CSU Bakersfield
Rights & Options
for Victims of Sexual Misconduct, Dating and Domestic Violence, and Stalking

Updated 7/10/17
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Dear Campus Community,

Title IX of the Education Amendments Act of 1972 [20 U.S.C. § 1681] states “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving financial assistance.” As the University’s Title IX Team, we work collaboratively on addressing issues of gender discrimination and sexual misconduct.

CSU Bakersfield takes allegations of sexual misconduct very seriously. Complaints alleging sexual misconduct, including domestic and dating violence, stalking, sexual assault and rape will be addressed in a timely and appropriate manner. If the complaints are substantiated, CSU Bakersfield will promptly take actions to prevent reoccurrence and remedy the effects.

The booklet provides you with information on reporting, finding the support you need on and off campus, as well as other resources. If you have any questions or concerns, please contact ccatota@csub.edu or (661) 654-2137.

Sincerely,

Claudia Catota
Assistant to the President for Equity, Inclusion, and Compliance
Title IX Coordinator

Rubicelia Alvarez
Director, Office of Student Rights & Responsibilities
Deputy Title IX Coordinator for Student Conduct

Cindy Goodmon
Sr. Associate Athletic Director for Internal Operations/
Senior Women’s Administrator
Deputy Title IX Coordinator for Athletics

MaxJulian Ham
Assistant Director of Residential Life
Deputy Title IX Coordinator for Housing
The University is committed to creating and sustaining an educational and working environment free of sexual misconduct, dating and domestic violence, and stalking. If you experience any of these forms of misconduct, you are strongly encouraged to utilize the various on and off campus resources described below. Your safety and well-being is the University's priority. This publication is intended to help you understand your rights and options, as well as provide you with information regarding support and assistance.

WHAT SHOULD I DO?

**Call 9-1-1 if you are in the midst of any kind of emergency, immediate harm or threat of harm.**

If you have experienced sexual misconduct (e.g., rape, acquaintance rape, or sexual battery), dating or domestic violence, or stalking, you are encouraged to seek immediate assistance from police and healthcare providers for your physical safety, emotional support and medical care.

University police can escort 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 Victim’s Advocate. If you would prefer not to notify the 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, and/or the Campus Sexual Assault Victim’s Advocate. The campus Title IX Coordinator is available to assist you in notifying the police, if you wish. The Sexual Assault Victim’s Advocate listed below can also assist you in notifying the police and/or the campus Title IX Coordinator.

You have the right to decide whom and when to tell about what happened. However, it is very important that you get confidential medical attention after being assaulted. Following the incident, you may be physically injured, there may be a chance you contracted a sexually transmitted disease or that you may become pregnant.

WHOM SHOULD I CONTACT?

The University has designated a Title IX Coordinator to provide you with assistance and support, and to monitor and oversee overall compliance with laws and policies related to sexual misconduct, dating and domestic violence, and stalking. Your Campus Title IX Coordinator is available to explain and discuss your right to file a criminal complaint; 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.

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1 As required by the Violence Against Women Reauthorization Act of 2013 (20 U.S.C. 1092(f))(VAWA), pursuant to its Campus Sexual Violence Elimination Act provision (Campus SaVE Act) and related laws and regulations.

2 Terms contained within this Notice are intended to be gender neutral.
If you have been sexually assaulted, you are not alone, you are not to blame, and there are many resources to help you.

**Claudia Catota, Title IX Coordinator**  
Office of the President, BDC 33 | Office Hours: M– F 8AM – 5PM  
Email: Ccatota@csub.edu | Phone: (661) 654 – 2137

**Rubicelia (Ruby) Alvarez, Deputy Title IX Coordinator for Student Conduct**  
Office of the Vice President for Student Affairs, CAF 1-7  
Office Hours: M-F, 8AM-5PM  
Email: Ralvarez9@csub.edu | Phone: (661) 654 – 2680

**Cindy Goodmon, Deputy Title IX Coordinator for Athletics**  
Athletics, GYM 113 | Office Hours: M-F, 8AM – 5PM  
Email: Cgoodmon@csub.edu | Phone: (661) 654 – 2346

**MaxJulian Ham, Deputy Title IX Coordinator for Housing**  
Student Housing East, 151J | Office Hours: M-F, 8AM – 5PM  
Email: Mham@csub.edu | Phone: (661) 654 – 3013

**University Police Department**  
Building #60 – Roadrunner Dr. | Phone (661) 654 – 2677  
Emergency: (661) 654 – 2111 or 911 | www.csub.edu/bas/police/index.html

**Bakersfield Police Department**  
Phone: (661) 327 7111 | Emergency: 911  
1601 Truxtun Ave., Bakersfield, CA 93301  
www.bakersfieldcity.us/gov/depts/police/

**Vanessa Corona, Campus Advocate**  
Student Housing West, Rohan Hall, Room 102 | Phone: (661) 654 – 6210  
Email: advocate@csub.edu | www.csub.edu/compliance/title ix/Campus Advocate/

**U.S Department of Education, Office for Civil Rights**  
Phone: (800) 421 – 3481 | 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**  
www.notalone.gov/
Medical & Counseling Services

Campus Services

Student Health Services | Student Health Center
Phone: (661) 654 – 2394 | Hours: 8AM – 5PM
www.csub.edu/healthcenter/studenthealthservices/

Counseling Center
Located in the Student | Hours: 8AM – 5PM
Phone: (661) 654 – 3366 | www.csub.edu/counselingcenter/

Employee Assistance Program (EAP) | Human Resources
Administration Building Room 104 | Hours: 8AM – 5PM
Phone: (661) 654 – 2266 | https://www.csub.edu/bas/hr/benefits/EAP/index.html

Off Campus Services

Alliance Against Family Violence & Sexual Assault | Phone: (661) 322 – 0931
1921 19th Street, Bakersfield, CA 93301
24 Hour Crisis Line | (661) 327 – 1091
LGBTQ+ Crisis Hotline | (661) 332 – 1506
www.kernalliance.org

Kern County Mental Health
Crisis Stabilization Unit | (661) 868 – 8000
THE IMPORTANCE OF PRESERVING EVIDENCE

It is important that you take steps to preserve and collect evidence; doing so preserves the full range of options available to you, be it through the University's administrative complaint procedures or criminal prosecution. To preserve evidence: (1) do not wash your face or hands; (2) do not shower or bathe; (3) do not brush your teeth; (4) do not change clothes or other items that were present during the assault, or use the restroom; and (6) seek a medical exam immediately. If you already cleaned up from the assault, you can still report the crime, as well as seek medical or counseling treatment. You may consult with the campus Title IX Coordinator or a local sexual assault victim resource center (see contact information above) for assistance as well.

WHAT REPORTING OPTIONS DO I HAVE?

The University's primary concern is your safety and the safety of the campus community. The use of alcohol or drugs never makes the victim at fault for sexual violence. If you have experienced sexual violence, you should not be deterred from reporting the incident out of a concern that you might be disciplined for related violations of drug, alcohol, or other University policies. Except in extreme circumstances, University students or employees who are victims of sexual violence will not be subject to discipline.

You have several reporting options, and you may pursue one or all of those options at any time. It is your right to have a friend, family member, sexual assault advocate, or other representative present with you while reporting the incident. You also have the right to have a sexual assault counselor and support person of your choice present with you during a rape examination.

The campus Title IX Coordinator can assist you in notifying the police if you choose:

**Criminal:** Reporting to University Police and/or local police is an option at any time. If you choose not to report to the police immediately following a sexual violence incident, 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, who will provide you with written and verbal information regarding applicable University complaint procedures for investigating and addressing the incident. The Title IX Coordinator will also provide you with information regarding resources available to you, as well as information regarding your rights and options. Contact information for the Title IX Coordinator is listed above.
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 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 the parties involved in the reported incident. 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 policy\(^3\) prohibiting sexual violence was violated, the accused 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. 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 physical violence, sexual violence, 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.

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\(^3\) 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).
We encourage victims of 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. Thirdly, 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.

Physicians, Psychotherapists, Professional Counselors and Clergy\(^4\) – 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:

\(^4\) Cal. Evid. Code § 990 et seq., § 1010 et seq., and § 1030 et seq.
Sexual Assault and Domestic Violence Counselors and Advocates $5$ – 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 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:

**Campus Advocate**
Vanessa Corona  
Student Housing West, Rohan Hall  
advocate@csub.edu  
(661) 654-6210  
www.csub.edu/compliance/title ix/Campus Advocate/

**Alliance Against family Violence & Sexual Assault**  
1921 19th Street  
Bakersfield, CA 93301  
(661) 322-0931  
24 Hour Crisis Line (661) 327-1091  
www.kernalliance.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.

$5$ Cal. Evid. Code § 1035 et seq. and § 1037 et seq.
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). 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. 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; or (2) to the court if compelled by court order or subpoena in a criminal proceeding related to the Sexual Violence incident. If applicable, these professionals will explain this limited exception to you.

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Footnotes:

6 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.

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


REPORTING TO THE 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 confidentiality is requested. 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, we strongly encourage victims to report sexual violence directly to the Title IX Coordinator.

As detailed above, all University employees except physicians, licensed counselors, 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 employee 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 you and other individuals in the campus community. While such information is considered confidential, University policy regarding access

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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 our identity and privacy and the privacy of other involved individuals.

The Title IX Coordinator can be reached at:

**Claudia Catota**  
Office of the President  
9001 Stockdale Hwy, Bakersfield, CA 93311  
(661) 654-2137 | ccatota@csub.edu  
Available Monday - Friday | 8AM - 5PM

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 maintain confidentiality 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.

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.

However, the identity of the person who reports and the report itself are confidential and disclosed only among appropriate agencies.

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 sexual violence occurred; increased education, training and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revising its 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.

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11 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).

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

13 Cal. Penal Code § 11167(d).
As a Reporter, Am I Protected from Retaliation?

Yes, University policies prohibit retaliation against a person who:

- Reports sexual violence;
- Assists someone with a sexual violence; or
- Participates in any manner in an investigation or resolution of a sexual violence complaint.

No officer, employee or agent of the University shall retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual for exercising his/her rights or responsibilities. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment or education. Retaliation, if proven, is a violation of University policies and may result in discipline, up to and including termination of employment or expulsion from the University.

What Else Might Happen if I Notify Police?

Should you choose to notify University Police, you will be escorted to a safe place if necessary, and may be transported to a hospital or sexual response assault center for a medical exam. University police can also provide access to a confidential sexual assault advocate, if desired. First and foremost, the medical exam you receive from a hospital or sexual assault response center treats any physical injury or effect. The exam may include a vaginal and/or anal examination, testing, and prophylactic treatment for sexually transmitted infections and possible pregnancy.

Second, the medical exam properly collects and preserves evidence. Seeking a medical exam for treatment and evidence collection does not commit you to any particular course of action, and your medical records are confidential.

What CSU Procedures Are Available?

The University has formal written procedures that provide for a campus investigation of reports of sexual violence, written findings sent to the accuser and the accused, and a review of the campus investigative findings by the CSU Chancellor’s Office. The procedure for CSU employees and third parties is separate from, but similar to the procedure for CSU students. Your campus Title IX Coordinator can explain these procedures in detail.

At the conclusion of the University’s complaint procedure, any employee or student found to have violated University policy against sexual violence will be subject to discipline. Discipline would be administered consistent with applicable collective bargaining agreements (for employees), University policies and legal requirements.
As the victim, you are not required to participate in any University disciplinary procedure and may choose not to be a part of it. Disciplinary procedures for sexual violence will:

- Provide a prompt, fair, and impartial process and resolution;
- Be conducted by officials who receive annual training on sexual violence and how to conduct a hearing process that protects the safety of victims and promotes accountability;
- Provide the accuser and the accused the same opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice;
- Simultaneously inform the accuser and the accused in writing of:
  - The outcome of the disciplinary proceedings;
- Simultaneously inform the accuser and the accused in writing of:
  - The outcome of the disciplinary proceedings;
  - 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.

WHAT ARE SEXUAL VIOLENCE, DATING AND DOMESTIC VIOLENCE, STALKING AND CONSENT?

Sexual Misconduct: All sexual activity between members of the CSU community must be based on affirmative consent. Engaging in any sexual activity without first obtaining affirmative consent to the specific activity is sexual misconduct, whether or not the conduct violates any civil or criminal law. Sexual activity includes, but is not limited to, kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex. It also includes any unwelcome physical sexual acts, such as unwelcome sexual touching, sexual assault, sexual battery, rape, and dating violence. When it is based on gender, domestic violence and stalking also constitute sexual misconduct. Sexual Misconduct 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 misconduct. Sexual activity with a minor is never consensual when the Complainant is under 18 years old, because the minor is considered incapable of giving legal consent due to age.
a. **Sexual Assault** is a form of sexual misconduct 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\textsuperscript{14}.

b. **Sexual Battery** is a form of sexual misconduct and is any willful and unlawful use of force or violence upon the person of another because of that person’s gender or sex as well as touching an intimate part of another person against that person’s will and for the purpose of sexual arousal, gratification, or abuse.

c. **Rape** is a form of sexual misconduct 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 Respondent’s relationship to the person.

d. **Acquaintance Rape** is a form of Sexual Misconduct 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).

**Affirmative Consent** means an informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean affirmative consent, nor does silence mean affirmative consent. Affirmative consent must be voluntary, and given without coercion, force, threats, or intimidation.

\textsuperscript{14}Executive Order 1096 (Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and Procedure for Handling Discrimination, Harassment and Retaliation Allegations 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); Executive Order 1095 (Implementation of Title IX, the Campus SaVE Act, and Related Sex Discrimination, Sexual Harassment and Sexual Violence Legislation)
The existence of a dating or social relationship between those involved, or the fact of past sexual activities between them, should never by itself be assumed to be an indicator of affirmative consent. A request for someone to use a condom or birth control does not, in and of itself, constitute affirmative consent.

Affirmative 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 given to sexual activity on one occasion does not constitute consent on another occasion. There must always be mutual and affirmative consent to engage in sexual activity. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time, including after penetration. Once affirmative consent is withdrawn or revoked, the sexual activity must stop immediately.

Affirmative consent cannot be given by a person who is incapacitated. A person is unable to consent when s/he is asleep, unconscious, or is incapacitated due to the influence of drugs, alcohol or medication so that s/he could not understand the fact, nature, or extent of the sexual activity. A person is incapacitated if s/he lacks the physical and/or mental ability to make informed, rational decisions.

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 ability, awareness of consequences, and ability to make informed judgments. Intoxication or incapacitation from drugs or alcohol does not diminish a person’s responsibility to obtain affirmative consent before engaging in sexual activity.

A person with a medical or mental disability may also lack the capacity to give consent.

Sexual activity with a minor (a person under 18 years old) is never consensual, because a minor is considered incapable of giving consent due to age.

It shall not be a valid excuse that a person affirmatively consented to the sexual activity if the Respondent knew or reasonably should have known that the person was unable to consent to the sexual activity under any of the following circumstances:

- The person was asleep or unconscious;
- The person was incapacitated due to the influence of drugs, alcohol, or medication, so that the person could not understand the fact, nature, or extent of the sexual activity;
- The person was unable to communicate due to a mental or physical condition.

It shall not be a valid excuse to alleged lack of Affirmative Consent that the Respondent believed that the person consented to the sexual activity under either of the following circumstances:

- The Respondent’s belief in Affirmative Consent arose from the intoxication or recklessness of the Respondent;
- The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the person affirmatively consented to the sexual activity.