

NOTICE OF NON-DISCRIMINATION ON THE BASIS OF SEX

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

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

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

- Submission to, or rejection of, the conduct is explicitly or implicitly used as the basis for any decision affecting a student's academic status or progress, or access to benefits and services, honors, programs, or activities available at or through the University; or
- Such conduct is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the student, and is in fact considered by the student, as limiting the student's ability to participate in or benefit from the services, activities or opportunities offered by the University; or
- Submission to, or rejection of, the conduct by a University employee is explicitly or implicitly used as the basis for any decision affecting a term or condition of employment, or an employment decision or action; or
- Such conduct is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the University employee or third party, and is in fact considered by the University employee or third party, as intimidating, hostile or offensive.

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

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

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

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

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

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

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

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

- Consent must be voluntary, and given without coercion, force, threats, or intimidation.
- Consent requires positive cooperation in a particular sexual act, or expression of intent to engage in that sexual act through the exercise of free will.
- Consent can be withdrawn or revoked.
- Consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity (or other sexual acts).
- Consent to sexual activity given on one occasion does not constitute consent to sexual activity on another occasion. The fact that two people are or were in a dating or sexual relationship does not constitute consent to engage in sexual activity. There must always be mutual and affirmative consent to engage in sexual activity.
- Consent to a sexual act may be withdrawn or revoked at anytime, including after penetration. The victim's request for the perpetrator to use a condom or birth control does not, in and of itself, constitute consent. Once consent is withdrawn or revoked, the sexual activity must stop immediately.
- Consent cannot be given by a person who is incapacitated. For example, a person cannot give consent if s/he is unconscious or coming in and out of consciousness. A person is incapacitated if s/he lacks the physical and/or mental ability to make informed, rational judgments. Examples of incapacitation include unconsciousness, sleep and blackouts. Whether an intoxicated person (as a result of using alcohol or other drugs) is incapacitated depends on the extent to which the alcohol or other drugs impact the person's decision-making capacity, awareness of consequences, and ability to make fully informed judgments. A person with a medical or mental disability may also lack the capacity to give consent.
- Being intoxicated by drugs or alcohol does not diminish a person's responsibility to obtain consent from the other party before engaging in sexual activity. Factors to be considered include whether the person knew, or whether a reasonable person in the accused's position should have known, that the victim did not give, or revoked, consent; was incapacitated; or was otherwise incapable of giving consent.
- Sexual intercourse with a minor is never consensual when the victim is under 18 years old, because the victim is considered incapable of giving legal consent due to age.

Domestic Violence is a form of Sexual Violence and is abuse committed against someone who is a current or former spouse, current or former cohabitant, someone with whom the abuser has a child, someone with whom the abuser has or had a dating or engagement relationship, or a person similarly situated under California domestic or family violence law. Cohabitant means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine

whether persons are cohabiting include, but are not limited to (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.

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

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

Who to Contact If You Have Complaints, Questions or Concerns

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

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

If you have experienced Sexual Violence you are encouraged to seek immediate assistance from police and healthcare providers for your physical safety, emotional support and medical care. The campus Title IX Coordinator is available to assist you in notifying University police, if you wish. University police can escort you to a safe place and transport you to a hospital or a sexual assault response center for a medical examination, if needed. University police can also provide access to a confidential sexual assault advocate. If you would prefer not to notify University or local police, you are strongly encouraged to seek assistance from the campus Title IX Coordinator who can provide you with information on your options, rights and remedies.

Fresno State Title IX Coordinator: Janice A. Parten, AVP for Human Resources

Address: Joyal Administration 211

Email: jparten@csufresno.edu

Phone 278-2364

Monday - Friday 8am to 5pm, Closed during campus closure days

University Police: Lt. Jennifer Curwick

[Fresno State Police Department](#)

Address: 2311 East Barstow Ave. Fresno, CA 93740

Email: Jennifer_Curwick@csufresno.edu

Phone: 278-8400

Local Police: Sergeant Nina Jacobs

City of Fresno Police Department, Family Justice – Sex Crimes Unit

Address: 2323 Mariposa Street, Fresno, CA 93721

Phone: 621-7000

The FPD may be reached after hours in an emergency situation by calling 911.

U.S. Department of Education, Office for Civil Rights: (800) 421-3481 or ocr@ed.gov

If you wish to fill out a complaint form online with the OCR, you may do so at:

<http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

The White House Task Force to Protect Students from Sexual Assault: <https://www.notalone.gov/>

On Campus Medical & Counseling Services [University Health & Psychological Services](#)

Address: 5044 N. Barton Ave. Fresno, CA 93740

Phone: 278-2734 (Regular & After Hours Care)

Monday - Friday 7:00 – 3:15 pm, Closed during campus closure days

Off-Campus Services: Rape Counseling Services

Address: 259 N. Blackstone Ave., Fresno, CA 93701

Phone: 497-2900 (during business hours) and 222-7273 (24 Hour Crisis Hotline)

Office Hours: 9-5 M-F, but advocates are available 24/7 by calling the crisis line at 222-7273

Website: <http://www.rcsfresno.org>

Your Reporting Options

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

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

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

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

If it is determined that University policy⁹ prohibiting Sexual Violence was violated, the perpetrator will be subject to discipline, up to and including dismissal from University employment or expulsion from the University. You are entitled to be accompanied to any related meeting or proceeding by an advisor of your choice. However, if you do not wish to participate in an investigation or hearing process, you have the right to decline to do so.

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

Civil Lawsuit: You may choose to file a civil lawsuit against the perpetrator, whether or not criminal

charges have been filed. A civil lawsuit provides you the opportunity to recover actual damages, which may include compensation for medical expenses, lost wages, pain, suffering and emotional distress.

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

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