations in any formal complaint, which can be filed by a complainant, or signed by the Title IX Coordinator. If the allegations in a formal complaint do not meet the definition of sexual harassment in the Final Rule, or did not occur in the college's education program or activity against a person in the United States, the Final Rule clarifies that the College must dismiss such allegations for purposes of Title IX but may still address the allegations in any manner the school deems appropriate under the college's own code of conduct.

4. The college will establish reasonably prompt time frames for each stage of the case, specifically for the investigatory phase, when the complainant and alleged perpetrator will receive the outcome of the complaint, and for any appeals. OCR expects a typical investigation to take about 60 calendar days, although more complex cases, such as those involving multiple incidents, may take longer.

The Final Rule defines "complainant" as an individual who is alleged to be the victim of conduct that could constitute sexual harassment. This clarifies that any third party as well as the complainant may report sexual harassment.

- The Final Rule defines "supportive measures" as individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment. The Final Rule defines "formal complaint" as a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting the the school investigate the allegation of sexual harassment and states: -The phrase "document filed by a complainant" means a document or electronic submission (such as by e-mail or through an online portal provided for this purpose by the school) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint.
- Training of Title IX personnel must include training on the definition of sexual harassment in the Final Rule, the scope of the school's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.
- A school's decision-makers and investigators must receive training on issues of relevance, including how to apply the rape shield protections provided only for complainants.

- Recipients must post materials used to train Title IX personnel on their websites, if any, or make materials available for members of the public to inspect
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 - The Final Rule adds provisions to the “live hearing with cross-examination” requirement for postsecondary institutions. For postsecondary institutions, the school’s grievance process must provide for a live hearing:
 - At the live hearing, the decision-maker(s) must permit each party’s advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.
 - Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party’s advisor of choice and never by a party personally.
 - At the request of either party, the recipient must provide for the entire live hearing (including cross-examination) to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.
 - Only relevant cross-examination and other questions may be asked of a party or witness. Before a complainant, respondent, or witness answers a cross-examination or other question, the decision-maker must first determine whether the question is relevant and explain to the party’s advisor asking

cross-examination questions any decision to exclude a question as not relevant.

- If a party does not have an advisor present at the live hearing, the school must provide, without fee or charge to that party, an advisor of the school's choice who may be, but is not required to be, an attorney to conduct cross-examination on behalf of that party.
- If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- Live hearings may be conducted with all parties physically present in the same geographic location or, at the school's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually.
- An audio or audiovisual recording, or transcript, of any live hearing.

The Final Rule provides rape shield protections for complainants (as to all recipients whether postsecondary institutions, K-12 schools, or others), deeming irrelevant questions and evidence about a complainant's prior sexual behavior unless offered to prove that someone other than the respondent committed the alleged misconduct or offered to prove consent. The decision-maker (who cannot be the same person as the Title IX Coordinator or the investigator) must issue a written determination regarding responsibility with findings of fact, conclusions about whether the alleged conduct occurred, rationale for the result as to each allegation, any disciplinary sanctions imposed on the respondent, and whether remedies will be provided to the complainant. The written determination must be sent simultaneously to the parties along with information about how to file an appeal.

The Final Rule allows a school, in its discretion, to choose to offer and facilitate informal resolution options, such as mediation or restorative justice, so long as both parties give voluntary, informed, written consent to attempt informal resolution. Any person who facilitates an informal resolution must be well trained.

5. Once an allegation is reported as cited above, the Title IX Coordinator must be notified. The coordinator will notify the appropriate administrator and proceed with the coordination of the investigation. The investigation, finding, and any corrective action cited should be documented and forwarded to the President's Office and to the Human Resources Office. Recognizing the college may not be able to wait for the conclusion of a criminal investigation. The college will not dissuade victims from seeking a resolution under Title IX prior to the resolution of any criminal matters. The college will not discourage anyone from going through their Title IX grievance process from reporting to law enforcement. Under the Clery Act, the college is required to offer sexual assault survivors assistance in reporting to law enforcement. If a college has a memorandum of understanding with local police, it should address under what circumstances, including addressing any mandated reporting laws especially sexual violence will be reported and how. The college "may need to delay temporarily the fact-finding portion of a Title IX investigation while the police are gathering evidence". Once notified that the police department has completed its gathering of evidence, the college must promptly resume and complete its fact-finding for the Title IX investigation. OCR estimates this delay may normally

range from three to 10 calendar days but may be longer in some cases depending upon the complexity of the matter. During this time, colleges should notify victims of their rights to pursue disciplinary action or obtain other assistance. Colleges should also still take any interim action- such as a no-contact order or interim suspension of the accused - needed to protect the victim and or the rest of the campus community. As some of these steps may be outside the scope of law enforcement, it is critical that there be coordination with appropriate officials at the school who are empowered to take these steps. This would include working with student affairs employees and academic departments.

Upon completion of the investigation and all proceedings provide prompt written notice of the resolution and any change in such resolution to both the Complainant and Respondent in a reasonably simultaneous manner. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for all notifications. Should you be a victim or witness of an alleged incident of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off-campus, the institution will provide the student or employee a written explanation of the student's or employee's rights and options.

6. False/Bad Faith Accusations:

- a. An individual (employee or student) who believes that he or she has been wrongfully accused gender-based violence, sexual assault, sexual harassment, sexual violence, sexual acts and sexual offenses considered to be sexual misconduct, rape, stalking, dating violence and domestic violence may file a complaint by use of the established grievance procedure.
- b. Bad faith allegations or use of this procedure for purposes other than those for which it is intended may result in disciplinary action against the accuser. Disciplinary actions against employees may include but are not limited to: warnings, reprimand, demotion, suspension, or dismissal. Disciplinary actions against students may include but are not limited to: warnings, reprimand, probation, suspension, or expulsion.

7. Retaliation:

Retaliation against those who report gender-based violence, sexual assault, sexual harassment, sexual violence, sexual acts and sexual offenses considered to be sexual misconduct, rape, stalking, dating violence and domestic violence or contribute information in a complaint may result in disciplinary action against those responsible.

8. Disciplinary Actions:

If one or more allegations are proven correct, disciplinary actions against

employees/students include but are not limited to: warnings, reprimand, demotion, suspension, or dismissal. Disciplinary actions against students may include but are not limited to: warnings, reprimand, probation, suspension, or expulsion. Law enforcement investigations will not meet all Title

IX obligations. If the police do not have sufficient evidence of a criminal violation. The college must resolve Title IX disciplinary matters using the "preponderance of the evidence" standard (meaning it is more likely than not that sexual harassment or violence occurred). Disciplinary procedures should not use the higher "beyond a reasonable doubt" standard required in criminal proceedings or the intermediate "clear and convincing" standard (meaning it is highly probable or reasonably certain that the sexual harassment or violence occurred). Less severe conduct with sufficient repetition may rise to this level, while even one incident that is more serious may rise to this level. For example, "a single instance of rape is sufficiently severe to create a hostile environment" according to the Office of Civil Rights. The scope of sexual violence covered by

Title IX includes an array of offense categories, including rape, sexual assault, sexual battery and sexual coercion. This is consistent with the scope of forcible sex offenses covered for colleges and universities under the Jeanne Clery Act's statistical reporting provisions. These are defined as "any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent." This includes forcible rape, of both females and males; forcible sodomy; sexual assault with an object; and forcible fondling.

9. Legal Definition of Rape under Oklahoma State Law Chapter 45§ 1111

Rape is defined as an act of sexual intercourse involving vaginal or anal penetration accomplished with a male or female who is not the spouse of the perpetrator and who may be of the same or the opposite sex as the perpetrator under any of the following circumstances:

- a. Where the victim is under sixteen (16) years of age;
- b. Where the victim is incapable through mental illness or any other unsoundness of mind, whether temporary or permanent, of giving legal consent;
- c. Where force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person;
- d. Where the victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privacy of the accused as a means of forcing the victim to submit;
- e. Where the victim is at the time unconscious of the nature of the act and this fact is known to the accused;
- f. Where the victim submits to sexual intercourse under the belief that the person committing the act is a spouse, and this belief is induced by artifice, pretense, or concealment practiced by the accused or by the accused in collusion with the spouse with intent to induce that belief. In all cases of collusion between the accused and the spouse to accomplish such act, both the spouse and the accused, upon conviction, shall

be deemed guilty of rape;

- g. Where the victim is under the legal custody or supervision of a state agency, a federal agency, a county, a municipality or a political subdivision and engages in sexual intercourse with a state, federal, county, municipal or political subdivision employee or an employee of a contractor of the state, the federal government, a county, a municipality or a political subdivision that exercises authority over the victim; or
- h. Where the victim is at least sixteen (16) years of age and is less than twenty (20) years of age and is a student, or under the legal custody or supervision of any public or private elementary or secondary school, junior high or high school, or public vocational school, and engages in sexual intercourse with a person who is eighteen (18) years of age or older and is an employee of the same school system.

Rape is an act of sexual intercourse accomplished with a male or female who is the spouse of the perpetrator if force or violence is used or threatened, accompanied by apparent power of execution to the victim or to another person.

10. Legal Definition of Rape in the first degree--second degree under Oklahoma State Law Chapter 45§ 1111

- a. Rape in the first degree shall include:
 - 1. Rape committed by a person over eighteen (18) years of age upon a person under fourteen (14) years of age; or
 - 2. Rape committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime; or
 - 3. Rape accomplished where the victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit; or
 - 4. Rape accomplished where the victim is at the time unconscious of the nature of the act and this fact is known to the accused; or
 - 5. Rape accomplished with any person by means of force, violence, or threats of force or violence accompanied by apparent power of execution regardless of the age of the person committing the crime; or
 - 6. Rape by instrumentation resulting in bodily harm is rape by instrumentation in the first degree regardless of the age of the person committing the crime; or
 - 7. Rape by instrumentation committed upon a person under fourteen (14) years of age.

- b. In all other cases, rape or rape by instrumentation is rape in the second degree.

Besides rape, other sexual offenses include the following:

- 1. Sodomy (forced anal intercourse);
- 2. Oral copulation (forced oral-genital contact);
- 3. Rape by a foreign object (forced penetration by a foreign object, including a finger);
- 4. And sexual battery (the unwanted touching of an intimate part of another person for the purpose of sexual arousal).

- 11. Legal Definition of Consent under Oklahoma Penal Code § 21-1114A, provides lack of consent in rape cases where:

- a. Rape committed by a person over eighteen (18) years of age upon a person under fourteen (14) years of age; or
- b. Rape committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime; or
- c. Rape accomplished where the victim is intoxicated by a narcotic or anesthetic agent, administered by or with the privity of the accused as a means of forcing the victim to submit; or
- d. Rape accomplished where the victim is at the time unconscious of the nature of the act and this fact is known to the accused; or
- e. Rape accomplished with any person by means of force, violence, or threats of force or violence accompanied by apparent power of execution regardless of the age of the person committing the crime; or
- f. Rape by instrumentation resulting in bodily harm is rape by instrumentation in the first degree regardless of the age of the person committing the crime; or
- g. Rape by instrumentation committed upon a person under fourteen (14) years of age.

- 12. Legal Definition of Domestic Violence and Dating Violence- As used in the Protection from Domestic Abuse Act and in the Domestic Abuse Reporting Act, Sections 40.5 through 40.7 of this title and Section 150.12B of Title 74 of the Oklahoma Statutes:

- a. “Domestic abuse” means any act of physical harm, or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor child thirteen (13) years of age or older against another adult, emancipated minor or minor child who are family or household members or who are or were in a dating relationship;

- c. "Dating relationship" means a courtship or engagement relationship. For purposes of this act, a casual acquaintance or ordinary fraternization between persons in a business or social context shall not constitute a dating relationship;

 - c. "Harassment" means a knowing and willful course or pattern of conduct by a family or household member or an individual who is or has been involved in a dating relationship with the person, directed at a specific person which seriously alarms or annoys the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial distress to the person. "Harassment" shall include, but not be limited to, harassing or obscene telephone calls in violation of Section 1172 of Title 21 of the Oklahoma Statutes and fear of death or bodily injury;

 - d. Family or household members means: spouses, ex-spouses, present spouses of ex-spouses, parents, including grandparents, stepparents, adoptive parents and foster parents, children including grandchildren, stepchildren, adopted children and foster children, persons otherwise related by blood or marriage, persons living in the same household or who formerly lived in the same household, and persons who are the biological parents of the same child, regardless of their marital status, or whether they lived together at any time. This should include the elderly and handicapped;
13. Legal Definition of Stalking-§ 61.1 Definitions, OK ST T.22 § 60.1 "Stalking" means the willful, malicious, and repeated following or harassment of a person by an adult, emancipated minor, or minor thirteen (13) years of age or older, in a manner that would cause a reasonable person to feel frightened, intimidated, threatened, harassed, or molested and actually causes the person being followed or harassed to feel terrorized, frightened, intimidated, threatened, harassed or molested. Stalking also means a course of conduct composed of a series of two or more separate acts over a period of time, however short, evidencing a continuity of purpose or unconsented contact with a person that is initiated or continued without the consent of the individual or in disregard of the expressed desire of the individual that the contact be avoided or discontinued. Unconsented contact or course of conduct includes, but is not limited to:
- a. following or appearing within the sight of that individual,
 - b. approaching or confronting that individual in a public place or on private property,
 - c. appearing at the workplace or residence of that individual,
 - d. entering onto or remaining on property owned, leased, or occupied by that individual,
 - e. contacting that individual by telephone,
 - f. sending mail or electronic communications to that individual, or
 - placing an object on, or delivering an object to, property owned, leased or occupied by that individual;