

CAMPUS SEXUAL HARASSMENT/MISCONDUCT:  
Response, Procedure and Resources Under

TITLE IX

Effective January 1, 2019  
[WWW.CSULB.EDU/TITLEIX](http://WWW.CSULB.EDU/TITLEIX)

## Equal Opportunity

In addition to meeting fully its obligations of nondiscrimination under federal and state law, CSULB is committed to creating a community in which a diverse population can live, learn and work in an atmosphere of tolerance, civility and respect for the rights and sensibilities of each individual without regard to economic status, ethnic background, veteran status, political views, sexual orientation or other personal characteristics or beliefs.

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## INTRODUCTION

Title IX of the Education Amendments Act of 1972 (20 U.S.C. § 1681) prohibits discrimination based on the gender of students and employees in educational institutions which receive federal financial assistance. Best known for requiring gender equity in collegiate athletics, Title IX broadly prohibits discrimination on the basis of sex in any education program or activity receiving federal financial assistance. Sexual violence is viewed under the law as an extreme form of hostile environment/sexual harassment and must be addressed. Title IX 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 federal financial assistance" (20 U.S.C. § 1681).

California State University, Long Beach (CSULB), in compliance with federal and state laws, does not discriminate on the basis of sex, sexual orientation, or gender in educational programs, services, or activities. For more information on Title IX, please visit: [www.csulb.edu/titleix](http://www.csulb.edu/titleix)

The University takes allegations of sexual assault very seriously. If a violation of University policies has been found, it is of the utmost importance that perpetrator(s) be held accountable for their actions, especially when their actions may affect others. Enclosed for your review is Executive Order 1097, the California State University's student complaint procedure that addresses complaints of sex discrimination, including sexual assault. Sexual violence is also defined as a criminal act. Please be advised, when a potential criminal act is reported, an individual has a right to file two possible complaints. For criminal acts, a student may file a police report in the jurisdiction where the crime was committed. In addition, the student has a right to file a separate complaint under the University's student complaint procedure (EO 1097) if the potential respondent is a CSULB student and/or university employee.

This publication provides you with the student complaint procedure as well as additional resources and information to receive support. Please note that the charts on pages 16-17 are provided as a general guide of the sexual misconduct reporting process and resources available at CSULB. It may not be representative of every individual case or outcome. Please contact us for questions regarding a specific situation. For further information regarding sexual assault, harassment, or other Title IX concerns, please contact your Title IX Coordinator.

## NOTICE OF NONDISCRIMINATION OF 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 expression, or sexual orientation in its education program or activities. Title IX of the Educational Amendment 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). The protection against discrimination on the basis of gender or sexual orientation includes sexual

harassment, sexual misconduct, and gender based dating and domestic violence and stalking. The following person has been designated to handle inquiries regarding the non-discrimination policies:

Larisa Hamada, Title IX Coordinator & DHR Administrator  
Assistant Vice President, Equity and, Equity and Diversity  
Foundation Building, Room 220 – [laris.hamada@csulb.edu](mailto:laris.hamada@csulb.edu) – (562) 985-8256

Cindy Masner, Athletics, Title IX compliance  
Barrett Athletic Center Office, Room 122 – [cindy.masner@csulb.edu](mailto:cindy.masner@csulb.edu) – (562) 985-8527

Questions may also be addressed to:

Office for Civil Rights  
U. S. Department of Education  
50 Beale Street, Suite 7200  
San Francisco, CA 94105-1813  
Telephone: (415) 486-5555  
FAX: (415) 486-5570 – TDD: (800) 977-8339  
Email: [ocr.sanfrancisco@ed.gov](mailto:ocr.sanfrancisco@ed.gov)

CSULB POLICY & PROCEDURE SUMMARY  
Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic  
Violence, & Stalking  
Equity & Diversity | 562.985.8256 | Foundation Building 220 | [www.csulb.edu/oed](http://www.csulb.edu/oed)

**TERMS & DEFINITIONS**

**Dating Violence:** Dating Violence 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 (Article VI, section K).

**Domestic Violence:** abuse committed against someone who is a current or former spouse; current or former cohabitant; someone with whom the Respondent has a child; someone with whom the Respondent has or had a dating or engagement relationship; or a person similarly situated under California domestic or family violence law (Article VI, section P).

**Discrimination:** Adverse Action taken based on Protected Status (Article VI, section O).

**Harassment:** unwelcome conduct, based on the Complainant's Protected Status, where submission to, or rejection of, the conduct is made a term or condition of the Complainant's employment, used as the basis or threatened to be used as the basis for employment actions or decision affecting the Complainant, or where the conduct is sufficiently severe 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 intimidating, hostile or offensive (Article VI, section T).

**Sexual Harassment:** unwelcome conduct, based on the Complainant's Protected Status, that 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 her/his ability to participate in or benefit from the services, activities or opportunities offered by the University (Article VI, section AH).

**Sexual Misconduct:** Any sexual activity without affirmative consent (Sexual Assault, Sexual Battery, Rape, Acquaintance Rape) (Article VI, section AI).

**Stalking:** Repeated course of conduct that would cause a reasonable person to fear for their own or others' safety or cause substantial emotional distress (Article VI, section AK).

**Preponderance of Evidence:** Standard for demonstrating facts in an investigation. This means that the evidence on one side outweighs the evidence on the other side (Article VI, section Z).

**Protected Status:** Age, Disability (physical or mental), Gender (or sex), Genetic Information, Gender Identity (including transgender), Gender Expression, Marital Status, Medical Condition, Nationality, Race or Ethnicity (including color or ancestry), Religion or Religious Creed, Sexual Orientation, and Veteran or Military Status (Article VI, section AA).

**Retaliation:** Adverse Action taken as a result of engaging in Protected Activity (Article VI, section AF).

<b>Filing a Complaint</b>	
<b>EARLY RESOLUTION PROCESS</b>	<b>FORMAL COMPLAINT PROCESS</b>
Complainants may choose to attempt an Early Resolution prior to, or instead of, filing a formal complaint.	Complainant must submit their Complaint in writing
Early Resolution can be terminated at anytime	60-90 working days for investigation and report (The complete complaint timeline is available as Attachment B of the Executive Order)
May take the form of a mediation or other negotiated remedies as appropriate	Complainant and Respondent can appeal outcome to Chancellor's Office
If Early Resolution is not reached, Complainant has right to file a Formal Complaint	May be initiated by the University if warranted even if a written Complaint has not been filed
May include an inquiry into the facts, but does not include an investigation	Complainant and Respondent have the right to an Advisor of their choice throughout investigation process such as a Union Representative
May be pursued at anytime prior to a final determination	Some cases may be forwarded to a hearing (Please see the Addendum to Executive Order 1097, the attached FAQs, and Process Map)

WHERE TO REPORT

Office of Equity & Diversity  
 Foundation Building, Suite 220 | 562.985.8256 | [oed@csulb.edu](mailto:oed@csulb.edu)  
 Online Reporting Form: [www.csulb.edu/OEDreport](http://www.csulb.edu/OEDreport)

**Links to Executive Orders:**

[Executive Order 1096 \(Employees & Third Parties\)](#)

[Executive Order 1097 \(Students \)](#)

Below please find an overview of what to expect from a meeting with our office. We hope the following information and resources may assist you through the process.

**Cooperation:**

Students and Employees are required to cooperate in the course of this investigation, including but not limited to, attending meetings, being forthright and honest during the process, and maintaining confidentiality. This enables our office to maintain the integrity of the investigation and ensure a fair process for all involved. (Article V, Section B)

**Advisor:**

The Complainant and the Respondent may each elect to be accompanied by an Advisor to any meeting or interview regarding the allegations. The Advisor may be anyone who is not an involved party, potential witness to the allegations, or who has a disciplinary role. The Advisor may not speak on behalf of the Complainant or the Respondent. (Article VI, Section B)

**Non-Retaliation:**

All participating parties, including any witnesses you may have listed, are protected under the non-retaliation policy and this Executive Order. If you file a complaint and later feel that you are experiencing retaliation as a result of filing or cooperating with our office, our office can review and address this concern. (Article I, Section C)

**Confidentiality:**

The University's confidentiality policy is on a need to know basis. The University's obligation is to take appropriate action to stop prohibited behavior and to prevent retaliation. This may preempt any request for anonymity or confidentiality. (Article II, Section B, Subsection 5)

**Timeline:**

A full investigation can take 60 to 90 working days (non-weekends, non-holidays) from the date the complaint is accepted for investigation. (Article III, Section B, Subsection 7 and Addendum Article V, Section 2,)

<b>Resources for Students:</b>	<b>Resources for Employees:</b>
<b>ATOD/Violence Prevention &amp; Sexual Misconduct Counselor (Confidential)</b> Student Health Services 268   562.985.1732	<b>Campus Sexual Assault Advocate (Confidential)</b> SHS208-A   562.985.2668   <a href="mailto:advocate@csulb.edu">advocate@csulb.edu</a>
<b>Counseling and Psychological Services (Confidential)</b>	<b>Faculty Affairs</b> Brotman Hall   562.985.4128



Brotman Hall, Room 226   562.985.4001 (24hr)	
<b>Campus Sexual Assault Advocate (Confidential)</b> SHS 208-A   562.985.2668   <a href="mailto:advocate@csulb.edu">advocate@csulb.edu</a>	Faculty & Staff Assistance Program (Confidential) Foundation Building, Suite 151   562.985.7434
<b>Bob Murphy Access Center</b> SSCroom110   562.985.5401   <a href="mailto:bmac@csulb.edu">bmac@csulb.edu</a>	<b>Human Resource Management</b> Brotman Hall, Room 335   562.985.403
<b>Ombuds</b> FND, Suite 140   562.985.5983   <a href="mailto:ombuds@csulb.edu">ombuds@csulb.edu</a>	<b>Ombuds</b> FND, Suite 140   562.985.5983   <a href="mailto:ombuds@csulb.edu">ombuds@csulb.edu</a>
<b>University Police Department</b> 911 or 562.985.4101 (non-emergency)	<b>University Police Department</b> 911 or 562.985.4101 (non-emergency)
<b>YWCA Sexual Assault Crisis Services (Confidential)</b> <a href="http://ywcagla.org">ywcagla.org</a>   877.943.5778 (24hr)	<b>YWCA Sexual Assault Crisis Services (Confidential)</b> <a href="http://ywcagla.org">ywcagla.org</a>   877.943.5778 (24hr)

Equity & Diversity | FND 120 | (562) 985-8256 | [www.csulb.edu/oed](http://www.csulb.edu/oed) | [oed@csulb.edu](mailto:oed@csulb.edu)

## MYTHS AND FACTS ABOUT SEXUAL MISCONDUCT

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

1) **MYTH:** Victims provoke Sexual Assaults when they dress provocatively or act in a promiscuous manner.

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

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

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

3) **MYTH:** It is not Sexual Misconduct if it happens after drinking or taking drugs.

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

4) **MYTH:** Most Sexual Assaults are committed by strangers. It's not rape if the people involved know each other.

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<sup>1</sup>Key capitalized terms are defined on pp. 6-11

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

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

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

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

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

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

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

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

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

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9) **MYTH:** It’s only Rape if the victim puts up a fight and resists.

**FACT:** Many states do not require the victim to resist in order to charge the offender with

Rape or Sexual Assault. Those who do not resist may feel if they do so, they will anger their attacker, resulting in more severe injury. Many assault experts say that victims should trust their instincts and intuition and do what they believe will most likely keep them alive. Not fighting or resisting an attack does not equal consent.

10) **MYTH:** Someone can only be sexually assaulted if a weapon was involved.

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

#### 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.

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- 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.

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#### 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<sup>2</sup>

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<sup>2</sup>See definition of Affirmative Consent below.

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"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.

Rape, Acquaintance Rape, Sexual Assault, Sexual Battery

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 a person is incapable of giving consent because s/he is incapacitated from alcohol and/or drugs, is under 18 years old, or if a mental disorder or developmental or physical Disability renders a person incapable of giving consent. The Respondent's relationship to the person (such as family

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member, spouse, friend, acquaintance or stranger) is not determinative. (See complete definition of Affirmative Consent below.)

**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.

**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.<sup>3 4</sup>

**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.<sup>5</sup>

In order for a sexual act to be considered Rape or Sexual Assault, the act must be nonconsensual.

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

### **Affirmative Consent**

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.

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

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<sup>3</sup>See Cal. Penal Code §§ 261, 263.

<sup>4</sup>See Cal. Penal Code § 240.

<sup>5</sup>See Cal. Penal Code § 242

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always be mutual and Affirmative Consent to engage in sexual activity. Consent must be ongoing throughout a sexual activity and can be revoked at any time, including after penetration. Once 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. 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.

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.



## What is Dating Violence or Domestic Violence?

**Domestic Violence** 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. It does not include roommates who do not have a romantic, intimate, or sexual 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. For purposes of this definition, “abuse” means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another. Abuse does not include non-physical, emotional distress or injury.<sup>6</sup>

**Dating Violence** 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.<sup>7</sup> This may include someone the victim just met; i.e., at a party, introduced through a friend, or on a social networking website. For purposes of this definition, “abuse” means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another. Abuse does not include non-physical, emotional distress or injury.

## Types of Dating/Domestic Violence That Constitute Sexual Misconduct

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

### General Pattern of Behavior:

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

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<sup>6</sup>See Cal. Penal Code § 13700(b) and Cal. Family Code § 6211.

<sup>7</sup>See Cal. Penal Code § 13700(b).

## What Dating/Domestic Violence Looks Like

- **Physical Abuse:** any use of physical force with the intent to cause injury (i.e. grabbing in a way to inflict pain, hitting, shoving, strangling, kicking)
- **Sexual Abuse:** any action that impacts the partner's ability to control his/her sexual activity or the circumstance in which sexual activity occurs, including Rape, coercion or restricting access to birth control

#### Warnings or Signs of Potential Dating/Domestic Violence

- Any actions used for the intent of gaining power and control over a person. Checks my cell phone or email without my permission.
- Monitors where I'm going, who I'm going with, what I'm doing.
- Repeatedly says or does things to make me feel inadequate or inferior to him/her.
- Extreme jealousy or insecurity.
- Isolates me from my friends and family.
- Explosive temper.
- Mood swings.
- Assumes control over my access to financial resources.
- Tells me what to do.
- Possessiveness.
- Physically hurts me in any way.

#### Stalking

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

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

- Damaging your property.
- Knowing your schedule.

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<sup>8</sup>See Cal. Penal Code § 646.9.

- Showing up at places you go.
- Sending mail, e-mail, texts and pictures.
- Creating a website about you.
- Sending gifts.
- Stealing things that belong to you.
- Calling you repeatedly.

- Any other actions that the stalker takes to contact, harass, track or frighten you.

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

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

Stalking is a crime and can be dangerous. California Penal Code section 646.9, in part, states, "Any person who willfully, maliciously and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking....."

#### How You Can Help Yourself

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

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

#### Other Things You Can Do

- **In an emergency, call 911** or University Police or the local police department.

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- Let friends or family members know when you are afraid or need help.
- Be aware of your surroundings. Knowing where you are and who is around you may help you find a way to get out of a bad situation.
- Avoid isolated areas.
- Avoid putting headphones in both ears so you can be more aware of your surroundings.
- Trust your instincts. If a situation or location feels unsafe or uncomfortable, remove yourself.
- Vary your routine, your driving routes and where you park your car.
- When you go out, tell someone where you are going and when you'll be back. Memorize the phone numbers of people to contact or places to go in an emergency.

- Don't load yourself down with packages or bags restricting your movement.
- Keep your cell phone handy; check to see that you have reception and that your cell phone is charged, but, then pay attention to your surroundings instead of the phone.
- Have money for a cab or other transportation.
- Save notes, letters or other items that the stalker sends to you. Keep a record of all contact that the stalker has with you; these items will be very useful in an investigation.

### How You Can Help Someone Else

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

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

## **RIGHTS AND OPTIONS FOR VICTIMS OF SEXUAL MISCONDUCT, DATING AND DOMESTIC VIOLENCE, AND STALKING<sup>1</sup>**

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.

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

<sup>2</sup>Terms contained within this Notice are intended to be gender neutral.

## **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.

### Title IX Coordinator

Larisa Hamada, Title IX Coordinator

Location: Foundation Building, Suite 220

Office hours: Monday to Friday 8:00AM-5:00PM

Email: [larisa.hamada@csulb.edu](mailto:larisa.hamada@csulb.edu) Phone: (562) 985-8256

### University Police

- Location: 1250 Bellflower Blvd. Long Beach, CA 90840 Email: [fernando.solorzano@csulb.edu](mailto:fernando.solorzano@csulb.edu)
- Phone: (562) 985-4101 (non-emergency)

### Local Police

- Long Beach Police Department  
Website: [www.longbeach.gov/police/default.asp](http://www.longbeach.gov/police/default.asp)  
Phone: (562) 570-7260 (non-emergency)

### Campus Sexual Assault Victim's Advocate

- Jacqueline Urtez, YWCA Sexual Assault Victim's Advocate  
Location: Student Health Services (SHS)  
Email: [advocate@csulb.edu](mailto:advocate@csulb.edu) | Phone: (562) 985-2668

### Other Resources

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

(800) 421-3481 or [ocr@ed.gov](mailto: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/>

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Medical & Counseling Services

Campus Services

**Linda Pena, ATOD/Violence Prevention & Sexual Misconduct Counselor**

Location: Student Health Center (SHS)  
Email: [linda.pena@csulb.edu](mailto:linda.pena@csulb.edu) | Phone: (562) 985-1732  
Sexual Assault Prevention: [www.csulb.edu/divisions/students/shs/sexual\\_assault.htm](http://www.csulb.edu/divisions/students/shs/sexual_assault.htm)

### **Student Health Services (SHS)**

Location: Corner of Merriam Drive and Beach Drive  
Office Hours: M, Tu, Th, F 8am-5pm/ W 9am-5pm  
Phone: (562) 985-4771 | Website: <http://www.csulb.edu/divisions/students/shs/>  
Emergencies: 911 (after hours)

### **Health Resource Center**

Location: Student Health Services (SHS), Room 268  
Phone: (562) 985-4609 | Website: [www.csulb.edu/divisions/students/shs/](http://www.csulb.edu/divisions/students/shs/)

### **Counseling & Psychological Services (CAPS) - Students**

Location: Brotman Hall, Room 226 | Phone: (562) 985-4001  
Office hours: M-F 8am - 5pm | After hours crisis phone counseling: (562) 985-4001  
CAPS Crisis Assistance: [www.csulb.edu/divisions/students/caps/crisis.htm](http://www.csulb.edu/divisions/students/caps/crisis.htm)  
CAPS Website: [www.csulb.edu/caps](http://www.csulb.edu/caps)

### **Faculty & Staff Assistance Program (FSAP) - Employees**

Location: Foundation, Room 151 | Phone: (562) 985-7434  
Office hours: M-F 8am - 5pm | Website: [www.csulb.edu/fsap](http://www.csulb.edu/fsap)

## Off-Campus Services

### **Sexual Assault:**

#### **Community Hospital of Long Beach**

Location: 1720 Termino Avenue, Long Beach, CA 90804 | Phone: (562) 933-9000

#### **Community Service Programs (Orange County Rape Crisis Hotline)**

Phone: (714) 957-2737 or (949) 831-9110 | Website: [www.cspinc.org/SexualAssault](http://www.cspinc.org/SexualAssault)

#### **Little Company of Mary Hospital San Pedro**

Location: 1300 West 7th Street, San Pedro, CA 90732 | Phone: (310) 832-3311

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#### **Long Beach YWCA GLA Sexual Assault Crisis Services**

24-hr Sexual Assault Crisis Hotline

Phone: (877) 943-5778 | Website: [www.ywcagla.org/sexual-assault/](http://www.ywcagla.org/sexual-assault/)

#### **Long Beach Trauma Recovery Center**

Location: St. Mary's Medical Center

1045 Atlantic Ave Suite 801, Long Beach, CA 90813

Phone: (562) 491-7977

#### **East Los Angeles Women's Center Rape Hotline**

Phone: (800) 585-6231 | Website: [elawc.org](http://elawc.org)

**California Coalition Against Sexual Assault (CALCASA)**

Phone: (916) 446-2520 | Website: [calcasa.org](http://calcasa.org)

**Rape, Abuse & Incest National Network (RAINN)**

Phone: (800) 656-HOPE (4673) | Website: [www.rainn.org](http://www.rainn.org)

**Dating & Domestic Violence:**

**Interval House Crisis Shelter**

Hotlines: (562) 594-4555 or (714) 891-8121 | Website: [www.intervalhouse.org](http://www.intervalhouse.org)

**Laura's House**

Hotline: (866) 498-1511 | Website: <https://www.laurashouse.org>

**Neighborhood Legal Services of Los Angeles**

Phone: (800) 433-6251 | Website: <http://www.nlsla.org/>

**Su Casa**

Hotline: (562) 402-4888 | Website: [www.sucasadv.org](http://www.sucasadv.org)

**Women's Shelter of Long Beach**

Hotline: (562) 437-4663 | Website: [www.womenshelterlb.org](http://www.womenshelterlb.org)

**National Organization for Victim Assistance (NOVA)**

Phone: (800) 879-6682 | Website: [www.trynova.org](http://www.trynova.org)

**National Domestic Violence Hotline**

Phone: 1-800-799-SAFE (7233)

Other Campus Resources

**Women's & Gender Equity Center**

Location: Liberal Arts 1, Room 102 | Phone: (562) 985-8576

**Bob Murphey Access Center**

Location: Student Success Center, Room 110 | Phone: (562) 985-5401

**Veterans Services**

Location: Foundation Building, Room 220 | Phone: (562) 985-4279

**Center for International Education**

Location: Brotman Hall, Room 212 | Phone: (562) 985- 8090

**Dream Success Center**

Location: University Student Union, Room 309 | Phone: (562) 985- 5869

**University Ombuds**

Location: Foundation Room 140 | Phone: (562) 985- 5983 | Website: [www.csulb.edu/ombuds](http://www.csulb.edu/ombuds)

**THE IMPORANCE OF RESERVING 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 straighten up



the area where the assault took place; (5) do not dispose of 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 Sexual Assault Victim's Advocate (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 misconduct. If you have experienced sexual misconduct, 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. Except in egregious circumstances, University students or employees who are victims of sexual misconduct will not be subject to discipline.

You have several reporting options, and you may pursue one or more of these options at any time. It is your right to have a friend, family member, Sexual Assault Victim's Advocate, or other representative present with you while reporting the incident. You also have the right to have a sexual assault counselor, Sexual Assault Victim's Advocate and/or support person of your choice present with you during a rape examination.

The Campus Title IX Coordinator or Sexual Assault Victim's Advocate 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 an 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 Respondent to move from University-owned or affiliated housing; immediately prohibiting the Respondent from coming to the University; or prohibiting the Respondent from contacting the parties involved in the reported incident. These options may be available to you whether or not you choose to report the incident 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 was violated, the Respondent 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, including a Sexual Assault Victim's Advocate or domestic violence counselor. 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 Respondent, 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 misconduct, dating or domestic violence, or stalking. University Police and your Campus Title IX Coordinator can offer assistance with obtaining a protective or restraining order.<sup>3</sup>

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<sup>3</sup>Executive Order 1096 (Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking Against Employees and Third Parties and Procedure for Addressing Such Complaints by Employees and Third Parties); Executive Order 1097 (Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking Against Students and Systemwide Procedure for Addressing Such Complaints by Students).

**Non-reporting:** You are strongly encouraged to report any incidents 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.

## **CONFIDENTIALITY - KNOW YOUR OPTIONS**

We encourage victims of sexual misconduct, dating or domestic violence, or stalking 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. Some employees are required to report all details of an incident (including the identities of both the victim and alleged perpetrator) to the Title IX Coordinator. A report to these employees constitutes a report to the University, and generally creates a legal obligation for the University to investigate the incident and take appropriate steps to address the situation.

### **Privileged and Confidential Communications**

Physicians, Psychotherapists, Professional Counselors and Clergy<sup>4</sup> - Physicians, psychotherapists, professional, licensed counselors, and clergy who work or volunteer on or off campus acting solely in those roles or capacity, in the provision of medical or mental health treatment or counseling (including those who work or volunteer in those offices) may not report any information about an incident of sexual misconduct 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.

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

Student Health Services (SHS)

Location: Corner of Merriam Drive and Beach Drive Phone: (562) 985-4771 | Website:

<http://www.csulb.edu/divisions/students/shs/>

Counseling & Psychological Services (CAPS) - Students Location: Brotman Hall, Room 226 |  
Phone: (562) 985-4001 | Website: [www.csulb.edu/caps](http://www.csulb.edu/caps)

Faculty & Staff Assistance Program (FSAP) - Employees Location: Foundation, Room 151 |  
Phone: (562) 985-7434 | Website: [www.csulb.edu/fsap](http://www.csulb.edu/fsap)

Sexual Assault and Domestic Violence Counselors and Advocates<sup>5</sup> - 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 misconduct 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 Sexual Assault Victim's Advocate  
Jacqueline Urtez

Location: Student Health Services (SHS)  
Email: [advocate@csulb.edu](mailto:advocate@csulb.edu) | Phone: (562) 985-2668

**ATOD/Violence Prevention & Sexual Misconduct Counselor**

Linda Pena

Location: Student Health Center (SHS)  
Email: [linda.pena@csulb.edu](mailto:linda.pena@csulb.edu) | Phone: (562) 985-1732 Sexual Assault Prevention:  
[www.csulb.edu/divisions/students/shs/sexual assault.htm](http://www.csulb.edu/divisions/students/shs/sexual%20assault.htm)<sup>4 5</sup>

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<sup>4</sup> See Cal. Evid. Code § 990 et seq., § 1010 et seq., and § 1030 et seq.

<sup>5</sup> See Cal. Evid. Code § 1035 et seq. and § 1037 et seq.

If you speak only to a physician, professional counselor, clergy member, sexual assault counselor, domestic violence counselor or advocate, you must understand that the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the perpetrator, if you choose to maintain confidentiality.

Even so, these individuals will still assist you in receiving other necessary protection and support, such as victim advocacy, disability, medical/health or mental health services, or legal services. They may not, however, be able to assist you with University academic support or accommodations, or changes to University-based living or working schedules, or assist with

adjustments to course schedules. Only the University and the Title IX Coordinator can assist with those matters (see below). A victim who at first requests confidentiality may later decide to file a complaint with the University or report the incident to the police, and thus have the incident fully investigated. These counselors and advocates can provide you with that assistance if you wish. These counselors and advocates will also explain that Title IX includes protections against retaliation, and that the University will not only take steps to prevent retaliation when it knows or reasonably should know of possible retaliation, but will also take strong responsive action if it occurs.

**EXCEPTIONS:** Under California law, any health practitioner employed in a health facility, clinic, physician's office, or local or state public health department or clinic is required to make a report to local law enforcement if he or she provides medical services for a physical condition to a patient/victim who he or she knows or reasonably suspects is suffering from: (1) a wound or physical injury inflicted by a firearm; or (2) any wound or other physical injury inflicted upon a victim where the injury is the result of assaultive or abusive conduct (including sexual misconduct and dating and domestic violence).<sup>6,7</sup> This exception does not apply to sexual assault and domestic violence counselors and advocates. Health care practitioners will 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.

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<sup>6</sup>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. See Cal. Penal Code §§ 11160-11163.2.

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

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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;<sup>8</sup> or (2) to the court if compelled by court order or subpoena in a criminal proceeding related to the incident.<sup>8,9</sup> If applicable, these professionals will explain this limited exception to you.

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

If you report certain sex offenses to local or University Police, the police are required to notify you that your name will become a matter of public record unless confidentiality is requested.<sup>10</sup> 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 misconduct, dating and domestic violence, and stalking when they are on notice of it. When you tell the Title IX Coordinator or another University employee about an 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 misconduct, 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 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

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<sup>8</sup>See Cal. Evid. Code § 1024.

<sup>9</sup>See Cal. Evid. Code § 1035.4.

<sup>10</sup>See Cal. Penal Code § 293; Cal. Gov. Code § 6254(f).

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to the incident. The University 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.

The Title IX Coordinator can be reached at:

**Larisa Hamada, Title IX Coordinator**  
**Location: Foundation Building, Suite 220 (Monday to Friday 8:AM-5:00PM)**

**Email: [larisa.hamada@csulb.edu](mailto:larisa.hamada@csulb.edu) | Phone: (562) 985-8256**

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 cannot 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 misconduct, dating or domestic violence, or stalking 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;

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- 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 Respondent 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 unless you are under the age of 18 or you provide the University with written permission to do so.<sup>11</sup>

Under California law, and pursuant to University policy, certain 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 incident to the police.<sup>12</sup> However, the identity of the person who reports and the report itself are confidential and disclosed only among appropriate agencies.<sup>13</sup>

Because the University is under a continuing legal obligation to address the issue of sexual misconduct, dating and domestic violence, and stalking campus-wide, any such reports (including non-identifying reports) may also prompt the University to consider broader remedial action - such as increased monitoring, supervision or security at locations where the reported incident occurred; increased education, training and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or 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 misconduct, dating and domestic violence, and stalking cases, the Ombuds as well as all other University employees (except for physicians, licensed counselors, sexual assault counselors and advocates as discussed above) must report incidents to the Title IX Coordinator.

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<sup>11</sup>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).

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

<sup>13</sup>See Cal. Penal Code § 11167(d).

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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.

### **AS A REPORTER, AM I PROTECTED FROM RETALIATION?**

Yes, University policies prohibit retaliation against a person who:

- Reports sexual misconduct, dating or domestic violence, or stalking;
- Assists someone with such a report; or
- Participates in any manner in any related investigation or resolution.

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 UNIVERSITY 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 Victim's 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 misconduct, dating and domestic violence, and stalking, written findings sent to the Complainant and the Respondent, 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.<sup>14</sup> Your Campus Title IX Coordinator can explain these procedures in detail.

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At the conclusion of the University's complaint procedure, any employee or student found to have violated University policy will be subject to discipline. Discipline would be administered consistent with applicable collective bargaining agreements and MPP/confidential personnel plans (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 misconduct, dating and domestic violence, and stalking will:

- Provide a prompt, fair, and impartial process and resolution;
- Be conducted by officials who receive annual training on sexual misconduct, dating and domestic violence, and stalking, including how to conduct a process that protects the safety of victims and promotes accountability;
- Provide the Complainant and the Respondent the same opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice;
  - Simultaneously inform the Complainant and the Respondent in writing of:
  - The outcome of the disciplinary proceeding;
  - The procedures available 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 MISCONDUCT, DATING AND DOMESTIC VIOLENCE, STALKING, AND AFFIRMATIVE 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.

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<sup>14</sup>Executive Order 1096 (Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking Against Employees and Third Parties and Procedure for Addressing Such Complaints by Employees and Third Parties); Executive Order 1097 (Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking Against Students and Systemwide Procedure for Addressing Such Complaints by Students); Executive Order 1095 (Systemwide Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking Policy.)

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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.
- 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 a person is incapable of giving consent because s/he is incapacitated from alcohol and/or drugs, is under 18 years old, or if a mental disorder or developmental or physical disability renders a person incapable of giving consent. The Respondent's relationship to the person (such as family member, spouse, friend, acquaintance or stranger) is irrelevant. (See complete definition of affirmative consent below.)

- 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.)

**Dating Violence** 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. For purposes of this definition, "abuse" means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another. Abuse does not include non-physical, emotional distress or injury.

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**Domestic Violence** 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. For purposes of this definition, "abuse" means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another. Abuse does not include non-physical, emotional distress or injury.

**Stalking** means engaging in a repeated course of conduct directed at a specific person that would cause a reasonable person to fear for his/her 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 the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property;

**Reasonable Person** means a reasonable person under similar circumstances and with the same protected statuses as the Complainant;

**Substantial Emotional Distress** means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

**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.

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.

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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.

RISE@LB

Refer, Intervene, Support, Educate

Discrimination, Harassment, Retaliation, Sexual Misconduct, Sexual Harassment, Stalking,  
Dating and Domestic Violence

Equity & Diversity Support Services and Resources

Campus Confidential Advocate  
Confidential Support  
Location: Student Health Services  
Email: [advocate@csulb.edu](mailto:advocate@csulb.edu)  
Phone: (562) 985-2668

ATOD/Violence Prevention & Sexual Misconduct Prevention Counselor  
Confidential Support - Students Only  
Location: Student Health Services Phone: (562) 985-1732

Counseling & Psychological Services (CAPS)  
Confidential Support - Students Only  
Location: Brotman Hall 226  
Phone: (562) 985-4001 (includes after hours crisis counseling)

YWCA-GLA Sexual Assault Crisis Services  
Confidential Support  
24 Hour Hotline: (877) 943-5778  
(Y-HELPS-U)

University Police Department  
Location: 1250 Bellflower Blvd.  
Long Beach, CA 90840  
Phone: 911 or (562) 985-4101 (24 hour/non-emergency)

Title IX Coordinator  
Location: Foundation, Suite 220  
Email: [Larisa.Hamada@csulb.edu](mailto:Larisa.Hamada@csulb.edu)  
Phone: (562) 985-8256

CSULB Night Escort Program  
Hours: Sun-Thurs. 6:30pm-12am  
Fri.-Sat. 5:30pm-9:30pm  
Phone: (562) 985-4101 | “Blue Light” emergency telephones located throughout campus.  
\*You may still contact UPD outside of the specified hours for an escort.

Faculty & Staff Assistance Program

Confidential Support - Employees Only  
Location: Foundation Building, Suite 151  
Phone: (562) 985-7434 \*By appointment

University Ombuds  
Location: Foundation, Suite 140  
Email: [ombuds@csulb.edu](mailto:ombuds@csulb.edu)  
Phone: (562) 985-5983

Respondent Advisor Program  
Location: Foundation, Suite 220  
Phone: (562) 985-8256  
Email [oed@csulb.edu](mailto:oed@csulb.edu) to request a Respondent Advisor

Office of Equity & Diversity  
Foundation, Suite 220 | (562) 985-8256 | [oed@csulb.edu](mailto:oed@csulb.edu) | [www.csulb.edu/oed](http://www.csulb.edu/oed)

CALIFORNIA STATE UNIVERSITY  
LONG BEACH

Office of Equity & Diversity

CALIFORNIA STATE UNIVERSITY LONG BEACH  
6300 State University Dr.  
Foundation Building, Suite 220  
Long Beach, CA 90815