

NONDISCRIMINATION POLICY AND COMPLAINT PROCEDURES

Protected Status: Age, Genetic Information, Marital Status, Medical Condition, Nationality, Race or Ethnicity (including color, caste, or ancestry), Religion or Religious Creed, and Veteran or Military Status.

California State University does not discriminate on the basis of age, genetic information, marital status, medical condition, nationality, race or ethnicity (including color, caste and ancestry), religion (or religious creed), and veteran or military status – as these terms are defined in the CSU (<https://www.calstate.edu/titleix/Pages/policies.aspx>) Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation (Nondiscrimination Policy) (<https://www.calstate.edu/titleix/Pages/policies.aspx>) in its programs and activities, including admission and access. Federal and state laws, including Title VI of the Civil Rights Act of 1964 and the California Equity in Higher Education Act, prohibit such discrimination. Lori Makin-Byrd, Acting Title IX Coordinator and DHR Administrator, has been designated to coordinate the efforts of San Francisco State University to comply with all applicable federal and state laws prohibiting discrimination on these bases. Inquiries concerning compliance may be presented to this person at 1600 Holloway Avenue, Student Services Bldg. Suite 403, San Francisco, CA 94132, Telephone: (415) 338-2032, Email: equityprograms@sfsu.edu. CSU (<https://www.calstate.edu/titleix/Pages/policies.aspx>) Procedures for Complaints of Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation (Nondiscrimination Policy) Made Against a Student (<https://calstate.policystat.com/policy/12891658/latest/#autoid-56krv>), (or any successor policy) is the systemwide procedure for all complaints or discrimination, harassment or retaliation **made against** other CSU students. CSU (<https://www.calstate.edu/titleix/Pages/policies.aspx>) Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation (Nondiscrimination Policy) Made Against an Employee or Third-Party (<https://www.calstate.edu/titleix/Pages/policies.aspx>) Procedures for Complaints of Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Stalking, and Retaliation Made Against an Employee or Third-Party (<https://calstate.policystat.com/policy/12891658/latest/#autoid-j378k>) (or any successor procedure) is the system wide procedure for all complaints of discrimination, harassment or retaliation made against the CSU, a CSU employee or a third party).

Protected Status: Disability

The California State University does not discriminate on the basis of disability (physical and mental) – as this term is defined in the CSU (<https://www.calstate.edu/titleix/Pages/policies.aspx>) Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation (Nondiscrimination Policy) (<https://www.calstate.edu/titleix/Pages/policies.aspx>) – in its programs and activities, including admission

and access. Federal and state laws, including sections 504 and 508 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, prohibit such discrimination. Lori Makin-Byrd, Acting Title IX Coordinator and DHR Administrator has been designated to coordinate the efforts of San Francisco State University to comply with all applicable federal and state laws prohibiting discrimination on the basis of disability. Inquiries concerning compliance may be presented to this person at 1600 Holloway Avenue, Student Services Bldg. Suite 403, San Francisco, CA 94132, Telephone: (415) 338-2032, Email: equityprograms@sfsu.edu. CSU (<https://www.calstate.edu/titleix/Pages/policies.aspx>) Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation (Nondiscrimination Policy) Made Against a Student (<https://calstate.policystat.com/policy/12891658/latest/#autoid-56krv>) (or any successor procedure) is the systemwide procedure for all complaints of discrimination, harassment or retaliation **made against, other CSU students**. CSU (<https://calstate.policystat.com/policy/12891658/latest/#autoid-j378k>) Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation (Nondiscrimination Policy) Made Against an Employee or Third-Party (o (<https://calstate.policystat.com/policy/12891658/latest/#autoid-j378k>)r any successor procedure) is the systemwide procedure for all complaints of discrimination, harassment or retaliation **made against the CSU, a CSU employee or a third party**)

Protected Status: Gender (or sex), Gender Identity (including nonbinary and transgender), Gender Expression and Sexual Orientation

California State University does not discriminate on the basis of gender (or sex), gender (including nonbinary and transgender), gender expression or sexual orientation – as these terms are defined in CSU policy – in its programs and activities, including admission and access. Federal and state laws, including Title IX of the Education Amendments of 1972, prohibit such discrimination. Lori Makin-Byrd, Acting Title IX Coordinator and DHR Administrator has been designated to coordinate the efforts of San Francisco State University to comply with all applicable federal and state laws prohibiting discrimination on these bases. Inquiries concerning compliance may be presented to this person at 1600 Holloway Avenue, Student Services Bldg. Suite 403, San Francisco, CA 94132, Telephone: (415) 338-2032, Email: equityprograms@sfsu.edu. The California State University is committed to providing equal opportunities to all CSU students in all university programs, including intercollegiate athletics. CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation (Nondiscrimination Policy) Made Against a Student (or (<https://calstate.policystat.com/policy/12891658/latest/>) any successor) is the systemwide procedure for all complaints of discrimination, harassment or retaliation made against other CSU students. CSU (<https://www.calstate.edu/titleix/Pages/policies.aspx>) Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation (Nondiscrimination Policy) Made Against an Employee or Third-Party (<https://www.calstate.edu/titleix/Pages/policies.aspx>) (or any successor procedure) is the systemwide procedure for all complaints of discrimination, harassment or retaliation made against the CSU, a CSU employee or a third party).

As a matter of federal and state law and California State University policy, the following types of conduct are prohibited:

Sex Discrimination or Gender Discrimination is (an) adverse action taken against a complainant because of their protected status (sex or gender).

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

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

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

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

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

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

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.

- a. Sexual activity includes, but is not limited to:
 - Kissing
 - touching intimate body parts
 - fondling
 - intercourse

- penetration, no matter how slight, of the vagina or anus with any part or object
 - oral copulation of a sex organ by another person.
- b. Sexual Misconduct includes, but is not limited to, the following conduct:
 - an attempt, coupled with the ability, to commit a violent injury on the person of another because of that person's Gender or Sex,
 - the intentional touching of another person's intimate body parts without Affirmative Consent,
 - intentionally causing a person to touch the intimate body parts of another without Affirmative Consent,
 - using a person's own intimate body part to intentionally touch another person's body without Affirmative Consent,
 - any unwelcome physical sexual acts, such as unwelcome sexual touching,
 - using physical force, violence, threat, or intimidation to engage in sexual activity,
 - ignoring the objections of the other person to engage in sexual activity,
 - causing the other person's incapacitation through the use of drugs or alcohol to engage in sexual activity,
 - taking advantage of the other person's incapacitation to engage in sexual activity.
 - c. Intimate body part means the sexual organ, anus, groin, buttocks, or breasts of any person.
 - d. Sexual activity between a Minor (a person younger than 18 years old) and a person who is at least 18 and two years older than the Minor always constitutes Sexual Misconduct, even if there is Affirmative Consent to all sexual activity. The existence of Affirmative Consent and/or the type of sexual activity may be relevant to the determination of an appropriate Sanction.
 - e. Persons of all Genders, Gender Identities, Gender Expressions, and Sexual Orientations can be victims of these forms of Sexual Misconduct. Sexual Misconduct can be committed by an individual known to the victim including a person the Complainant may have just met, i.e., at a party, introduced through a friend, or on a social networking website.

Affirmative Consent

Affirmative Consent must be voluntary, and given without coercion, force, threats, or intimidation.

It is the responsibility of each person involved in the sexual activity to ensure Affirmative Consent has been obtained from the other participant(s) prior to engaging in the sexual activity.

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

- Informed
- Affirmative
- Conscious
- Voluntary and
- Mutual
- Lack of protest or resistance does not mean there is Affirmative Consent.
- Silence does not mean there is Affirmative Consent.

- The existence of a dating or social relationship between those involved, or the fact of past sexual activities between them, should never by itself be assumed to be an indicator of Affirmative Consent.
- A request for someone to use a condom or birth control does not, in and of itself, mean there is Affirmative Consent.
- Affirmative Consent can be withdrawn or revoked. Consent must be ongoing throughout a sexual activity and can be revoked at any time, including after sexual activity begins. Once consent is withdrawn or revoked, the sexual activity must stop immediately. Consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity. Consent given to sexual activity on one occasion does not constitute consent on another occasion.

Incapacitation

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

Whether an intoxicated person (as a result of using alcohol or other drugs) is incapacitated depends on the extent to which the alcohol or other drugs impact the person's decision-making ability, awareness of consequences, and ability to make informed judgments. A person's own intoxication or incapacitation from drugs or alcohol does not diminish that person's responsibility to obtain Affirmative Consent before engaging in sexual activity.

Sexual activity with a minor (a person under 18 years old) is not consensual, because a minor is considered incapable of giving consent due to age.

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

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

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

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

Dating Violence and Domestic Violence

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

- a. Who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
- b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - i. The length of the relationship.
 - ii. The type of relationship.
 - iii. The frequency of interaction between the persons involved in the relationship.

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

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

Stalking

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

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

Prohibited Consensual Relationships

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

Retaliation

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

- a. Exercised their rights under this policy,
- b. Reported or opposed conduct which was reasonably and in good faith believed to be in violation of this policy,
- c. Assisted or participated in an investigation/proceeding under this policy, regardless of whether the Complaint was substantiated,
- d. Assisted someone in reporting or opposing a violation of this policy or assisted someone in reporting or opposing Retaliation under this policy.

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

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

Additional Prohibited Conduct Definitions

- a. **Sexual Harassment** means conduct on the basis of Sex that satisfies one or more of the following:
 - i. An Employee conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
 - ii. Unwelcome conduct determined based on the reasonable person standard to be so severe, pervasive, **and** objectively offensive that it effectively denies a person equal access to an Education Program or Activity.
- b. **Sexual Assault** includes the following:
 - i. **Rape** is the penetration, or attempted penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Affirmative Consent of the Complainant. Rape also includes the attempted penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the Affirmative Consent of the Complainant, with the present ability and the intent to commit Rape.
 - ii. **Fondling** is the touching of the private body parts of another person for the purpose of sexual gratification, without the Affirmative Consent of the victim, including instances where the Complainant is incapable of giving Affirmative Consent because of their age or because of their temporary or permanent mental incapacity.
 - iii. **Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - iv. **Statutory Rape** is sexual intercourse with a person who is under the age of 18 years, the California statutory age of consent. The definition of Affirmative Consent is that under Article VII.A.3 above.
 - v. **Dating Violence** means physical violence or threat of physical violence committed by a person:
 1. who is or has been in a social relationship of a romantic or intimate nature with the Complainant; **and**
 2. where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - a. The length of the relationship.
 - b. The type of relationship.
 - c. The frequency of interaction between the persons involved in the relationship.
 - c. **Domestic Violence** means physical violence or threat of physical violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant.
 - d. **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - i. fear for their safety or the safety of others; or
 - ii. suffer substantial emotional distress.

See further information in San Francisco State University sexual violence prevention and education statement, Title IX Notice of Nondiscrimination

(which includes facts and myths about sexual violence), and Victim's Rights and Options Notice, at <https://titleix.sfsu.edu/>.

Whom to Contact If You Have Complaints, Questions or Concerns

Title IX requires the university to designate a Title IX Coordinator to monitor and oversee overall Title IX compliance. The university Title IX Coordinator is available to explain and discuss the university's complaint process, including the investigation and hearing process; the availability of reasonable supportive measures (both on and off campus regardless of whether the person chooses to report the conduct); the right to file a criminal complaint (for example, in cases of sexual misconduct); how confidentiality is handled; and other related matters. **If you are in the midst of an emergency, please call the police immediately by dialing 9-1-1.**

Campus Title IX Coordinator

Lori Makin-Byrd
Acting Title IX Coordinator and DHR Administrator
Student Services Building Suite 403
Email: equityprograms@sfsu.edu
Phone: (415) 338-2032
Hours: Mon, Wed, Thurs, 8am-5pm

University Police

San Francisco State University, Police Department
100 North State Drive
Email: upd@sfsu.edu
General Business Phone: (415) 338-7200

Title IX requires the university to adopt and publish complaint procedures that provide for prompt and equitable resolution of gender discrimination complaints, including sexual harassment and misconduct, as well as provide training, education and preventive measures related to sex discrimination. CSU (<https://www.calstate.edu/titleix/Pages/policies.aspx>) Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation (Nondiscrimination Policy) Made Against a Student (<https://calstate.policystat.com/policy/12891658/latest/>) (or any successor) is the systemwide procedure for all complaints of discrimination, harassment or retaliation made against, other CSU students. CSU (<https://www.calstate.edu/titleix/Pages/policies.aspx>) Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation (Nondiscrimination Policy) Made Against an Employee or Third-Party (<https://www.calstate.edu/titleix/Pages/policies.aspx>) (or any successor procedure) is the systemwide procedure for all complaints of discrimination, harassment or retaliation made against the CSU, a CSU employee or a third party.

Duty to Report

Except as provided below under confidentiality and sexual misconduct, dating violence, domestic violence, and stalking, **any** university employee who knows or has reason to know of allegations or acts that violate university policy shall promptly inform the Title IX Coordinator. These employees are required to disclose all information including the names of the parties, even where the person has requested that their name remain confidential. The Title IX Coordinator will determine whether confidentiality is appropriate given the circumstances of each such incident. (See confidential reporting options outlined below.)

Regardless of whether an alleged victim of gender discrimination ultimately files a complaint, if the university knows or has reason to know about possible sexual discrimination, harassment or misconduct, it must review the matter to determine if an investigation is warranted.

The university must then take appropriate steps to eliminate any gender discrimination/harassment/misconduct, prevent its recurrence, and remedy its effects.

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

(800) 421-3481 (National Headquarters); or (800) 877-8339 (TDD) or ocr@ed. (ocr@ed.gov) (National Headquarters) or (415) 486-5555 (California office), or ocr (ocr.sanfrancisco@ed.gov).sanfrancisco@ed.gov (ocr.sanfrancisco@ed.gov) (California office)

If you wish to fill out a complaint form online with the OCR, you may do so using the OCR Electronic Complaint Form.

Safety of the University Community is Primary

The university's primary concern is the safety of its university community members. The use of alcohol or drugs never makes the victim at fault for gender discrimination, harassment or sexual misconduct; therefore, victims should not be deterred from reporting incidents of sexual misconduct 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 misconduct shall not be subject to discipline for related violations of the Student Conduct Code.

Information Regarding University, Criminal and Civil Consequences of Committing Acts of Sexual Violence

Individuals alleged to have committed sexual misconduct may face criminal prosecution by law enforcement and may incur penalties as a result of civil litigation. In addition, students may face discipline at the university, up to and including suspension or expulsion and withholding of their degrees. Employees may face sanctions up to and including suspension, demotion or dismissal from employment, pursuant to established CSU policies and provisions of applicable collective bargaining unit agreements.

Students who are found responsible by the university with gender discrimination, harassment or sexual misconduct will be subject to discipline, pursuant to CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation (Nondiscrimination Policy) Made Against a Students and the California State University and Student Conduct Procedures (see the Student Conduct Procedures Policy (<https://calstate.policystat.com/policy/8453518/latest/>), revised on August 14, 2020, or any successor policy) and will be subject to appropriate sanctions. In addition, during any investigation, the university may implement interim measures in order to maintain a safe and non-discriminatory educational environment. Such measures may include but not be limited to: immediate interim suspension from the university; a required move from university-owned or affiliated housing; adjustments to course schedule; and/or prohibition from contact with parties involved in the alleged incident.

Confidentiality and Sexual Misconduct, Dating Violence, Domestic Violence and Stalking

The university encourages victims of sexual misconduct, dating violence, domestic violence or stalking to talk to someone about what happened – so they can get the support they need, and so the university can respond appropriately.

Privileged and Confidential Communications

Physicians, Psychotherapists, Professional Licensed Counselors, Licensed Clinical Social Workers, and Clergy – Physicians, psychotherapists, professional, licensed counselors, licensed clinical social workers, and clergy who work or volunteer on or off campus, acting

solely in those roles or capacities as part of their employment, and who provide medical or mental health treatment or counseling (and those who act under their supervision, including all individuals who work or volunteer in their centers and offices) may not report any information about an incident of sexual misconduct to anyone else at the university, including the Title IX Coordinator, without the victim's consent. A victim can seek assistance and support from physicians, psychotherapists, professional, licensed counselors, licensed clinical social workers and clergy without triggering a university investigation that could reveal the victim's identity or the fact of the victim's disclosure. However, see limited exceptions below regarding when health care practitioners must report to local law enforcement agencies. Health care practitioners should explain these limited exceptions to victims, if applicable.

Sexual Assault and Domestic Violence Counselors and Advocates –

Sexual assault and domestic violence counselors and advocates who work or volunteer on or off campus in sexual assault centers, victim advocacy offices, women's centers and health centers (including those who act in that role under their supervision, along with non-professional counselors or advocates who work or volunteer in sexual assault centers, victim advocacy offices, women's centers, gender equity centers, or health centers), may talk to a victim without revealing any information about the victim and the incident of sexual misconduct to anyone else at the university, including the Title IX Coordinator, without the victim's consent. A victim can seek assistance and support from these counselors and advocates without triggering a university investigation that could reveal his/her identity or that a victim disclosed an incident to them. However, see limited exceptions below regarding when sexual assault and domestic violence counselors and advocates must report to local law enforcement agencies. Counselors and advocates should explain these limited exceptions to victims, if applicable.

The university will be unable to conduct an investigation into a particular incident or pursue disciplinary action against a perpetrator if a victim chooses to:

- a. Speak only to a physician, professional licensed counselor, licensed clinical social worker, clergy member, sexual assault counselor, domestic violence counselor or advocate; and
- b. Maintain complete confidentiality. Even so, these individuals will assist victims in receiving other necessary protection and support, such as victim advocacy, disability services, medical/health or mental health services, or legal services, and will advise victims regarding their right to file a Title IX complaint with the university and a separate complaint with local or university police.

If a victim insists on confidentiality, such professionals, counselors and advocates will likely not be able to assist the victim with: university academic support or accommodations; changes to university-based living or working schedules; or adjustments to course schedules. A victim who at first requests confidentiality may later decide to file a complaint with the university or report the incident to the police, and thus have the incident fully investigated. These counselors and advocates can provide victims with that assistance if requested by the victim. These counselors and advocates will also explain that Title IX includes protections against retaliation, and that the university will not only take steps to prevent retaliation when it knows or reasonably should know of possible retaliation, but will also take strong responsive action if retaliation 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 the health practitioner provides medical services for a physical condition to a patient/victim who the health practitioner knows or reasonably suspects is suffering from:

- a. A wound or physical injury inflicted by a firearm; or
- b. Any wound or other physical injury inflicted upon a victim where the injury is the result of assaultive or abusive conduct (including sexual misconduct, domestic violence, and dating violence).

This exception does not apply to sexual assault and domestic violence counselors and advocates. Health care practitioners should explain this limited exception to victims, if applicable.

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

Finally, some or all of these professionals may also have reporting obligations under California law to:

- a. Local law enforcement in cases involving threats of immediate or imminent harm to self or others where disclosure of the information is necessary to prevent the threatened danger; or
- b. To the court if compelled by court order or subpoena in a criminal proceeding related to the sexual misconduct, dating or domestic violence, or stalking incident.

If applicable, these professionals will explain this limited exception to victims.

REPORTING TO UNIVERSITY OR LOCAL POLICE

If a victim reports to local or university police about sexual misconduct crimes, the police are required to notify victims that their names will become a matter of public record unless confidentiality is requested. If a victim requests that their identity be kept confidential, their name will not become a matter of public record. However, even if the victim requests confidentiality of identity, the University Police should specifically ask the victim if the victim's name can be provided to the Title IX Office so that the Title IX Coordinator can contact the victim to discuss supportive measures that can be offered. If a victim gives consent to law enforcement to provide their name to the Title IX Coordinator, their name will not become a matter of public record. Even if a victim does not give the police permission to provide their name to the Title IX Coordinator, University police will report the facts of the incident itself to the Title IX Coordinator being sure not to reveal to the Title IX Coordinator victim names/identities or compromise their own criminal investigation. The university is required by the federal Clery Act to report certain types of crimes (including certain sex offenses) in statistical reports. However, while the university will report the type of incident in the annual crime statistics report known as the Annual Security Report, victim names/identities will not be revealed.

REPORTING TO THE TITLE IX COORDINATOR AND OTHER UNIVERSITY EMPLOYEES

Most university employees have a duty to report incidents of sexual misconduct when they are on notice of it. When a victim tells the Title IX Coordinator or another university employee about an incident of sexual misconduct, the victim has the right to expect the university to take immediate and appropriate steps to investigate what happened and to

resolve the matter promptly and equitably. In all cases, the university strongly encourages victims to report incidents of sexual misconduct directly to the university Title IX Coordinator. As detailed above, in the "Privileged and Confidential Communications" section of this policy, all university employees except physicians, licensed professional counselors, licensed clinical social workers, sexual assault counselors and advocates, must report to the Title IX Coordinator all relevant details about any incidents of sexual misconduct of which they become aware. The university will need to determine what happened – and will need to know the names of the victim(s) and the perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the incident.

To the extent possible, information reported to the Title IX Coordinator or other university employees will be shared only with individuals responsible for handling the university's response to the incident. The university will protect the privacy of individuals involved in a sexual misconduct violence incident except as otherwise required by law or university policy. A report of sexual misconduct may result in the gathering of extremely sensitive information about individuals in the university community. While such information is considered confidential, university policy regarding access to public records and disclosure of personal information may require disclosure of certain information concerning a report of sexual misconduct. In such cases, efforts will be made to redact the records, as appropriate, in order to protect the victim's identity and privacy and the privacy of other involved individuals. Except as detailed in the section on "Privileged and Confidential Communications" above, no university employee, including the Title IX Coordinator, should disclose the victim's identity to the police without the victim's consent or unless the victim has also reported the incident to the police.

If a victim requests of the Title IX Coordinator or another university employee that their identity remain completely confidential, the Title IX Coordinator will explain that the university cannot always honor that request or guarantee complete confidentiality. If a victim wishes to remain confidential or request that no investigation be conducted or disciplinary action taken, the university must weigh that request against the university's obligation to provide a safe, non-discriminatory environment for all students, employees, and third parties, including the victim. Under those circumstances, the Title IX Coordinator will determine whether the victim's 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 a victim's identity, the university's ability to meaningfully investigate the incident and pursue disciplinary action against the perpetrator may be severely limited. See the Systemwide (<https://calstate.policystat.com/policy/10958770/latest/>) Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking Policy (<https://calstate.policystat.com/policy/10958770/latest/>) (or any successor policy) for further details around confidential reporting, and other related matters.

Additional Resources

San Francisco State University's sexual misconduct violence prevention and education statement, which includes facts and myths about sexual misconduct violence, at <https://titleix.sfsu.edu/sites/default/files/documents/MythsAndFacts.pdf>

U.S. Department of Education, regional office

Office for Civil Rights 50 United Nations Plaza San Francisco, CA 94102

(415) 486-5555

TDD (877) 521-2172

OCR SanFrancisco@ed.gov (OCR%20SanFrancisco@ed.gov)

- a. Domestic and Family Violence, Office of Justice Programs, United States Department of Justice: Intimate Partner Violence
- b. National Institute of Justice: Intimate Partner Violence, Office of Justice Programs, United States Department of Justice
- c. National Domestic Violence Hotline Website and phone number 1-800-799-SAFE (7233)
- d. Office of Violence against Women, United States Department of Justice
- e. Centers for Disease Control and Prevention: Intimate Partner Violence

Local Community Resource Information

- SF State & Local Community Resource Information (<http://titleix.sfsu.edu/resources/>)

Additional Resources

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San Francisco, CA 94102
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U.S. Department of Education, national office

Office for Civil Rights
Phone: (800) 421-3481
TDD (800) 877-8339
Email: OCR@ed.gov

California Coalition Against Sexual Assault

1215 K. Street, Suite 1850
Sacramento, CA 95814
Phone: (916) 446-2520
California Coalition Against Sexual Assault Website (<https://www.cpedv.org/member-service/california-coalition-against-sexual-assault/>)

- a. Domestic and Family Violence, Office of Justice Programs, United States Department of Justice: Intimate Partner Violence
- b. National Institute of Justice: Intimate Partner Violence, Office of Justice Programs, United States Department of Justice
- c. National Domestic Violence Hotline Website and phone number 1-800-799-SAFE (7233)
- d. Office of Violence against Women, United States Department of Justice
- e. Centers for Disease Control and Prevention: Intimate Partner Violence

Know your rights about Title IX:

- <http://www2.ed.gov/about/offices/list/ocr/docs/title-ix-rights-201104.html>

- Domestic and Family Violence, Office of Justice Programs, United States Department of Justice: <https://ovc.ncjrs.gov/topic.aspx?topicid=27>
- National Institute of Justice: Intimate Partner Violence, Office of Justice Programs, United States Department of Justice: <http://www.nij.gov/topics/crime/intimate-partner-violence/Pages/welcome.aspx>
- National Domestic Violence Hotline: 1-800-799-SAFE (7233): <http://www.thehotline.org/>
- Office of Violence against Women, United States Department of Justice: <http://www.justice.gov/ovw> (<http://www.justice.gov/ovw/>)
- Centers for Disease Control and Prevention: Intimate Partner Violence: <http://www.cdc.gov/ViolencePrevention/intimatepartnerviolence/index.html> (<http://www.cdc.gov/ViolencePrevention/intimatepartnerviolence/>)
- Defending Childhood, United States Department of Justice: <http://www.justice.gov/archives/defendingchildhood> (<http://www.justice.gov/archives/defendingchildhood/>)

Local Community Resource Information

- SF State & Local Community Resource Information (<http://titleix.sfsu.edu/resources/>)