



# INSTITUTIONAL EQUITY & COMPLIANCE OVERVIEW

California State University, San Bernardino

<https://csusb.edu/institutional-equity-compliance>

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## Institutional Equity & Compliance

### OVERVIEW

The office of Institutional Equity & Compliance oversees the Title IX responsibilities, Discrimination, Harassment, Retaliation and Whistleblower on campus. Including the *Training to End Sexual Violence*, which is mandatory for every student once per academic year. Title IX is government legislation from the Department of Education's Office of Civil Rights.

#### **Notice of Non-Discrimination on the Basis of Gender or Sex**

The California State University does not discriminate on the basis of gender, which includes sex and gender identity or gender expression, or sexual orientation, in its education programs or activities.

Title IX of the Education Amendments of 1972, and certain other federal and state laws, prohibit discrimination on the basis of gender or sexual orientation in employment, as well as in all education programs and activities operated by the University (both on and off campus), including admissions. The protection against discrimination on the basis of gender or sexual orientation includes sexual harassment, sexual misconduct, sexual exploitation, dating and domestic violence, and stalking. Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to have experienced the conduct that could constitute sex discrimination or sexual harassment), in-person, by mail, by telephone, or by electronic mail, using the contact information listed below for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator. The following person has been designated to handle inquiries regarding the non-discrimination Policies and Title IX complaints for California State University of San Bernardino:

#### **Title IX Coordinator:**

***Steven Vasquez***

Executive Director

Institutional Equity & Compliance

5500 University Pkwy, Sierra Hall - 131

San Bernardino, CA 92407

Telephone: (909)537-5669 Email: [steven.vasquez@csusb.edu](mailto:steven.vasquez@csusb.edu)

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

Institutional Equity & Compliance implements the CSU protocol regarding DHR, Title IX & Whistleblower by:

- 1) upholding the university's obligation to respond to or investigate discrimination, harassment, retaliation, sexual misconduct, gender harassment and sexual violence
- 2) following CSU policies and complaint procedures
- 3) working with designated CSUSB personnel;
- 4) offering resources and remedies for victims; and
- 5) providing education, raising awareness, and offering training for the campus at large.

A campus administrative investigation of complaints or allegations of sexual misconduct utilizes [CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation \(Nondiscrimination Policy\)](#), and certain federal laws (The Violence Against Women Reauthorization Act (VAWA) and the Campus SaVE Act) and state laws (Senate Bill No. 967).

Any acts of criminal sexual activity and incidents of sexual violence, such as sexual assault, sexual coercion and dating or domestic violence should be reported immediately by dialing **9-1-1** or contacting University Police at 909.537.7777. The Title IX Coordinator will work with the police on cases which are reported to them. A campus administrative investigation may occur concurrently with a criminal investigation.

### **What to Report**

All allegations of Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation, which are made against staff, faculty, students, applicants or other Third Parties associated with the campus. The Title IX Coordinator will discuss the situation and explain the campus process, including what complaint procedures are available. ***If you would like to submit a complaint, or a concern, go to our [website](#) and click on the "File a report here" button on the right hand navigation***, or you may email us for a hard copy of the report form to [iec@csusb.edu](mailto:iec@csusb.edu), or call us at 909.537.5669.

Additionally, if you have any questions, need clarification, need resources, on **or** off campus (listed below, as well as on our [Resources page](#)).

### **Other Assistance, Questions or Concerns**

#### **Campus Advocate**

***Claudia Ochoa, Advocate***

Survivor Advocacy Services

5500 University Pkwy., HC – 164

San Bernardino, CA 92407

Phone: 909.537.7354

Email: [Claudia.Ochoa@csusb.edu](mailto:Claudia.Ochoa@csusb.edu)

Website: <https://www.csusb.edu/survivor-advocacy-services>

24/7 Counseling website: <https://www.csusb.edu/caps>

## **University Police**

### ***University Police Department***

California State University, San Bernardino

5500 University Parkway San Bernardino, CA 92407

Email: [policerecords@csusb.edu](mailto:policerecords@csusb.edu) (additional information & services)

Website: <https://www.csusb.edu/police>

9-1-1 Emergencies; Non-emergencies 909.537.7777 (TTY available)

## **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**

Phone: 415.486.5555 or [ocr.sanfrancisco@ed.gov](mailto:ocr.sanfrancisco@ed.gov)

If you wish to fill out a complaint form online with the OCR, you may do so here: <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

## **Training to End Sexual Violence**

All California State University, San Bernardino students are required to complete mandatory *Training to End Sexual Violence*--one training per academic year. Federal and state laws and the CSU Chancellor's Office Executive Orders mandate this yearly training for *all* students (including *online* students, *graduating* students and *employees* who are also enrolled students).

Completing online training before a deadline each year (updated on our website, on the [Training Page](#)) will ensure a smooth registration process for the following term. After the deadline, a registration hold will be placed on the student's account until the Training is completed.



**Online training program**, "Not Anymore" -- for login instructions and more information, visit our [Training Page](#).

### **Status Link**

There is a link in myCoyote Home, called "My Status," then "Training Status" to check the status for the *Training to End Sexual Violence* for each academic year. Students can look under the Academic Year column and find the current year to review their record at any time.

**Additional Questions** - Please visit our [FAQ](#) page or email [iec@csusb.edu](mailto:iec@csusb.edu).

## Disability

The California State University does not discriminate on the basis of disability in its programs and activities, including admission and access. Federal and state laws, including sections 504 and 508 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, prohibit such discrimination. Jeanne Durr, Interim Executive Director, Title IX Coordinator & DHR Administrator, has been designated to coordinate the efforts of CSUSB to comply with all applicable federal and state laws prohibiting discrimination on the basis of disability. Inquiries concerning compliance may be presented to this person at Institutional Equity & Compliance, Sierra Hall, Room 131, (909) 537-5669. [CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation \(Nondiscrimination Policy\)](#) Revised 1/22/2023, is the systemwide procedure for all complaints of discrimination, harassment or retaliation, sexual misconduct, dating and domestic violence, and stalking **made by students** against the CSU, a CSU employee, other CSU students or a Third Party.

## Sex/Gender/Gender Identity/Gender Expression/Sexual Orientation

The California State University does not discriminate on the basis of gender, which includes sex and gender identity or expression, or sexual orientation in its programs and activities, including admission and access. Federal and state laws, including Title IX of the Education Amendments of 1972, prohibit such discrimination. Jeanne Durr, Interim Executive Director for Institutional Equity & Compliance and Title IX Coordinator has been designated to coordinate the efforts of CSUSB to comply with all applicable federal and state laws prohibiting discrimination on these bases. Inquiries concerning compliance may be presented to the Office of Institutional Equity & Compliance via email at [iec@csusb.edu](mailto:iec@csusb.edu) or call (909) 537-5669. The California State University is committed to providing equal opportunities to male and female CSU students in all campus programs, including intercollegiate athletics (both on *and* off campus).

## Requirements

Title IX requires the university to adopt and publish complaint procedures that provide for prompt and equitable resolution of sex discrimination complaints, including sexual harassment and violence, as well as provide training, education and preventive measures related to sex-discrimination. [CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation \(Nondiscrimination Policy\)](#) Revised 1/22/23, is the systemwide procedure for all complaints of discrimination, harassment or retaliation, sexual misconduct, dating and domestic violence, and stalking **made by students** against the CSU, a CSU employee, other CSU students or a Third Party.

Except in the case of a privilege recognized under California law (examples of which include Evidence Code §§1014 (psychotherapist-patient); 1035.8 (sexual assault counselor-victim); and 1037.5 (domestic violence counselor-victim), any member of the University community who knows of or has reason to know of sexual discrimination allegations shall promptly inform the

campus Title IX Coordinator. (See confidential reporting options outlined below.) Regardless of whether an alleged victim of sexual discrimination ultimately files a complaint, if the campus knows or has reason to know about possible sexual discrimination, harassment or violence, it must review the matter to determine if an investigation is warranted. The campus must then take appropriate steps to eliminate any sex discrimination/harassment, prevent its recurrence, and remedy its effects.

### **Safety of the Campus Community is Primary**

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 misconduct/sexual assault. If you have experienced sexual misconduct/sexual assault, sexual exploitation, dating or domestic violence, or stalking 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. A person who participates in investigations or proceedings involving sexual misconduct/sexual assault will not be subject to discipline for related violations of the Student Conduct Code or other University policies at or near the time of the incident unless the University determines the conduct places the health and safety of another person at risk or is otherwise egregious.

### **Information Regarding Campus, Criminal and Civil Consequences of Committing Acts of Sexual Violence**

Individuals alleged to have committed sexual assault 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 at the university. Employees may face sanctions up to and including dismissal from employment, pursuant to established CSU policies and provisions of applicable collective bargaining unit agreements.

Students who are charged by the university with sexual discrimination, harassment or violence will be subject to discipline, pursuant to the California State University Student Conduct Procedures (see [CSU Executive Order 1098, Revised 8-14-2020](#) or any successor Executive Order) and will be subject to appropriate sanctions. In addition, during any investigation, the university may implement interim measures in order to maintain a safe and non-discriminatory educational environment. Such measures may include: immediate interim suspension from the university; a required move from university-owned or affiliated housing; adjustments to course schedule; and/or prohibition from contact with parties involved in the alleged incident.

### **Confidentiality and Sexual Violence, Dating Violence, Domestic Violence and Stalking**

The University encourages victims of sexual violence, dating violence, domestic violence, or stalking (collectively Sexual Violence) to talk to someone about what happened – so they can get the support they 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. The following information is intended to make victims aware of the various reporting and

confidential disclosure options available to them – so they can make informed choices about where to turn for help. The University strongly encourages victims to talk to someone identified in one or more of these groups. Certain University employees, listed below, are required by law to maintain near or complete confidentiality; talking to them is sometimes called a “privileged communication.” University law enforcement employees may maintain the victim’s identity as confidential, if requested by the victim, but will report the facts of the incident to the Title IX Coordinator, including the identity of the perpetrator. Most other University employees are required to report all details of a Sexual Violence incident (including the identities of both the victim and alleged perpetrator) to the Title IX Coordinator so the University can take immediate action to protect the victim, and take steps to correct and eliminate the cause of Sexual Violence. University Police, the Title IX Coordinator, University-employed physicians, professional counselors, sexual assault and domestic violence counselors and advocates, and certain other University employees are required to explain to victims their rights and options with respect to confidentiality.

### **Privileged and Confidential Communications**

*Physicians, Psychotherapists, Professional Counselors and Clergy* – 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 the victim’s consent. A victim can seek assistance and support from physicians, psychotherapists, professional, licensed counselors, and clergy without triggering a University investigation that could reveal the victim’s identity or the fact of the victim’s 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 victims, if applicable.*

*Sexual Assault and Domestic Violence Counselors and Advocates* – 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 a victim without revealing any information about the victim and the incident of sexual violence to anyone else at the University, including the Title IX Coordinator, without the victim’s consent. A victim can seek assistance and support from these counselors and advocates without triggering a University investigation that could reveal his/her identity or that a victim 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 victims, if applicable.*

The University will be unable to conduct an investigation into a particular incident or pursue disciplinary action against a perpetrator if a victim chooses to (1) speak only to a physician, professional counselor, clergy member, sexual assault counselor, domestic violence counselor or advocate; and (2) maintain complete confidentiality. Even so, these individuals will assist victims in receiving other necessary protection and support, such as victim advocacy, disability, medical/health or mental health services, or legal services, and will advise victims regarding their right to file a Title IX complaint with the University and a separate complaint with local or University police. If a victim insists on confidentiality, such professionals, counselors and advocates will likely not be able to assist the victim with: University academic support or accommodations; changes to University-based living or working schedules; or adjustments to course schedules. 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 victims with that assistance if requested by the victim. 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 victims, 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 victims, 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 victims.

### **Reporting to University or Local Police**

If a victim reports to local or University Police about sexual violence, the police are required



to notify victims that their names will become a matter of public record **unless confidentiality is requested**. If a victim requests that his/her identity be kept confidential, his/her name will not become a matter of public record and the police will not report the victim's 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 victim names/identities 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, victim names/identities will not be revealed.

### **Reporting to the Title IX Coordinator and Other University Employees**

Most University employees have a duty to report disclosed incidents of sexual misconduct/sexual assault, sexual exploitation, dating and domestic violence, and stalking when they are on notice of it. When you tell the Title IX Coordinator or another campus employee about an incident, you have the right to expect the campus 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 misconduct/sexual assault, sexual exploitation, dating and domestic violence, and stalking directly to the Title IX Coordinator.

As detailed above, all University employees except physicians, licensed counselors, sexual assault victim's advocates must report to the Title IX Coordinator all relevant details about incidents of which they become aware. The campus will need to determine what happened – and will need to know the names of the victim(s) and the alleged 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 campus' response to the incident. Any Supportive Measures will remain confidential except when it is not possible to maintain confidentiality in order to provide the Supportive Measures. The campus will protect the privacy of individuals involved except as otherwise required by law or University policy.

A 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 to public records and disclosure of personal information may require disclosure of certain information concerning a reported incident. In such cases, efforts will be made to redact the records, as appropriate, in order to protect your identity and privacy and the privacy of other involved individuals.

### **Myths and Facts about Sexual Misconduct/Sexual Assault**

## Common Myths and Facts about the Causes of Sexual Misconduct/Sexual Assault

- 1) **Myth:** Individuals provoke Sexual Misconduct/Sexual Assault<sup>1</sup> by the way they dress or when they act in a promiscuous manner.

**Fact:** Sexual Misconduct/Sexual Assault is **never** the fault of the victim. Sexual Misconduct/Sexual Assault is an act of violence and control that stems from a person's determination to exercise power over another. Neither the way a person dresses nor their previous sexual behavior with anyone are invitations for sexual activity. Engaging in sexual activity with another person without that person's Affirmative Consent is Sexual Assault, regardless of the way that person dresses or acts.

- 2) **Myth:** If a person goes to a bar or back to someone's room or house, they assume the risk of Sexual Misconduct/Sexual Assault. If something happens later, they can't claim that they were raped or sexually assaulted because they should have known not to go to those places.

**Fact:** This idea of an "assumption of risk" wrongfully places the responsibility of the offender's action with the victim. Engaging in sexual activity with another person without that person's Affirmative Consent is Sexual Misconduct/Sexual Assault, regardless of where it happens. Even if a person went voluntarily to someone's home or room and consented to engage in some sexual activity, this does not serve as Affirmative Consent for all sexual activity. CSU policy defines Sexual Misconduct to include any sexual activity without Affirmative Consent. Affirmative Consent means informed, affirmative, voluntary, and mutual agreement to engage in sexual activity. Each person involved is responsible to ensure that they have the Affirmative Consent of the other participant(s). When in doubt if the person is comfortable with sexual activity, or a different form of sexual activity, stop and ask.

- 3) **Myth:** It is not Sexual Misconduct/Sexual Assault 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 them; others choose to take advantage of the situation and sexually assault them because they are 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 Misconduct/Sexual Assaults are committed by strangers. It's not rape if the people involved know each other.

**Fact:** Most Sexual Assaults are committed by someone the victim knows. A Department of Justice study found that eight out of ten rapes are committed by someone known to the victim.<sup>2</sup> Most often, an intimate partner or former intimate partner, classmate, friend, acquaintance, or co-worker sexually victimized the person.

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

**Fact:** Sexual Misconduct/Sexual Assault can occur at any time, in many places, to anyone. As noted in Myth 4 above, most Sexual Assaults are committed not by strangers, but by someone known to the victim. The majority of Sexual Assaults occur at or near the victim's home.

6) **Myth:** A person who has really experienced Sexual Misconduct/Sexual Assault will be hysterical.

**Fact:** A person who has experienced Sexual Misconduct/Sexual Assault may 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 person “should act” may be detrimental because each person copes in different ways.

7) **Myth:** A person who has experienced Sexual Misconduct/Sexual Assault 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 person 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 incident does not mean it did not happen.

8) **Myth:** Only heterosexual women are assaulted.

**Fact:** Sexual violence affects people of every gender identity and sexual orientation. While women and girls experience sexual violence at high rates, men and boys also experience sexual assault. Transgender and nonbinary individuals experience high rates of sexual violence. It is important to remember that Sexual Misconduct/Sexual Assault can occur in heterosexual and same-gender relationships. Assumptions about the “typical” victim might lead others not to report the assault because they do not fit the stereotypical victim profile.

9) **Myth:** It's only Sexual Misconduct/Sexual Assault if the victim puts up a fight and resists.

**Fact:** There are a number of reasons why a person who is sexually assaulted may not resist. They may experience an involuntary response to what is happening that physically prevents them from resisting or moving (sometimes called “tonic

immobility”). A person may also fear that if they resist, 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 Misconduct/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 responsible, criminally or otherwise, for a Sexual Assault.

### **What You Can Do to Help Stop Sexual Misconduct**

- Sexual contact requires mutual and Affirmative Consent. An incapacitated person (for example, a person under the influence of 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 Assault, Domestic Violence, Dating Violence, Stalking or any other form of Sexual Misconduct or 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 Misconduct, Domestic Violence, Dating Violence, and Stalking with friends—speak out against non-consensual sex or violence and clear up misconceptions.
- Don’t mistake submission or silence for Affirmative Consent.

### **What You Can Do to Help 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/visit the campus Sexual Assault Victim's Advocate
- Call a Domestic Violence, Sexual Assault 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.

### **Sexual Misconduct - Risk Reduction Tips**

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 based on Gender, Domestic Violence and Stalking also constitute Sexual Misconduct. Sexual Misconduct may include using 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) to engage in sexual activity.

Men as well as women can be victims of these forms of Sexual Misconduct. Sexual activity with a minor is never consensual when a person is under 18 years old, because a minor 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 Misconduct?”***

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 Misconduct are responsible for those actions, these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act:

- 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 Misconduct?”***

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 timeline 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.

### **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, no matter how slight, of the vagina or anus with any part or object,
  - oral copulation of a sex organ by another person.
- Sexual Misconduct includes, but is not limited to, the following conduct:
  - an attempt, coupled with the ability, to commit a violent injury on the person of another because of that person's Gender or Sex,
  - the intentional touching of another person's intimate body parts without Affirmative Consent,
  - intentionally causing a person to touch the intimate body parts of another without Affirmative Consent,
  - using a person's own intimate body part to intentionally touch another person's body without Affirmative Consent,

- any unwelcome physical sexual acts, such as unwelcome sexual touching,
- using physical force, violence, threat, or intimidation to engage in sexual activity,
- ignoring the objections of the other person to engage in sexual activity,
- causing the other person's incapacitation through the use of drugs or alcohol to engage in sexual activity,
- taking advantage of the other person's incapacitation to engage in sexual activity.
- Intimate body part means the sexual organ, anus, groin, buttocks, or breasts of any person.
- Sexual activity between a Minor (a person younger than 18 years old) and a person who is at least 18 and two years older than the Minor always constitutes Sexual Misconduct, even if there is Affirmative Consent to all sexual activity. The existence of Affirmative Consent and/or the type of sexual activity may be relevant to the determination of an appropriate Sanction.
- Persons of all Genders, Gender Identities, Gender Expressions, and Sexual Orientations can be victims of these forms of Sexual Misconduct. Sexual Misconduct can be committed by an individual known to the victim including a person the Complainant may have just met, i.e., at a party, introduced through a friend, or on a social networking website.

### **Affirmative Consent**

Affirmative Consent must be voluntary, and given without coercion, force, threats, or intimidation. It is the responsibility of each person involved in the sexual activity to ensure Affirmative Consent has been obtained from the other participant(s) prior to engaging in the sexual activity.

Affirmative Consent means an agreement to engage in sexual activity that is:

- Informed,
- Affirmative,
- Conscious,
- Voluntary, and
- Mutual.
- Lack of protest or resistance does not mean there is Affirmative Consent.
- Silence does not mean there is Affirmative Consent.
- 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, mean there is Affirmative Consent.
- Affirmative Consent can be withdrawn or revoked. Consent must be ongoing throughout a sexual activity and can be revoked at any time, including after sexual activity begins. Once consent is withdrawn or revoked, the sexual activity must stop immediately. Consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of



sexual activity. Consent given to sexual activity on one occasion does not constitute consent on another occasion.

### **Incapacitation**

Affirmative Consent cannot be given by a person who is incapacitated. A person is unable to consent when asleep, unconscious, or 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. A person is incapacitated if the person lacks the physical and/or mental ability to make informed, rational decisions. A person with a medical or mental disability may also lack the capacity to give 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 ability, awareness of consequences, and ability to make informed judgments. A person's own intoxication or incapacitation from drugs or alcohol does not diminish that person's responsibility to obtain Affirmative Consent before engaging in sexual activity.

Sexual activity with a minor (a person under 18 years old) is not 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 could not understand the fact, nature, or extent of the sexual activity, or was unable to communicate, due to a mental or physical condition
- It shall not be a valid excuse 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.

### **Sexual Harassment**

Sexual Harassment means unwelcome verbal, nonverbal or physical conduct of a sexual nature that includes, but is not limited to, sexual advances, requests for sexual favors, offering employment benefits or giving preferential treatment in exchange for sexual favors, or indecent exposure, and any other conduct of a sexual nature where:

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

- b. Submission to, or rejection of, the conduct by the Complainant is explicitly or implicitly used as the basis for any decision affecting a term or condition of the Complainant's employment, or an employment decision; or
- c. The 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 Complainant, and is in fact considered by the Complainant, as limiting their ability to participate in or benefit from the services, activities or opportunities offered by the university; or
- d. The 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 Complainant, and is in fact considered by the Complainant, as creating an intimidating, hostile or offensive environment.

Sexual Harassment could include being forced to engage in unwanted sexual contact as a condition of membership in a student organization or in exchange for a raise or promotion; being subjected to video exploitation or a campaign of sexually explicit graffiti; or frequently being exposed to unwanted images of a sexual nature in a work environment, or in a classroom where the images are unrelated to the coursework.

Claiming that the conduct was not motivated by sexual desire is not a defense to a complaint of Sexual Harassment.

Sexual and/or romantic relationships between members of the campus community may begin as consensual, and may develop into situations that lead to Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking subject to this Nondiscrimination Policy.

### **Sexual Exploitation**

Sexual Exploitation means a person taking sexual advantage of another person for the benefit of anyone other than that person without that person's consent, including, but not limited to, any of the following acts:

- a. The prostituting of another person.
- b. The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor of services, through force, fraud, or coercion.
- c. The recording of images, including video or photograph, or audio of another person's sexual activity or intimate parts, without that person's consent.
- d. The distribution of images, including video or photographs, or audio of another person's sexual activity or intimate parts, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to the disclosure.
- e. The viewing of another person's sexual activity or intimate parts, in a place where that other person would have a reasonable expectation of privacy, without that person's consent, for the purpose of arousing or gratifying sexual desire.

### **Dating Violence and Domestic Violence**

Dating Violence means physical violence or threat of physical violence committed by a person—

- a. who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
- b. where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - I. The length of the relationship.
  - II. The type of relationship.
  - III. The frequency of interaction between the persons involved in the relationship.

**Domestic Violence** means physical violence or threat of physical violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant.

**Physical violence** means physical conduct that intentionally or recklessly threatens the health and safety of the recipient of the behavior, including assault.

### **Stalking**

Stalking means engaging in a Course of Conduct directed at a specific person that would cause a reasonable person to fear for the safety of self or others' safety or to suffer Substantial Emotional Distress. For purposes of this definition:

- **Course of Conduct** means two or more acts, including but not limited to, acts in which one party directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about the other party, or interferes with the other party's property.
- **Substantial Emotional Distress** means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

### **Prohibited Consensual Relationships**

A Prohibited Consensual Relationship is a consensual sexual or romantic relationship between an Employee and any Student or Employee over whom they exercise direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority.

### **Retaliation**

Retaliation means that a substantial motivating reason for an Adverse Action taken against a person was because the person has or is believed to have:

- a. Exercised their rights under this Nondiscrimination Policy,
- b. Reported or opposed conduct which was reasonably and in good faith believed to be in violation of this Nondiscrimination Policy,
- c. Assisted or participated in an investigation/proceeding under this Nondiscrimination Policy,

- regardless of whether the Complaint was substantiated,
- d. Assisted someone in reporting or opposing a violation of this Nondiscrimination Policy or assisted someone in reporting or opposing Retaliation under this Nondiscrimination Policy.

**Adverse Action** means an action engaged in by the Respondent that has a substantial and material adverse effect on the Complainant's ability to participate in a university program, activity, or employment. Minor or trivial actions or conduct not reasonably likely to do more than anger or upset a Complainant does not constitute an Adverse Action.

Retaliation may occur whether or not there is a power or authority differential between the individuals involved.

### **Discrimination**

**Discrimination** is (an) **Adverse Action**(s) against a Complainant because of their Protected Status.

- a. Adverse Action means an action engaged in by the Respondent that has a substantial and material adverse effect on the Complainant's ability to participate in a university program, activity, or employment. Minor or trivial actions or conduct not reasonably likely to do more than anger or upset a Complainant does not constitute an Adverse Action. An adverse employment action is any conduct or employment action that is reasonably likely to impair an employee's job performance or prospects for advancement or promotion.
- b. If Adverse Action is taken because of a Complainant's Protected Status, that means that the Complainant's Protected Status is a substantial motivating reason (but not necessarily the only reason) for the Adverse Action.
- c. An allegation that an Employee is receiving unequal pay because of their Protected Status (for example, under the California Equal Pay Act) constitutes a Discrimination Complaint under this Nondiscrimination Policy.

### **Harassment**

Harassment means unwelcome verbal, nonverbal or physical conduct engaged in because of an individual Complainant's Protected Status. If a Complainant is harassed because of their Protected Status, that means that the Complainant's Protected Status is a substantial motivating reason (but not necessarily the only reason) for the conduct.

Harassment may occur when:

- a. Submitting to, or rejecting, the verbal, nonverbal or physical conduct is explicitly or implicitly a basis for:
  - i. Decisions that adversely affect or threaten employment, or which are being presented as a term or condition of the Complainant's employment; or
  - ii. Decisions that affect or threaten the Complainant's academic status or progress, or access to benefits and services, honors, programs, or activities available at or through the university.

**OR**

- b. The conduct is sufficiently severe or pervasive so that its effect, whether intended or not, could be considered by a reasonable person under similar circumstances and with similar identities, and is in fact considered by the Complainant as creating an intimidating, hostile or offensive work or educational environment that denies or substantially limits an individual's ability to participate in or benefit from employment and/or educational, services, activities, or other privileges provided by the CSU.

Harassment includes, but is not limited to, verbal harassment (e.g., epithets, derogatory comments, or slurs), physical harassment (e.g., assault, impeding or blocking movement, or any physical interference with normal work or movement), and visual forms of harassment (e.g., derogatory posters, cartoons, drawings, symbols, or gestures.). Single, isolated incidents will typically be insufficient to rise to the level of harassment.

### **On-Campus Services**

- Campus Advocate 909.537.5040; <https://www.csusb.edu/survivor-advocacy-services>
- Counseling and Psychological Services 24-Hour Hotline 909.537.5040; <https://www.csusb.edu/caps>; **for life threatening situations, call 9-1-1**
- Student Health Center 909.537.5241; <https://www.csusb.edu/student-health-center>
- Women’s Resource Center 909.537.7203; <https://www.csusb.edu/smsu/resources/womens-resource-center>
- Queer and Transgender Resource Center 909.537.5963; <https://www.csusb.edu/smsu/resources/queer-and-transgender-resource-center>
- University Ombuds Services 909.537.5635; <https://www.csusb.edu/ombuds>

### **Off-Campus Services**

- Partners Against Violence 24-Hour Crisis Hotlines 800.656.4673 or 909.885.8884; Main Office: 444 North Arrowhead Avenue, Suite 101, San Bernardino, CA 92401-1221
- Coachella Valley/Indio 760.568.9071; Morongo Basin/Yucca Valley 760.369.3353; Redlands 909.335.8777; High Desert 760.952.0041; Yucaipa 909.918.2314; <https://www.partnersagainstviolence.org/>
- Bureau of Victim Services, San Bernardino County District Attorney’s Office; provides services to victims and witnesses for help in the investigation of the case and prosecution of the offender; San Bernardino office: 303 West Third Street, 909.382.3846; Morongo office: 6527 White Feather Road, 760.366.5740.
- Riverside County Coalition for 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/home.html>

- 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>
- Rape Abuse & Incest National Network (RAINN), 800.656.HOPE (4673); [www.rainn.org](http://www.rainn.org)
- Riverside Area Rape Crisis Center (RARCC), 24-Hour Hotline 951.686.RAPE (7273) & Toll-Free 866.RAPE (7273); 1845 Chicago Avenue, Suite A, Riverside, CA 92507; <https://rarcc.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; <https://www.optionhouseinc.com>
- 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 (CALCASA), 916.446.2520; 1215 K. Street, Suite 1850, Sacramento, CA 95814; advocates and supports rape crisis centers on behalf of survivors, system's change, funding needs and policy advocacy; <http://www.calcasa.org>
- National Domestic Violence Hotline, 800.799.SAFE (7233); TTY For the Deaf 800.787.3224; <http://www.thehotline.org>
- Domestic and Family Violence, Office of Justice Programs, United States Department of Justice; <https://www.ojp.gov/feature/family-violence/overview>

- National Institute of Justice: Intimate Partner Violence, Office of Justice Programs, United States Department of Justice; <http://www.nij.gov/topics/crime/intimate-partner-violence/Pages/welcome.aspx>
- Office on Violence Against Women, United States Department of Justice; <https://www.justice.gov/ovw> (on-line chat available)
- Defending Childhood, United States Department of Justice; <https://www.justice.gov/archives/defendingchildhood>
- Center for Disease Control and Prevention: Intimate Partner Violence; <https://www.cdc.gov/ViolencePrevention/intimatepartnerviolence/index.html>
- Know Your Rights about Title IX: Title IX Prohibits Sexual Harassment and Sexual Violence Where You Go to School, Office for Civil Rights, U.S. Department of Education; <https://www2.ed.gov/about/offices/list/ocr/docs/title-ix-rights-201104.html>
- The Not Alone Report: White House Task Force to Protect Students from Sexual Assault; <https://www.justice.gov/archives/ovw/page/file/905942/download>