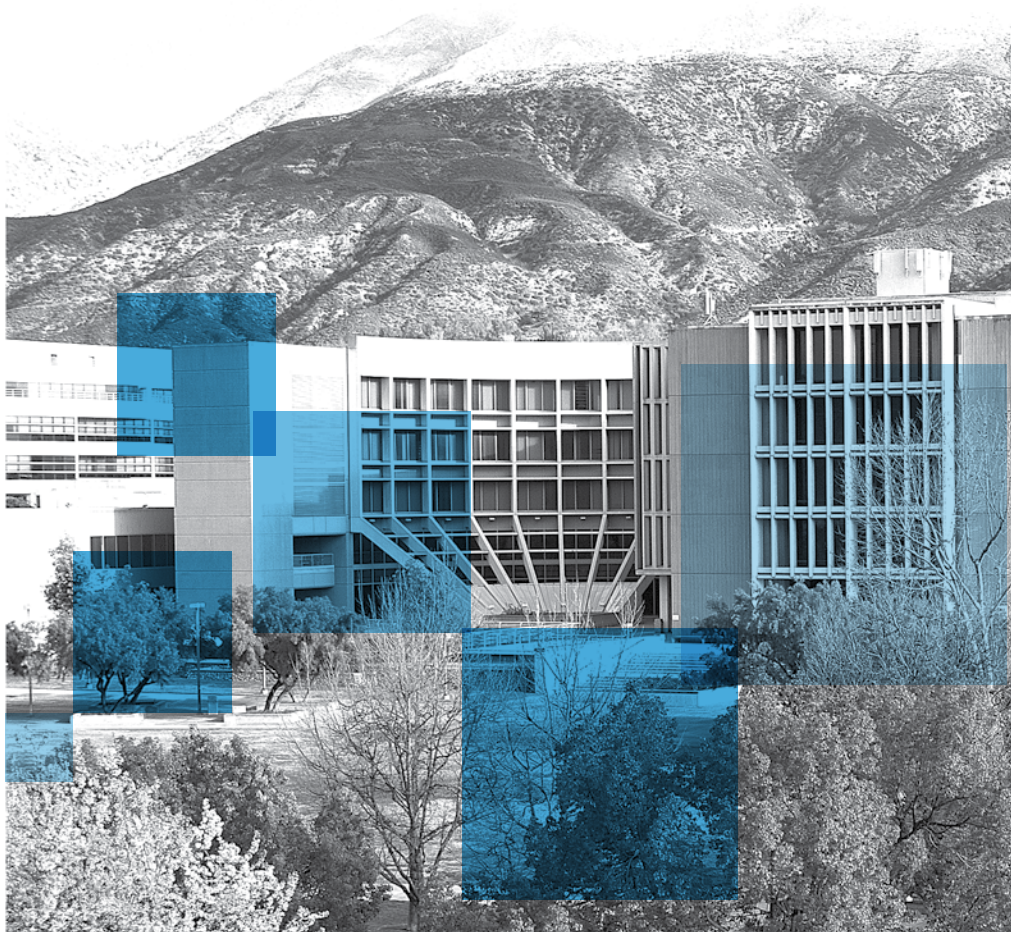


TITLE IX

CALIFORNIA STATE UNIVERSITY, SAN BERNARDINO

*TITLE IX NOTICE OF NON-DISCRIMINATION ON THE BASIS OF SEX
AND MYTHS & FACTS ABOUT SEXUAL VIOLENCE*



NOTICE OF NON-DISCRIMINATION ON THE BASIS OF SEX

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The California State University does not discriminate on the basis of sex, gender, or sexual orientation in its education programs or activities. Title IX of the Education Amendments of 1972, and certain other federal and state laws,¹ prohibit discrimination on the basis of sex, gender, or sexual orientation in employment, as well as all education programs and activities operated by the University (both on and off campus), and protect all people regardless of their gender or gender identity from sex discrimination, which includes sexual harassment and sexual violence.

¹ Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq., and its implementing regulations, 34 C.F.R. Part 106 ("Title IX"); the Violence Against Women Reauthorization Act of 2013 (20 U.S.C. 1092(f)) (VAWA), also known as the Campus Sexual Violence Elimination Act (Campus SaVE Act); Title VII of the Civil Rights Act of 1964; the California Fair Employment and Housing Act (Cal. Govt. Code §12940 et seq.); the California Equity in Higher Education Act (Cal. Educ. Code §66250 et seq.); California Education Code §§ 67385.7, 67390-91; the Governor's California Campus Blueprint to Address Sexual Assault; and California Government Code §11135; among other applicable laws.

SEX DISCRIMINATION means an adverse action taken against an individual because of gender or sex (including sexual harassment, sexual violence, domestic violence, dating violence, and stalking) as prohibited by Title IX; Title IV; VAWA/ Campus SaVE Act; California Education Code § 66250 et seq.; and/or California Government Code § 11135. *See also* Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act (Cal. Govt. Code § 12940 et seq.), and other applicable laws. Both men and women can be victims of Sex Discrimination.

SEXUAL HARASSMENT, a form of Sex Discrimination, is unwelcome verbal, nonverbal or physical conduct of a sexual nature that includes, but is not limited to sexual violence, sexual advances, requests for sexual favors, and indecent exposure, where:

a. Submission to, or rejection of, the conduct is explicitly or implicitly used as the basis for any decision affecting a student's academic status or progress, or access to benefits and services, honors, programs, or activities available at or through the University; *or*

b. Such conduct is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the student, and is in fact considered by the student, as limiting the student's ability to participate in or benefit from the services, activities or opportunities offered by the University; *or*

c. Submission to, or rejection of, the conduct by a University employee is explicitly or implicitly used as the basis for any decision affecting a term or condition of employment, or an employment decision or action; *or*

d. Such conduct is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the University employee or third party, and is in fact considered by the University employee or third party, as intimidating, hostile or offensive.

Sexual Harassment also includes acts of verbal, non-verbal or physical aggression, intimidation or hostility based on gender or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.

SEXUAL VIOLENCE is a form of Sexual Harassment and means physical sexual acts, such as unwelcome sexual touching, sexual assault, sexual battery, rape, domestic violence, dating violence, and stalking (when based on gender or sex), perpetrated against an individual against his or her will and without consent or against an individual who is incapable of giving consent due to that individual's use of drugs or alcohol, status as a minor, or disability.² Sexual Violence may include physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person's incapacitation (including voluntary intoxication).

Men as well as women can be victims of these forms of Sexual Violence. Unlawful sexual intercourse with a minor (statutory rape) occurs even if the intercourse is consensual when the victim is under 18 years old, because the victim is considered incapable of giving legal consent due to age.

SEXUAL ASSAULT is a form of Sexual Violence and is an attempt, coupled with the

² See definition of Consent below.

ability, to commit a violent injury on the person of another because of that person's gender or sex.³

SEXUAL BATTERY is a form of Sexual Violence and is any willful and unlawful use of force or violence upon the person of another because of that person's gender or sex.⁴

RAPE is a form of Sexual Violence, and is non-consensual sexual intercourse that may also involve the use of threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Any sexual penetration, however slight, is sufficient to constitute rape. Sexual acts including intercourse are considered non-consensual when the person is incapable of giving consent because s/he is incapacitated from alcohol and/or drugs, is under 18 years old, or if a mental disorder or developmental or physical disability renders the person incapable of giving consent. The accused's relationship to the person (such as family member, spouse, friend, acquaintance or stranger) is irrelevant.⁵ (See complete definition of Consent below.)

ACQUAINTANCE RAPE is a form of Sexual Violence committed by an individual known to the victim. This includes a person the victim may have just met; i.e., at a party, introduced through a friend, or on a social networking website. (See above for definition of Rape.)

CONSENT means an informed, affirmative, conscious decision by each participant to engage in mutually agreed-upon sexual activity.

- Consent must be **voluntary**, and given without coercion, force, threats, or intimidation. Consent requires positive cooperation in a particular sexual act, or expression of intent to engage in that sexual act through the exercise of free will.
- Consent can be **withdrawn or revoked**. Consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity (or other sexual acts). Consent to sexual activity given on one occasion does not constitute consent to sexual activity on another occasion. The fact that two people are or were in a dating or sexual relationship does not constitute consent to engage in sexual activity. There must **always** be mutual and affirmative consent to engage in sexual activity. Consent to a sexual act may be withdrawn or revoked at any time, including after penetration. The victim's request for the perpetrator to use a condom or birth control does not, in and of itself, constitute consent. Once consent is withdrawn or revoked, the sexual activity must stop immediately.
- Consent cannot be given by a person who is **incapacitated**. For example, a person cannot give consent if s/he is unconscious or coming in and out of consciousness. A person is **incapacitated** if s/he lacks the physical and/or mental ability to make informed, rational judgments. Examples of incapacitation include unconsciousness, sleep and blackouts. Whether an **intoxicated** person (as a result of using alcohol or other drugs) is **incapacitated** depends on the extent to which the alcohol or other drugs impact the person's decision making capacity, awareness of consequences, and ability to make fully informed judgments. A person with a medical or

3 Cal. Penal Code § 240.

4 Cal. Penal Code § 242

5 Cal. Penal Code §§ 261-263.

mental disability may also lack the capacity to give consent.

- Being intoxicated by drugs or alcohol does not diminish a person's responsibility to obtain consent from the other party before engaging in sexual activity. Factors to be considered include whether the person knew, or whether a reasonable person in the accused's position should have known, that the victim did not give, or revoked, consent; was incapacitated; or was otherwise incapable of giving consent.
- Sexual intercourse with a minor is never consensual when the victim is under 18 years old, because the victim is considered incapable of giving legal consent due to age.

DOMESTIC VIOLENCE is a form of Sexual Violence and is abuse committed against someone who is a current or former spouse, current or former cohabitant, someone with whom the abuser has a child, someone with whom the abuser has or had a dating or engagement relationship, or a person similarly situated under California domestic or family violence law. Cohabitant means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.⁶

DATING VIOLENCE is a form of Sexual Violence, and is abuse committed by a person who is or has been in a social or dating relationship of a romantic or intimate nature with the victim.⁷ This may include someone the victim just met; i.e., at a party, introduced through a friend, or on a social networking website.

STALKING means a repeated course of conduct directed at a specific person (when based on gender or sex) that places that person in reasonable fear for his/her or others' safety, or to suffer substantial emotional distress.⁸

WHO TO CONTACT IF YOU HAVE COMPLAINTS, QUESTIONS OR CONCERNS

The University has designated a Title IX Coordinator to monitor and oversee overall compliance with laws and policies related to nondiscrimination based on sex. The campus Title IX Coordinator is available to explain and discuss: Your right to file a criminal complaint (in cases of Sexual Violence); the University's relevant complaint process, and your right to receive assistance with that process, including the investigation process; how confidentiality is handled; available resources, both on and off campus; and other related matters.

If you have experienced Sexual Violence you are encouraged to **seek immediate assistance from police and healthcare providers** for your physical safety, emotional support and medical care. The campus Title IX Coordinator is available to assist you in notifying University police, if you wish. University police can escort

Call 911
*if you are in the
midst of any kind
of emergency,
immediate harm
or threat of harm.*

6 Cal. Penal Code § 13700(b) and Cal. Family Code § 6211.

7 Cal. Penal Code § 13700(b).

8 Cal. Penal Code § 646.9.

you to a safe place and transport you to a hospital or a sexual assault response center for a medical examination, if needed. University police can also provide access to a confidential sexual assault advocate. If you would prefer not to notify University or local police, you are strongly encouraged to seek assistance from the campus Title IX Coordinator who can provide you with information on your options, rights and remedies.

CSUSB Title IX Coordinator and Deputy Title IX Coordinator

Cristina Martin, Director for Title IX & Gender Equity

Role: Receiving complaints against faculty, staff, administrators, students and Third Parties; monitoring and oversight of overall implementation of Title IX compliance, including coordination of training, education and communications.

Email: titleix@csusb.edu or cristina.martin@csusb.edu

Krysten Newbury, Assistant Director for Title IX & Gender Equity

Role: Assisting the Title IX Coordinator in addressing Title IX complaints, as well as training, education and communications.

Email: titleix@csusb.edu or krysten.newbury@csusb.edu

AddressCalifornia State University, San Bernardino
5500 University Parkway
Santos Manuel Student Union, 103-A
San Bernardino, CA 920407-2393

Phone.....(909) 537-5669

Fax.....(909) 537-7344

Website.....<http://titleix.csusb.edu>

Regular office hours.....Monday-Friday, 8:00 AM-4:30 PM

Summer office hours.....Monday-Thursday, 7:00 AM-5:30 AM
(closed Fridays)

University Police

- California State University, San Bernardino
University Police Department
5500 University Parkway, San Bernardino, CA 92407-2393
Phone (24 Hour): (909) 537-7777; Anonymous Hotline: (909) 537-7786

Local Police

- San Bernardino Police Department
710 North "D" Street, San Bernardino, CA 92401
Phone: (909) 384-5742; Non-Emergency 24-Hour: (909) 383-5311
- Palm Desert Police Department
73705 Gerald Ford Drive, Palm Desert, CA 92260, Phone: (760) 836-1600

U.S. Department of Education, Office for Civil Rights

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

The White House Task Force to Protect Students from Sexual Assault

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

MEDICAL & COUNSELING SERVICES

CSUSB Campus Services

- Counseling and Psychological Services, (909) 537-5040—Counselors 24/7 (for life threatening situations, call 911); <http://psychcounseling.csusb.edu/>
- Student Health Center, (909) 537-5241; <http://healthcenter.csusb.edu/>
- Women's Resource Center, (909) 537-7203; <http://studentunion.csusb.edu/departments/wrc>

Off-Campus Services

- San Bernardino Sexual Assault Services, 24-Hour Crisis Hotlines (800) 656-4673 or (909) 885-8884; Main Office: 444 North Arrowhead Avenue, Suite 101, San Bernardino, CA 92401-1221, (909) 885-8884; Coachella Valley/Indio (760) 568-9071; Morongo Basin/Yucca Valley (760) 369-3353; Redlands (909) 335-8777; Victorville (760) 952- 0041; Yucaipa (909) 790-9374; <http://www.sbsas.org>
- Alternatives to Domestic Violence (ADV), Crisis Line—Riverside city & out of the county (951) 683-0829, remainder of Riverside county (800) 339-SAFE (7233); domestic violence help; protective order assistance; counseling; outreach; shelter; <http://www.alternativestodv.org/aboutus.html>
Riverside Area Rape Crisis Center (RARCC), 24-Hour Hotline (951) 686-RAPE (7273) & (866) 686-RAPE (7273) (toll-free); 1845 Chicago Avenue, Suite A, Riverside, CA 92507; <https://rarcc.org>
- Rape Abuse & Incest National Network (RAINN), (800) 656-HOPE (4673); www.rainn.org
- House of Ruth 24-Hour Crisis Hotline, (877) 988-5559; individual/group counseling; phone support; legal advocate; shelter for women and children; domestic violence counseling; food; English/Spanish; <http://houseofruthinc.org>
- Option House 24-Hour Hotline, (909) 381-3471; temporary domestic violence women's shelters; support/outreach; free support groups, crisis education and self-defense; assistance with protective order paperwork; English/Spanish; <http://www.optionhouse.org>
- Doves Outreach of Big Bear Valley, (909) 866-1546; 24-Hour Hotline (800) 851-7601; provides women and families domestic violence shelter; individual counseling; support groups (parenting, anger management, women's writing, etc.); legal assistance; protective order help; programs and services for male victims; <http://www.doves4help.org>
- A Better Way Domestic Violence Shelter and Outreach, Victor Valley, 24-Hour Hotline (760) 955-8723; Toll-Free (888) 949-5770 & (866) 228-2059; 26-bed shelter (90-day maximum stay), TRO (temporary restraining order); outreach programs, opportunity and education support groups; Spanish; <http://www.abetterwaydomesticviolence.org>
- Shelter from the Storm, Inc., Coachella Valley, 24-Hour Crisis Lines (800) 775- 6055, (760) 328-SAFE (7233); emergency shelter; transitional housing; counseling center; legal clinic; teen dating; <http://www.shelterfromthestorm.com/Overview.htm>
- California Coalition Against Sexual Assault, (916) 446-2520; 1215 K. Street, Suite 1850, Sacramento, CA 95814; <http://www.calcasa.org>



YOUR REPORTING OPTIONS

The University's primary concern is the safety of its campus community members.

The use of alcohol or drugs never makes the victim at fault for Sexual Violence. Moreover, victims should not be deterred from reporting incidents of Sexual Violence out of a concern that they might be disciplined for related violations of drug, alcohol or other University policies. Except in extreme circumstances, victims of Sexual Violence shall not be subject to discipline for related violations of University policy.

CRIMINAL: Reporting to University police and/or local police is an option at any time following a Sexual Violence incident. If you choose not to report to the police immediately, you can still make the report at a later time. However, with the passage of time, the ability to gather evidence to assist with criminal prosecution may be limited. Depending on the circumstances, the police may be able to obtain a criminal restraining order on your behalf.

ADMINISTRATIVE: You may report to the campus Title IX Coordinator any incident of Sex Discrimination, Sexual Harassment, or Sexual Violence (e.g., Rape, Acquaintance Rape, Dating Violence, Domestic Violence or Stalking). Contact information for the Title IX Coordinator is listed above. The Title IX Coordinator will provide you with written and verbal information regarding applicable University complaint procedures for investigating and addressing the incident.

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

If it is determined that University policy⁹ prohibiting Sexual Violence was violated, the perpetrator will be subject to discipline, up to and including dismissal from University employment or expulsion from the University. You are entitled to be accompanied to any related meeting or proceeding by an advisor of your choice.

⁹ Executive Order 1096 (Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and Procedure for Handling Discrimination, Harassment and Retaliation Complaints by Employees and Third Parties); Executive Order 1097 (Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Students and Systemwide Procedure for Handling Discrimination, Harassment and Retaliation Complaints by Students).

However, if you do not wish to participate in an investigation or hearing process, you have the right to decline to do so.

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

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

You may also choose to obtain a protective or restraining order (such as a domestic violence restraining order or a civil harassment restraining order). Restraining orders must be obtained from a court in the jurisdiction where the incident occurred. Restraining orders can protect victims who have experienced or are reasonably in fear of Sexual Violence, including Domestic Violence, Dating Violence and Stalking. Your campus Title IX Coordinator can offer assistance with obtaining a protective or restraining order.

NON-REPORTING: You are strongly encouraged to report any incident of Sexual Violence to the police and/or campus Title IX Coordinator so that steps may be taken to protect you and the rest of the campus community. However, non-reporting is also an option.

HOW TO FILE A COMPLAINT UNDER UNIVERSITY COMPLAINT PROCEDURES

Federal and state laws require that the CSU adopt and publish complaint procedures that provide for prompt and equitable resolution of Sex Discrimination complaints, including Sexual Harassment and Sexual Violence.

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

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

The campus Title IX Coordinator is available to provide you with written and verbal information regarding the applicable University complaint procedure for investigating and addressing your reported incident. Contact information for the Title IX Coordinator is listed on pages 6, 13 and the back cover.

SEXUAL VIOLENCE AND CONFIDENTIALITY—KNOW YOUR OPTIONS

We encourage victims of Sexual Violence, Dating Violence, Domestic Violence, and Stalking (collectively Sexual Violence) to talk to someone about what happened – so


you can get the support you need, and so the University can respond appropriately. Whether – and the extent to which – a University employee may agree to maintain confidentiality (and not disclose information to the Title IX Coordinator) depends on the employee’s position and responsibilities at the University. This information is intended to make you aware of the various reporting and confidential disclosure options available to you – so you can make informed choices about where to turn for help. The University encourages victims to talk to someone identified in one or more of these groups.

As explained below, some employees are required by law to maintain near complete confidentiality; talking to them is sometimes called a “privileged communication.” Other employees may talk to a victim in confidence, and generally only report to the University that an incident occurred without revealing any personally identifying information. Finally, some employees are required to report all details of an incident (including the identities of both the victim and alleged perpetrator) to the Title IX Coordinator. A report to these employees constitutes a report to the University, and generally creates a legal obligation for the University to investigate the incident and take appropriate steps to address the situation.

Privileged and Confidential Communications

*Physicians, Psychotherapists, Professional Counselors and Clergy*¹⁰ – Physicians, psychotherapists, professional, licensed counselors, and clergy who work or volunteer on or off campus, and who provide medical or mental health treatment or counseling (including those who act in that role under their supervision) may **not** report **any** information about an incident of Sexual Violence to anyone else at the University, including the Title IX Coordinator, without your consent. You can seek assistance and support from physicians, psychotherapists, professional, licensed counselors, and clergy without triggering a University investigation that could reveal your identity or the fact of your disclosure. *However, see limited exceptions below regarding when health care practitioners must report to local law enforcement agencies. Health care practitioners should explain these limited exceptions to you, if applicable.*

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



Counseling & Psychological Services..... (909) 537-5040
Student Health Center (909) 537-5241

*Sexual Assault and Domestic Violence Counselors and Advocates*¹¹ – Sexual assault and domestic violence counselors and advocates who work or volunteer on or off campus in sexual assault centers, victim advocacy offices, women’s centers, and health centers (including all individuals who work or volunteer in these centers and offices, as well as non-professional counselors or advocates, and those who act in that role under their supervision) may talk to you without revealing any information about you or the incident of sexual violence to anyone else at the University, including the Title IX Coordinator, without your consent. You can seek assistance and support from these counselors and advocates without triggering

10 Cal. Evid. Code § 990 et seq., § 1010 et seq., and § 1030 et seq.

11 Cal. Evid. Code § 1035 et seq. and § 1037 et seq.

a University investigation that could reveal your identity or that you disclosed an incident to them. *However, see limited exceptions below regarding when sexual assault and domestic violence counselors and advocates must report to local law enforcement agencies. Counselors and advocates should explain these limited exceptions to you, if applicable.* Following is contact information for sexual assault and domestic violence counselors and advocates:

- San Bernardino Sexual Assault Services, 24-Hour Crisis Hotlines (800) 656-4673 or (909) 885-8884; Main Office: 444 North Arrowhead Avenue, Suite 101, San Bernardino, CA 92401-1221, (909) 885-8884; Coachella Valley/Indio (760) 568- 9071; Morongo Basin/Yucca Valley (760) 369-3353; Redlands (909) 335-8777; Victorville (760) 952-0041; [Yucaipa \(909\) 790-9374; http://www.sbsas.org](http://www.sbsas.org)
- Alternatives to Domestic Violence (ADV), Crisis Line—Riverside city & out of the county (951) 683-0829, remainder of Riverside county (800) 339-SAFE (7233); domestic violence help; protective order assistance; counseling; outreach; shelter;<http://www.alternativestodv.org/aboutus.html>
- Riverside Area Rape Crisis Center (RARCC), 24-Hour Hotline (951) 686-RAPE (7273) & (866) 686-RAPE (7273) (toll-free); 1845 Chicago Avenue, Suite A, Riverside, CA 92507; <https://rarcc.org>
- Rape Abuse & Incest National Network (RAINN), (800) 656-HOPE (4673); www.rainn.org
- House of Ruth 24-Hour Crisis Hotline, (877) 988-5559; individual/ group counseling; phone support; legal advocate; shelter for women and children; domestic violence counseling; food; English/Spanish; <http://houseofruthinc.org>
- Option House 24-Hour Hotline, (909) 381-3471; temporary domestic violence women’s shelters; support/outreach; free support groups, crisis education and self-defense; assistance with protective order paperwork; English/Spanish; <http://www.optionhouse.org>
- Doves Outreach of Big Bear Valley, (909) 866-1546; 24-Hour Hotline (800) 851-7601; provides women and families domestic violence shelter; individual counseling; support groups (parenting, anger management, women’s writing, etc.); legal assistance; protective order help; programs and services for male victims; <http://www.doves4help.org>
- A Better Way Domestic Violence Shelter and Outreach, Victor Valley, 24-Hour Hotline (760) 955-8723; Toll-Free (888) 949-5770 & (866) 228-2059; 26-bed shelter (90-day maximum stay), TRO (temporary restraining order); outreach programs, opportunity and education support groups; Spanish; <http://www.abetterwaydomesticviolence.org>
- Shelter from the Storm, Inc., Coachella Valley, 24-Hour Crisis Lines (800) 775- 6055, (760) 328-SAFE (7233); emergency shelter; transitional housing; counseling center; legal clinic; teen dating; <http://www.shelterfromthestorm.com/Overview.htm>
- California Coalition Against Sexual Assault, (916) 446-2520; 1215 K. Street, Suite 1850, Sacramento, CA 95814 <http://www.calcasa.org>

If you speak only to a physician, professional counselor, clergy member, sexual assault counselor, domestic violence counselor or advocate, you must understand

that the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the perpetrator, if you choose to maintain confidentiality.

Even so, these individuals will still assist you in receiving other necessary protection and support, such as victim advocacy, disability, medical/health or mental health services, or legal services. They may not, however, be able to assist you with University academic support or accommodations, or changes to University-based living or working schedules, or assist with adjustments to course schedules. Only the University and the Title IX Coordinator can assist with those matters (see below). A victim who at first requests confidentiality may later decide to file a complaint with the University or report the incident to the police, and thus have the incident fully investigated. These counselors and advocates can provide you with that assistance if you wish. These counselors and advocates will also explain that Title IX includes protections against retaliation, and that the University will not only take steps to prevent retaliation when it knows or reasonably should know of possible retaliation, but will also take strong responsive action if it occurs.

EXCEPTIONS: Under California law, any health practitioner employed in a health facility, clinic, physician's office, or local or state public health department or clinic is required to make a report to local law enforcement if he or she provides medical services for a **physical condition** to a patient/victim who he or she knows or reasonably suspects is suffering from (1) a wound or physical injury inflicted by a firearm; or (2) any wound or other physical injury inflicted upon a victim where the injury is the result of assaultive or abusive conduct (including Sexual Violence, Domestic Violence, and Dating Violence).¹² This exception does **not** apply to sexual assault and domestic violence counselors and advocates. Health care practitioners should explain this limited exception to you, if applicable.

Additionally, under California law, **all** professionals described above (physicians, psychotherapists, professional counselors, clergy, and sexual assault and domestic violence counselors and advocates) are mandatory child abuse and neglect reporters, and are required to report incidents involving victims under 18 years of age to local law enforcement.¹³ These professionals will explain this limited exception to you, if applicable.

Finally, some or all of these professionals may also have reporting obligations under California law to (1) local law enforcement in cases involving threats of immediate or imminent harm to self or others where disclosure of the information is necessary to prevent the threatened danger;¹⁴ or (2) the court if compelled by court order or subpoena in a criminal proceeding related to the Sexual Violence incident.¹⁵ If applicable, these professionals will explain this limited exception to you.

Reporting to University or Local Police

If you report to local or University Police about Sexual Violence, the police are required to notify you that your name will become a matter of public record **unless**

¹² Assaultive or abusive conduct is defined to include a list of 24 criminal offenses, including Sexual Battery, incest, Rape, spousal Rape, abuse of a spouse or cohabitant, and any attempt to commit these crimes. Cal. Penal Code §§ 11160-11163.2.

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

¹⁴ Cal. Evid. Code § 1024.

¹⁵ Cal. Evid. Code § 1035.4.

confidentiality is requested.¹⁶ If you request that your identity be kept confidential, your name will not become a matter of public record and the police will not report your identity to anyone else at the University, including the Title IX Coordinator. University Police will, however, report the facts of the incident itself to the Title IX Coordinator being sure not to reveal to the Title IX Coordinator your name/identity, or compromise their own criminal investigation.

The University is required by the federal Clery Act to report certain types of crimes (including certain sex offenses) in statistical reports. However, while the University will report the **type** of incident in the annual crime statistics report known as the Annual Security Report, your name/identity will not be revealed.

Reporting to the Title IX Coordinator and Other University Employees

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

In all cases, the University strongly encourages victims to report Sexual Violence directly to the Title IX Coordinator. As detailed above in the Privileged and Confidential Communications section, all University employees **except** physicians, licensed counselors, and sexual assault counselors and advocates, must report to the Title IX Coordinator all relevant details about any Sexual Violence incidents of which they become aware. The University will need to determine what happened – and will need to know the names of the victim(s) and the perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the incident.

To the extent possible, information reported to the Title IX Coordinator or other University employees will be shared only with individuals responsible for handling the University’s response to the incident. The University will protect the privacy of individuals involved in a Sexual Violence incident except as otherwise required by law or University policy. A Sexual Violence report may result in the gathering of extremely sensitive information about individuals in the campus community. While such information is considered confidential, University policy regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a report of Sexual Violence. In such cases, efforts will be made to redact the records, as appropriate, in order to protect the victim’s identity and privacy and the privacy of other involved individuals.

The Title IX Coordinator can be reached at:

Cristina Martin, Director for Title IX & Gender Equity

Address..... California State University, San Bernardino
5500 University Parkway
Santos Manuel Student Union, 103-A
San Bernardino, CA 92407-2393

Email titleix@csusb.edu or cristina.martin@csusb.edu

Phone..... (909) 537-5669

Fax..... (909) 537-7344

Regular office hours..... Monday-Friday, 8:00 AM-4:30 PM

Summer office hours Monday-Thursday, 7:00 AM-5:30 PM
(closed Fridays)

¹⁶ Cal. Penal Code § 293; Cal. Gov. Code § 6254(f).

If you request of the Title IX Coordinator or another University employee that your identity remain completely confidential, the Title IX Coordinator will explain that the University cannot always honor that request and guarantee complete confidentiality. If you wish to remain confidential or request that no investigation be conducted or disciplinary action taken, the University must weigh that request against the University's obligation to provide a safe, non-discriminatory environment for all students, employees and third parties, including you. Under those circumstances, the Title IX Coordinator will determine whether your request for complete confidentiality and/or no investigation can be honored under the facts and circumstances of the particular case, including whether the University has a legal obligation to report the incident, conduct an investigation or take other appropriate steps. Without information about your identity, the University's ability to meaningfully investigate the incident and pursue disciplinary action against the perpetrator may be severely limited.

The Title IX Coordinator will inform you prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University's response. The Title IX Coordinator will remain mindful of your well-being, and will take ongoing steps to protect you from retaliation or harm, and work with you to create a safety plan. Retaliation against you, whether by students, or employees, will not be tolerated. The University and Title IX Coordinator will also:

- Provide interim remedies requested by you, if they are reasonably available, regardless of whether you choose to report Sexual Violence to campus or local police;
- Assist you in accessing other available victim advocacy, academic support, counseling, disability, medical/health or mental health services, and legal assistance both on and off campus;
- Provide other security and support, which could include issuing a no-contact order, helping arrange a change of campus-based living or working arrangements or course schedules (including for the perpetrator pending the outcome of the investigation) or adjustments for assignments, tests, or work duties; and
- Inform you of your right to report a crime to University or local police – and provide you with assistance if you wish to do so.

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

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

Under California law, and pursuant to University policy, all University employees, including the Title IX Coordinator, are mandatory child abuse and neglect reporters and should explain to victims under 18 years of age that they are required to report the Sexual Violence incident to the police.¹⁸ However, the identity of the person who reports and the report itself are confidential and disclosed only among appropriate

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

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

agencies.¹⁹

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

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

NOTE

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

CAMPUS, CIVIL, AND CRIMINAL CONSEQUENCES OF COMMITTING ACTS OF SEX DISCRIMINATION, SEXUAL HARASSMENT, AND SEXUAL VIOLENCE

Individuals alleged to have committed Sexual Violence may face criminal prosecution by law enforcement and may incur penalties as a result of civil litigation. In addition, employees and students may face discipline/sanctions at the University. Employees may face sanctions up to and including dismissal from employment, per established CSU policies and provisions of applicable collective bargaining agreements. Students and employees charged with Sex Discrimination, Sexual Harassment or Sexual Violence will also be subject to discipline, pursuant University policies, and will be subject to appropriate sanctions.²⁰

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

¹⁹ Cal. Penal Code § 11167(d).

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

ADDITIONAL RESOURCES

- U.S. Department of Education, regional office
Office for Civil Rights, 50 Beale Street, Suite 7200, San Francisco, CA 94105
(415) 486-5555 TDD (877) 521-2172
- U.S. Department of Education, national office
Office for Civil Rights, (800) 872-5327
- Know Your Rights about Title IX
<http://www2.ed.gov/about/offices/list/ocr/docs/title-ixrights-201104.html>
- California Coalition Against Sexual Assault
1215 K. Street, Suite 1850, Sacramento, CA 95814, (916) 446-2520
<http://calcasa.org/>
- Domestic and Family Violence
<http://ovc.ncjrs.gov/topic.aspx?topicid=27>
- National Institute of Justice: Intimate Partner Violence
<http://www.nij.gov/topics/crime/intimate-partner-violence/Pages/welcome.aspx>
- National Domestic Violence Hotline: 1-800-799-SAFE (7233)
<http://www.thehotline.org/>
- Office of Violence Against Women
<http://www.justice.gov/ovw>
- Center for Disease Control and Prevention: Intimate Partner Violence
<http://www.cdc.gov/ViolencePrevention/intimatepartnerviolence/index.html>
- Defending Childhood
<http://www.justice.gov/defendingchildhood>
- Rape Abuse & Incest National Network (RAINN), (800) 656-HOPE (4673)
www.rainn.org

LOCAL COMMUNITY RESOURCE INFORMATION

- San Bernardino Sexual Assault Services, 24-Hour Crisis Hotlines (800) 656-4673 or (909) 885-8884; Main Office: 444 North Arrowhead Avenue, Suite 101, San Bernardino, CA 92401-1221, (909) 885-8884; Coachella Valley/Indio (760) 568- 9071; Morongo Basin/Yucca Valley (760) 369-3353; Redlands (909) 335-8777; Victorville (760) 952-0041; Yucaipa (909) 790-9374; <http://www.sbsas.org>
- Alternatives to Domestic Violence (ADV), Crisis Line—Riverside city & out of the county (951) 683-0829, remainder of Riverside county (800) 339-SAFE (7233); domestic violence help; protective order assistance; counseling; outreach; shelter; <http://www.alternativestodv.org/aboutus.html>
- Riverside Area Rape Crisis Center (RARCC), 24-Hour Hotline (951) 686-RAPE (7273) & (866) 686-RAPE (7273) (toll-free); 1845 Chicago Avenue, Suite A, Riverside, CA 92507; <https://rarcc.org>
- Rape Abuse & Incest National Network (RAINN), (800) 656-HOPE (4673); www.rainn.org
- House of Ruth 24-Hour Crisis Hotline, (877) 988-5559; individual/ group counseling; phone support; legal advocate; shelter for women and children;

domestic violence counseling; food; English/Spanish;
<http://houseofruthinc.org>

- Option House 24-Hour Hotline, (909) 381-3471; temporary domestic violence women's shelters; support/outreach; free support groups, crisis education and self-defense; assistance with protective order paperwork; English/Spanish; <http://www.optionhouse.org>
- Doves Outreach of Big Bear Valley, (909) 866-1546; 24-Hour Hotline (800) 851-7601; provides women and families domestic violence shelter; individual counseling; support groups (parenting, anger management, women's writing, etc.); legal assistance; protective order help; programs and services for male victims; <http://www.doves4help.org>
- A Better Way Domestic Violence Shelter and Outreach, Victor Valley, 24-Hour Hotline (760) 955-8723; Toll-Free (888) 949-5770 & (866) 228-2059; 26-bed shelter (90-day maximum stay), TRO (temporary restraining order); outreach programs, opportunity and education support groups; Spanish; <http://www.abetterwaydomesticviolence.org>
- Shelter from the Storm, Inc., Coachella Valley, 24-Hour Crisis Lines (800) 775- 6055, (760) 328-SAFE (7233); emergency shelter; transitional housing; counseling center; legal clinic; teen dating; <http://www.shelterfromthestorm.com/Overview.htm>
- California Coalition Against Sexual Assault, (916) 446-2520; 1215 K. Street, Suite 1850, Sacramento, CA 95814; <http://www.calcasa.org>

TRAINING, EDUCATION AND PREVENTIVE MEASURES

Each campus must implement preventive education programs to promote the awareness of CSU policies against Sex Discrimination, Sexual Harassment and Sexual Violence (including Domestic Violence, Dating Violence, and Stalking) and to make victim resources available, including comprehensive victim services. Information regarding these programs must be included in (1) orientation programs for all **new** students²¹ and employees; (2) training for students who serve as advisors in residence halls; and (3) training for student athletes and coaches. Ongoing prevention and awareness campaigns for **all** students and employees shall also be conducted. These programs shall include the following information:

- A statement that the CSU prohibits Sex Discrimination, including Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking.
- What constitutes Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking.
- The definition of Consent.
- A statement that Sexual Violence (including Domestic Violence, Dating Violence, and Stalking) violate University policy and criminal law.
- Common facts and myths about the causes of Sexual Violence.
- Safe and positive options for bystander intervention that may be taken

²¹ This includes incoming transfer, graduate, online, and extended education students.

by an individual to prevent harm or intervene in risky situations involving these offenses.

- Methods of encouraging peer support for victims.
- A statement explaining that the University's primary concern is the safety of members of the campus community; that the use of alcohol or drugs never makes the victim at fault for Sexual Violence; that students or employees who are victims should not be deterred from reporting incidents out of a concern that they might be disciplined for related violations of drug, alcohol, or other University policies; and that except in extreme circumstances, students or employees who are victims shall not be subject to discipline.
- How to recognize warning signs of abusive behavior and how to avoid potential attacks.
- What someone should do if s/he has been the victim of, or witness to, Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking.
- Individuals to whom incidents may be reported.
- The availability of, and contact information for, campus and community resources for Sexual Violence victims.
- Campus and systemwide policies and disciplinary procedures available for addressing alleged violations and the consequences of violating these policies. Such proceedings shall:
 - Provide a prompt, fair, and impartial investigation and resolution;
 - Be conducted by officials who receive annual training on issues related to Sex Discrimination, Sexual Harassment, Sexual Violence, Domestic Violence, Dating Violence, and Stalking, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.
- The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice.
- Both the accuser and the accused shall be simultaneously informed in writing of:
 - The outcome of any disciplinary proceedings that arises from an allegation of Sexual Violence, Domestic Violence, Dating Violence, and Stalking;
 - The University's procedures for the accused to appeal the results of the disciplinary proceeding;
 - Any change to the disciplinary results that occurs prior to the time such results become final; and
 - When disciplinary results become final.
- Possible sanctions or protective measures the University may impose following the final determination of a University disciplinary procedure regarding Sexual Violence, Domestic Violence, Dating Violence, or Stalking.

- How the University will protect the confidentiality of victims, including how publicly- available record keeping (e.g., campus Clery reports) will be accomplished without the inclusion of identifying information about the victim, to the extent permissible by law.
- That persons who report being a victim of Sexual Violence, Domestic Violence, Dating Violence, or Stalking must receive *written* notification about:
 - Existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims, both on campus and in the community.
 - Options for, and available assistance in, changing academic, living, transportation, and working situations, if requested by the victim and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.
- Procedures complainants should follow if Sexual Violence, Domestic Violence, Dating Violence, and Stalking has occurred, as well as the fact that the following *written* information must be provided to victims:
 - The importance of preserving evidence as may be necessary to prove criminal Domestic Violence, Dating Violence, Sexual Assault, or Stalking, or to obtain a temporary restraining or other protective order;
 - The name and contact information of the University employee(s) to whom the alleged offense should be reported;
 - Reporting to law enforcement and campus authorities, including the victim's option to (a) notify law enforcement authorities, including on-campus and local police; (b) be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and (c) decline to notify such authorities;
 - Where applicable, the rights of victims and the University's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court.

NOTES

NOTES

MYTHS

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FACTS

ABOUT SEXUAL VIOLENCE



WHAT YOU CAN DO TO HELP STOP SEXUAL VIOLENCE

- Sexual contact requires mutual consent. An incapacitated person (for example, a person who is intoxicated by drugs or alcohol) may be incapable of giving consent. Whether an *intoxicated* person (as a result of using alcohol or other drugs) is *incapacitated* depends on the extent to which the alcohol or other drugs impact the person's decision-making capacity, awareness of consequences, and ability to make fully informed judgments.
- No one deserves to be sexually assaulted, stalked or victimized in any way.
- Don't engage in any behavior that may be considered Sexual Violence, Domestic Violence, Dating Violence, Stalking or any other form of violence.
- Never use force, coercion, threats, alcohol or other drugs to engage in sexual activity.
- Take responsibility for your actions.
- Avoid alcohol and other drugs.
- Remember "no" means "No!" and "stop" means "Stop!"
- Report incidents of violence (including coercion) to law enforcement and campus authorities.
- Discuss Sexual Violence, Domestic Violence, Dating Violence, and Stalking with friends—speak out against violence and clear up misconceptions.
- Don't mistake submission or silence for consent.

WHAT YOU CAN DO TO MINIMIZE YOUR RISK OF BECOMING A VICTIM

- Be aware. Does your partner: Threaten to hurt you or your children? Say it's your fault if he or she hits you and then promises it won't happen again (but it does)? Put you down in public? Force you to have sex when you don't want to? Follow you? Send you unwanted messages and gifts?
- Be assertive. Speak up.
- Stay sober and watch out for dates and/or anyone who tries to get you drunk or high.
- Clearly communicate limits to partners, friends, and acquaintances.
- Never leave a party with someone you don't know well and trust.
- Trust your feelings; if it feels wrong, it probably is.
- Learn all you can and talk with your friends. Help them stay safe.
- Report incidents of violence to law enforcement and campus authorities.

WHAT YOU CAN DO IF YOU ARE A VICTIM, IN GENERAL

- Go to a safe place as soon as possible.
- Preserve evidence.
- Report the incident to University Police or local law enforcement.
- Report the incident to your campus Title IX Coordinator.
- Call a Domestic Violence, Sexual Violence or Stalking hotline.
- Call a friend or family member for help.
- Know that you are not at fault. You did not cause the abuse to occur and you are not responsible for someone else's violent behavior.

1. MYTH:

Victims provoke sexual assaults when they dress provocatively or act in a promiscuous manner.

FACT:

Rape and Sexual Violence are crimes of violence and control that stem from a person's determination to exercise power over another. Neither provocative dress nor promiscuous behaviors are invitations for unwanted sexual activity. Forcing someone to engage in non-consensual sexual activity is sexual assault, regardless of the way that person dresses or acts.

2. MYTH:

If a person goes to someone's room or house or goes to a bar, s/he assumes the risk of sexual assault. If something happens later, s/he can't claim that s/he was raped or sexually assaulted because s/he should have known not to go to those places.

FACT:

This "assumption of risk" wrongfully places the responsibility of the offender's action with the victim. Even if a person went voluntarily to someone's home or room and consented to engage in some sexual activity, it does not serve as blanket consent for **all** sexual activity. When in doubt if the person is comfortable with an elevated level of sexual activity, stop and ask. When someone says "no" or "stop," that means "STOP!" Sexual activity forced upon another without valid consent is sexual assault.

3. MYTH:

It is not Sexual Violence if it happens after drinking or taking drugs.

FACT:

Being under the influence of alcohol or drugs is not an invitation for sexual activity. A person under the influence does not cause others to assault her/him; others choose to take advantage of the situation and sexually assault her/him because s/he is in a vulnerable position. **A person who is incapacitated due to the influence of alcohol or drugs is not able to consent to sexual activity.**

4. MYTH:

Most sexual assaults are committed by strangers. It's not rape if the people involved know each other.

FACT:

Most sexual assaults and rape are committed by someone the victim knows. A study of sexual victimization of college women showed that about 90% of victims knew the person who sexually victimized them. Most often, a boyfriend, ex-boyfriend, classmate, friend, acquaintance or co-worker sexually victimized the person. It is important to remember that Sexual Violence can occur in both heterosexual and same-gender relationships.

5. MYTH: *Rape can be avoided if women avoid dark alleys or other “dangerous” places where strangers might be hiding or lurking.*

FACT: Rape and Sexual Violence can occur at any time, in many places, to anyone.

6. MYTH: *A person who has really been sexually assaulted will be hysterical.*

FACT: Victims of Sexual Violence exhibit a spectrum of responses to the assault which can include: calm, hysteria, withdrawal, anxiety, anger, apathy, denial and shock. Being sexually assaulted is a very traumatic experience. Reaction to the assault and the length of time needed to process through the experience vary with each person. There is no “right way” to react to being sexually assaulted. Assumptions about the way a victim “should act” may be detrimental to the victim because each victim copes in different ways.

7. MYTH: *All Sexual Violence victims will report the crime immediately to the police. If they do not report it or delay in reporting it, then they must have changed their minds after it happened, wanted revenge or didn’t want to look like they were sexually active.*

FACT: There are many reasons why a Sexual Violence victim may not report the assault to the police or campus officials. It is not easy to talk about being sexually assaulted and can feel very shameful. The experience of retelling what happened may cause the person to relive the trauma. Another reason for delaying a report or not making a report is the fear of retaliation by the offender. There is also the fear of being blamed, not being believed and being required to go through judicial proceedings. Just because a person does not report the Sexual Violence does not mean it did not happen.

8. MYTH: *Only young, pretty women are assaulted.*

FACT: The belief that only young, pretty women are sexually assaulted stems from the myth that Sexual Violence is based on sex and physical attraction. Sexual Violence is a crime of power and control. Offenders often choose people whom they perceive as most vulnerable to attack or over whom they believe they can assert power. Men and boys are also sexually assaulted, as well as persons with disabilities. Assumptions about the “typical” victim might lead others not to report the assault because they do not fit the stereotypical victim.

9. MYTH:

It's only rape if the victim puts up a fight and resists.

FACT:

Many states do not require the victim to resist in order to charge the offender with rape or sexual assault. Those who do not resist may feel if they do so, they will anger their attacker, resulting in more severe injury. Many assault experts say that victims should trust their instincts and intuition and do what they believe will most likely keep them alive. Not fighting or resisting an attack does not equal consent.

10. MYTH:

Someone can only be sexually assaulted if a weapon was involved.

FACT:

In many cases of sexual assault, a weapon is not involved. The offender often uses physical strength, physical violence, intimidation, threats or a combination of these tactics to overpower the victim. Although the presence of a weapon while committing the assault may result in a higher penalty or criminal charge, the absence of a weapon does not mean that the offender cannot be held criminally responsible for a sexual assault.

SEXUAL VIOLENCE - RISK REDUCTION TIPS

Sexual Violence is a form of Sexual Harassment and means physical sexual acts, such as unwelcome sexual touching, sexual assault, sexual battery, rape, domestic violence, dating violence and stalking (when based on gender or sex), perpetrated against an individual against his or her will and without consent or against an individual who is incapable of giving consent due to that individual's use of drugs or alcohol, status as a minor, or disability.¹ Sexual Violence may include physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person's incapacitation (including voluntary intoxication).

Men as well as women can be victims of these forms of Sexual Violence. Unlawful sexual intercourse with a minor (statutory rape) occurs even if the intercourse is consensual when the victim is under 18 years old, because the victim is considered incapable of giving legal consent due to age.

“ What can I do in order to help reduce my risk of being a victim of Sexual Violence? ”

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame and with recognition that only those who commit Sexual Violence are responsible for those actions, these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act:

¹ See definition of Consent below.

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor “NO” clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.
- ***In an emergency, call 9-1-1***

“ What can I do in order to help reduce my risk of being an initiator of Sexual Violence? ”

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

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

- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

RAPE, ACQUAINTANCE RAPE, SEXUAL ASSAULT, SEXUAL BATTERY AND CONSENT

RAPE is a form of Sexual Violence, and is non-consensual sexual intercourse that may also involve the use of threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Any sexual penetration, however slight, is sufficient to constitute rape. Sexual acts including intercourse are considered non-consensual when a person is incapable of giving consent because s/he is incapacitated from alcohol and/ or drugs, is under 18 years old, or if a mental disorder or developmental or physical disability renders the person incapable of giving consent. The accused's relationship to the person (such as family member, spouse, friend, acquaintance or stranger) is irrelevant.² (See complete definition of Consent below.)

ACQUAINTANCE RAPE is a form of Sexual Violence committed by an individual known to the victim. This includes a person the victim may have just met; i.e., at a party, introduced through a friend, or on a social networking website. See above for definition of Rape.

SEXUAL ASSAULT is a form of Sexual Violence and is an attempt, coupled with the ability, to commit a violent injury on the person of another because of that person's gender or sex.³

SEXUAL BATTERY is a form of Sexual Violence and is any willful and unlawful use of force or violence upon the person of another because of that person's gender or sex.⁴

CONSENT means an informed, affirmative, conscious decision by each participant to engage in mutually agreed-upon sexual activity.

- Consent must be **voluntary**, and given without coercion, force, threats, or intimidation. Consent requires positive cooperation in a particular sexual act, or expression of intent to engage in that sexual act through the exercise of free will.
- Consent can be **withdrawn or revoked**. Consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity (or other sexual acts). Consent to sexual activity given on one occasion does not constitute consent to sexual activity on another occasion.

² Cal. Penal Code §§ 261-263.

³ Cal. Penal Code § 240.

⁴ Cal. Penal Code § 242.

The fact that two people are or were in a dating or sexual relationship does not constitute consent to engage in sexual activity. There must **always** be mutual and affirmative consent to engage in sexual activity. Consent to a sexual act may be withdrawn or revoked at any time, including after penetration. The victim's request for the perpetrator to use a condom or birth control does not, in and of itself, constitute consent. Once consent is withdrawn or revoked, the sexual activity must stop immediately.

- Consent cannot be given by a person who is **incapacitated**. For example, a person cannot give consent if s/he is unconscious or coming in and out of consciousness. A person is *incapacitated* if s/he lacks the physical and/or mental ability to make informed, rational judgments. Examples of incapacitation include unconsciousness, sleep and blackouts. Whether an *intoxicated* person (as a result of using alcohol or other drugs) is *incapacitated* depends on the extent to which the alcohol or other drugs impact the person's decision making capacity, awareness of consequences, and ability to make fully informed judgments. A person with a medical or mental disability may also lack the capacity to give consent.
- Being intoxicated by drugs or alcohol does not diminish a person's responsibility to obtain consent from the other party before engaging in sexual activity. Factors to be considered include whether the person knew, or whether a reasonable person in the accused's position should have known, that the victim did not give, or revoked, consent; was incapacitated; or was otherwise incapable of giving consent.
- Sexual intercourse with a minor is never consensual when the victim is under 18 years old, because the victim is considered incapable of giving legal consent due to age.

In order for a sexual act to be considered rape or sexual assault, the act must be non-consensual.

Crimes of a sexual nature may be reported to campus or local law enforcement in addition to being reported administratively on campus to the Title IX Coordinator. **Both men and women can be victims of rape or sexual assault.**

WHAT IS DATING VIOLENCE OR DOMESTIC VIOLENCE?

DOMESTIC VIOLENCE is a form of Sexual Violence, and is abuse committed against someone who is a current or former spouse, current or former cohabitant, someone with whom the abuser has a child, someone with whom the abuser has or had a dating or engagement relationship, or a person similarly situated under California domestic or family violence law. Cohabitant means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5)

the continuity of the relationship, and (6) the length of the relationship.⁵

DATING VIOLENCE is a form of Sexual Violence, and is abuse committed by a person who is or has been in a social or dating relationship of a romantic or intimate nature with the victim.⁶ This may include someone the victim just met; i.e., at a party, introduced through a friend, or on a social networking website.

TYPES OF DATING/DOMESTIC VIOLENCE THAT INCLUDES SEXUAL MISCONDUCT

There usually is a pattern or a repeated cycle of Dating Violence, starting with the first instance of abuse.

General Pattern of Behavior:

- **Tension Building:** Relationship begins to get strained or tense between partners.
- **Explosion:** Outburst that includes verbal, emotional, or physical abuse.
- **Honeymoon:** Apologies where the abuser tries to re-connect with his/her partner by shifting the blame onto someone or something else.

What Dating/Domestic Violence Looks Like

Any actions used for the intent of gaining power and control over a person:

- **Physical Abuse:** any use of physical force with the intent to cause injury (i.e. grabbing in a way to inflict pain, hitting, shoving, strangling, kicking)
- **Emotional Abuse:** non-physical behaviors such as threats, insults, constant monitoring, humiliation, intimidation, isolation, silent treatment, or stalking
- **Sexual Abuse:** any action that impacts the partner's ability to control his/her sexual activity or the circumstance in which sexual activity occurs, including rape, coercion or restricting access to birth control.

Warnings or Signs of Potential Dating/Domestic Violence

Ask yourself if your partner engages in one or any of the following activities:

- Checks my cell phone or email without my permission.
- Monitors where I'm going, who I'm going with, what I'm doing.
- Repeatedly says or does things to make me feel inadequate or inferior to him/her.
- Extreme jealousy or insecurity.
- Isolates me from my friends and family.

⁵ Cal. Penal Code § 13700(b) and Cal. Family Code § 6211.

⁶ Cal. Penal Code § 13700(b).

- Explosive temper.
- Mood swings.
- Assumes control over my access to financial resources.
- Tells me what to do.
- Possessiveness.
- Physically hurts me in any way.

STALKING

STALKING means a repeated course of conduct directed at a specific person (when based on gender or sex) that places that person in reasonable fear for his/her or others' safety, or to suffer substantial emotional distress.⁷

Stalking is a pattern of behavior that makes you feel afraid, nervous, harassed or in danger. It is when someone repeatedly contacts you, follows you, sends you things, talks to you when you don't want them to or threatens you. Stalking behaviors can include:

- Damaging your property.
- Knowing your schedule.
- Showing up at places you go.
- Sending mail, e-mail, texts and pictures.
- Creating a website about you.
- Sending gifts.
- Stealing things that belong to you.
- Calling you repeatedly.
- Any other actions that the stalker takes to contact, harass, track or frighten you.

You can be stalked by someone you know casually, a current boyfriend or girlfriend, someone you dated in the past or a stranger. Getting notes and gifts at your home, on your car or other places might seem sweet and harmless to other people. But if you don't want the gifts, phone calls, messages, letters or e-mails, it doesn't feel sweet or harmless. It can be scary and frustrating.

Sometimes people stalk their boyfriends or girlfriends while they're dating. They check up on them, text or call them all the time, expect instant responses, follow them, use GPS to secretly monitor them and generally keep track of them, even when they haven't made plans to be together. These stalking behaviors can be part of an abusive relationship. If this is happening to you or someone you know, you should talk to a trusted person.

Stalking is a crime and can be dangerous. California Penal Code section 646.9,

⁷ Cal. Penal Code § 646.9.

in part, states, “Any person who willfully, maliciously and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking. ...”

How You Can Help Yourself

Think about ways you can be safer. This means thinking about what to do, where to go for help and who to call ahead of time:

- Where can you go for help?
- Who can you call?
- Who will help you?
- How will you escape a violent situation?

Other Things You Can Do

- ***In an emergency, call 911*** or University Police or the local police department.
- Let friends or family members know when you are afraid or need help.
- Be aware of your surroundings. Knowing where you are and who is around you may help you find a way to get out of a bad situation.
- Avoid isolated areas.
- Avoid putting headphones in both ears so you can be more aware of your surroundings.
- Trust your instincts. If a situation or location feels unsafe or uncomfortable, remove yourself.
- Vary your routine, your driving routes and where you park your car.
- When you go out, tell someone where you are going and when you’ll be back. Memorize the phone numbers of people to contact or places to go in an emergency.
- Don’t load yourself down with packages or bags restricting your movement.
- Keep your cell phone handy; check to see that you have reception and that your cell phone is charged.
- Have money for a cab or other transportation.
- Save notes, letters or other items that the stalker sends to you. Keep a record of all contact that the stalker has with you; these items will be very useful in an investigation.

How You Can Help Someone Else

If you know someone who is being stalked, you can:

- Encourage your friend to seek help.
- Be a good listener.

- Offer your support.
- Ask how you can help.
- Educate yourself about stalking.
- Avoid any confrontations with the stalker; this could be dangerous for you and your friend.

NOTES



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