WHAT IS TITLE IX?

- Title IX of the Education Amendments of 1972 is a federal law that protects people from discrimination based on sex *regardless of gender identity or orientation* in educational programs or activities receiving federal financial assistance.
- Covers sexual harassment and sexual violence as forms of sex and gender discrimination.
KEY TITLE IX RESPONSIBILITIES

1. Clarify the scope of confidentiality with students and employees proactively
   - Prior to disclosure if possible
2. Participate in all requested training in a timely manner
3. Elevate any potentially concerning events/incidents to the Title IX Office immediately & directly
   - Usual lines of authority do not apply for Title IX
   - Leave investigation to the Title IX Office
4. Refer student victims/survivors when they disclose an incident to appropriate resources on campus
   - If out of danger: Title IX Office; The SAFE Place; Counseling & Psychological Services
   - If in immediate danger: University Police Department, local law enforcement

CSU EXECUTIVE ORDERS (REV. 6/23/15)

A new category of prohibited behavior added: **sexual misconduct**

Includes any sexual activity engaged in without affirmative consent, where affirmative consent means an informed, conscious, voluntary, and mutual agreement to engage in sexual activity - whether or not the conduct violates any civil or criminal law

Employees are prohibited from entering into a consensual relationship with any student or employee over whom they exercise direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority.

Both Complainants and Respondents now have the right to appeal the finding of an investigation, as well as appeal any sanctions imposed following a finding of responsibility in a Title IX incident.

While reporting as soon as possible maximizes SF State’s capacity to respond effectively to a reported incident, there is no longer a time limit for when a Complainant may come forward to report a potential violation of policy.

Complainants may now request an Early Resolution Process when filing a complaint under EO 1096/1097

Purpose is to explore whether the Complainant’s concern(s) can be resolved by SF State without an investigation.

Employees, as well as students, will have access to a confidential victim-advocate through The SAFE Place if they wish to have one.
WHAT IS SEXUAL HARASSMENT?

- Unwelcome verbal, nonverbal or physical conduct of a sexual nature that includes, but is not limited to sexual violence, sexual advances, offering benefits or preferential treatment in exchange for sexual favors, and indecent exposure, where:
  - Quid pro quo – explicit or implicit in employment or academic decisions
  - Hostile environment – severe, persistent or pervasive as considered by a reasonable person or by the complainant
- Also includes acts of verbal, non-verbal or physical aggression, intimidation or hostility based on gender or sex-stereotyping, even if those acts do not involve conduct of a sexual nature

WHAT IS SEXUAL MISCONDUCT?

- A form of sexual harassment
- Includes but is not limited to physical sexual acts; unwelcome sexual touching; sexual assault or battery; acquaintance rape and rape; domestic violence; dating violence; and stalking
- Occurs without consent or takes place with an individual incapable of giving consent
- May include physical force, violence, threat, or intimidation; causing the victim’s intoxication; or taking advantage of a victim’s incapacitation
- Includes unlawful sexual intercourse with a minor (statutory rape), even if the intercourse is consensual when the victim is under 18 years old
WHAT IS STALKING?

- **Stalking**: Engaging in a repeated Course of Conduct directed at a specific person that would cause a reasonable person to fear for their or others' safety or to suffer Substantial Emotional Distress.
  
  - Course of Conduct: Two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through 3rd 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;
  
  - Substantial Emotional Distress: Significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling

WHAT IS RETALIATION?

- Adverse Action taken against someone because they have or are believed to have:
  
  - Exercised rights under this Executive Order;
  
  - Reported or opposed conduct which they reasonably and in good faith believes is in violation of EO 1095/1096/1097;
  
  - Assisted or participated in a policy-related investigation/proceeding regardless of whether the complaint was substantiated;
  
  - Assisted someone in reporting or opposing a violation of EO 1095/1096/1097 or retaliation

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

- All allegations of discrimination, harassment or retaliation based on sex, gender or sexual orientation, made against students, faculty, staff, applicants or third parties associated with the campus, should be reported to SF State.

- It is illegal to be retaliated against for reporting an incident or participating in an investigation.

ELEMENTS OF AN INVESTIGATION

**Trauma-Informed Response for the Complainant**
- Accessible support resources
- Interim and ultimate remedies
- Confidential advocacy and assistance
- Protection from retaliation
- Choice to participate in the investigation
- Parity in due process
- Timely intervention and investigation

**Due Process Rights for the Respondent**
- Notified of charges
- Explanation of evidence used to determine finding
- Opportunity to provide evidence
- Have an advisor of choice
- Hearing on the proposed discipline
- Opportunity to appeal

*Preponderance of the evidence standard*
STUDENT COMPLAINT TIMELINE

• Intake interview – within 10 working days after receipt of complaint
• Notice of investigation decision – within 10 working days
• Investigative report completed – within 60 working days
• Notice to both parties – within 10 working days
• Appeal of finding to be submitted to CO – within 10 working days
• Response on appeal (with extension allowed) – within 30 working days

Timeline may be extended by investigator/appeal officer or mutual agreement of the parties for reasonable time period not to exceed an additional 30 working days for either investigation or appeal review

• Possible total number of working days = 190 (approx. 9-1/2 months)

LEVELS OF CONFIDENTIALITY

- **LOW**: Most University employees must report all details of a sexual violence incident including the identities of both the victim and alleged perpetrator to the Title IX Coordinator so that immediate action can be taken to protect the victim, and to correct and eliminate the cause of sexual violence.

- **MIDDLE**: SF State Police Department officers may maintain the victim’s identity as confidential, if requested by the victim, but will report the facts of the incident to the Title IX Coordinator or designee, including the identity of the perpetrator.

- **HIGH**: Some University employees (sexual assault and domestic violence counselors or advocates, physicians, professional mental health counselors, psychotherapists, clergy) are required by law to maintain near or complete confidentiality
IF SEXUAL VIOLENCE HAPPENS TO YOU

- Get to a safe place and call 911.
- Do not shower, bathe, douche or change your clothes if you have been assaulted or raped.
- Do not disturb anything at the scene of the assault or throw away any evidence.
- Contact friends/family for help and support.
- Go to a hospital for medical care. You will be given a physical exam and options for the prevention of pregnancy, STIs and HIV/AIDS; sexual assault evidence may be collected.
- Medical professionals are required to notify the police whenever they treat a rape victim but the decision to make a formal police report is still yours.
- If you decide not to go to the police immediately, write down all the details of the assault (who, what, when, where, why and how) in case you wish to report the incident later.
- Seek crisis intervention through The SAFE Place or get support through the Counseling & Psychological Services Center. Services are free to SF State students.

FOUR CONDITIONS OF AFFIRMATIVE CONSENT

If any of these are missing, then it is ill-advised to engage in sexual activity, meaning your risk of becoming a victim or accused as a perpetrator are increased:

1. Both partners are awake and conscious.
2. Both partners have equal power and ability to act and decide, either physically, psychologically or emotionally, e.g., no coercion.
3. Both partners are not incapacitated or impaired in their judgment through the use of alcohol, drugs or other substances, or by fatigue, duress or other mental condition.
4. Both partners are of legal age to be able to given consent.
YOUR THREE BASIC HUMAN RIGHTS

1. To determine what happens to one’s body—what, when, where, how, with whom. Your hormones may be raging and you may feel led on, but that doesn’t justify force.

2. To change one’s mind—no matter what the reason or the cause. You can become angry or frustrated if this happens, but it doesn’t give you the right to impose your will on them.

3. To be treated with respect and dignity—regardless of your past choices, your perceived reputation, or your identity, e.g., gender, race/ethnicity, age, sexual orientation, disability, etc.

IT TAKES TWO TO NEGOTIATE CONSENT

- Each partner is responsible for communicating in a clear and forthright manner about their respective desires and boundaries.

- Greater responsibility lies with the person initiating a sex act to obtain clear, enthusiastic and affirmative consent!

- Most allegations of sexual assault involve confusion about whether or not consent was understood, so be clear about “yes” and about “no,” and be sure to align verbal cues with non-verbal ones.

- Whenever you are unsure if consent has been given, you need to clarify.

- Don’t make assumptions about consent; prior sexual activity is not consent for future activity.
2 MINUTES WILL CHANGE THE WAY YOU THINK ABOUT CONSENT

From CampusClarity: https://www.youtube.com/watch?v=laMtr-rUEmY

LEVERAGE THE POWER OF “ONE”

- Each one of us is responsible to end sexual violence.
- The culture of a community is comprised of the everyday actions and communications of its individual members.
- Your choices either promote a campus based on gender equity or help to proliferate myths/misperceptions which contribute to a climate that supports sexual violence
- Most people are uncomfortable about and disapprove of jokes, comments, statements, etc., which make light of rape, put women down, or are homophobic, but they are afraid to speak up.
- Don't be a bystander: if you see/hear/know something that looks like a high-risk situation, SAY something.
**WHO ARE YOU?**

YouTube Site: [https://www.youtube.com/watch?v=9zr1oxEbdsw](https://www.youtube.com/watch?v=9zr1oxEbdsw)

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**FOR MORE INFORMATION**

- Website: [http://titleix.sfsu.edu](http://titleix.sfsu.edu)
- **Title IX/DHR Team for Students:**
  - Senior Deputy Title IX Coordinator for Students: Dr. Mary Ann Begley
    - Student Services Building, Room 403 (SSB 403)
    - 415.338.2032 | [begley@sfsu.edu](mailto:begley@sfsu.edu) | dos.sfsu.edu
  - Title IX Coordinator & DHR Administrator: Dr. Luoluo Hong
    - Student Services Building, Room 403 (SSB 403)
    - 415.338.7313 | [vpsaem@sfsu.edu](mailto:vpsaem@sfsu.edu) | www.sfsu.edu/~vpsa
  - Equity Programs & Compliance (Title IX/DHR Office): Katon Dalton
    - Student Services Building, Room 403 (SSB 403)
    - 415.338.2032 | [kdalton@sfsu.edu](mailto:kdalton@sfsu.edu)