



RIGHTS AND OPTIONS FOR VICTIMS OF SEXUAL VIOLENCE, DATING VIOLENCE, DOMESTIC VIOLENCE, AND STALKING¹

The University is committed to creating and sustaining an educational and working environment free of sexual violence, dating violence, domestic violence, and stalking. If you experience any of these forms of violence, 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 violence (e.g., rape, acquaintance rape, dating violence, 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 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 a sexual assault counselor or advocate. The campus Title IX Coordinator is available to assist you in notifying the police, if you wish. The sexual assault counselors and advocates listed below can also assist you in notifying the police and/or the campus Title IX Coordinator.

You have the right to decide who and when to tell about sexual violence. 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.

¹ As required by the Violence Against Women Reauthorization Act of 2013 (20 U.S.C. 1092(f))(VAWA), pursuant to its Campus Sexual Violence Elimination Act provision (Campus SaVE Act).

WHO 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 violence. 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.

SF State Title IX Coordinator & DHR Administrator

- Cherie Scricca, Interim Title IX Coordinator
- Student Services Building 403
- (415) 338-2032, scricca@sfsu.edu
- Role: Monitor and oversee overall implementation of Title IX compliance, including training, education, communications, and administration of complaint, investigation, and discipline procedures; provide consultation to executive/senior level administrators; receive complaints against students, employees, and third parties.

SF State Senior Deputy Title IX Coordinator / DHR Administrator for Employees & 3rd Parties

- Dr. Christina Sabee, Dean of Equity Initiatives
- Student Services Building 403
- (415) 338-2032, csabee@sfsu.edu
- Role: Receive complaints against employees and third parties, assist in the coordination of training, education, communication, and administration of complaint, investigation, and discipline procedures.

SF State Senior Deputy Title IX Coordinator / DHR Administrator for Students

- Katon Dalton, Equity Programs & Compliance Manager
- Student Services Building 403
- (415) 338-2032, kdalton@sfsu.edu
- Role: Receive complaints against students, assist in the coordination of training, education, communication, and administration of complaint, investigation, and discipline procedures.

SF State Title IX Deputy Coordinators

SF State Deputy Title IX Coordinators functionally report to the Title IX Coordinator and assist with compliance mandates; provide campus-wide leadership on prevention efforts; and, provide

guidance, support, and assistance to alleged victims of sexual violence and sex/gender discrimination.

- Sara Lewis, Equity Programs & Compliance Assistant Manager
- Student Services Building 403
- (415) 338-2032, saral@sfsu.edu

SF State Police

- Phone (emergency) 911
- Phone (non-emergency): (415) 338-7200
- Email: upd@sfsu.edu

Local Police

- San Francisco Police Department, 850 Bryant St., San Francisco, CA, 94103
- Phone (emergency): 911 or (415) 553-8090 for SF dispatch
- Phone (non-emergency): (415) 553-0123

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

- (800) 421-3481 or ocr@ed.gov
- If you wish to fill out a complaint form online with the OCR, you may do so at: <http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>.

The White House Task Force to Protect Students From Sexual Assault

- <https://www.notalone.gov/>

Medical & Counseling Services

SF State & Local Community Resource Information

Campus Services

Counseling and Psychological Services

Student Services Building #205
Mon-Fri, 8am-7pm (closed 12-1pm)
(415) 338-2208
<http://psyservs.sfsu.edu>

The S.A.F.E. Place

Student Services Building #205
Mon-Fri, 9am-6pm (closed 12-1pm)
(415) 338-2208
http://www.sfsu.edu/~safe_plc/

Student Health Center

Mon-Fri, 9am-6pm

(415) 338-1719

<http://health.sfsu.edu/>

Off-Campus Services**San Francisco Women Against Rape (SFWAR)**

3543 18th Street #7, SF 94110

(415) 647-7273- 24hr Hotline

<http://www.sfwar.org>

Trauma Recovery Center/ Rape Treatment Center (TRC/RTC)

Located @ SF General Hospital

(415) 437-3011

<http://traumarecoverycenter.org>

THE IMPORTANCE OF PRESERVING 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 a local sexual assault victim resource center (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 violence. If you have experienced sexual violence, 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 extreme circumstances, University students or employees who are victims of sexual violence will not be subject to discipline.

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

The campus Title IX Coordinator 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 a sexual violence 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 accused to move from University-owned or affiliated housing; immediately prohibiting the accused from coming to the University; or prohibiting the accused from contacting the parties involved in the reported incident. These options may be available to you whether or not you choose to report the sexual violence to campus police or law enforcement. The Title IX Coordinator remains available to assist you and provide you with reasonable remedies requested by you throughout the reporting, investigative, and disciplinary processes, and thereafter.

If it is determined that University policy² prohibiting sexual violence was violated, the accused will be subject to discipline, up to and including dismissal from University employment or expulsion from the University. You are entitled to be accompanied to any related meeting or proceeding by an advisor of your choice. However, if you do not wish to participate in an investigation or hearing process, you have the right to decline to do so.

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

² Executive Order 1096 (Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and Procedure for Handling Discrimination, Harassment and Retaliation Complaints by Employees and Third Parties); Executive Order 1097 (Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation Against Students and Systemwide Procedure for Handling Discrimination, Harassment and Retaliation Complaints by Students).

Civil Lawsuit: You may choose to file a civil lawsuit against the perpetrator, whether or not criminal charges have been filed. A civil lawsuit provides you the opportunity to recover actual damages, which may include compensation for medical expenses, lost wages, pain, suffering and emotional distress.

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

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

CONFIDENTIALITY – KNOW YOUR OPTIONS

We encourage victims of sexual violence 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. Thirdly, 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*³ – Physicians, psychotherapists, professional, licensed counselors, and clergy who work or volunteer on or off campus, and who provide medical or mental health treatment or counseling (including those who act in that role under their supervision) may **not** report **any** information about an incident of Sexual Violence to anyone else at the University, including the Title IX Coordinator, without 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.* Following is the contact information for professional counselors and physicians (if any) on campus:

Counseling and Psychological Services

Student Services Building #205
Mon-Fri, 8am-7pm (closed 12-1pm)
(415) 338-2208
<http://psyservs.sfsu.edu>

Student Health Center

Mon-Fri, 9am-6pm
(415) 338-1719
<http://health.sfsu.edu/>

*Sexual Assault and Domestic Violence Counselors and Advocates*⁴ – 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 violence 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:

The S.A.F.E. Place

Student Services Building #205
Mon-Fri, 9am-6pm (closed 12-1pm)
(415) 338-2208

Stacy Peterson

Manager
(415) 338-2208
smpeterson@sfsu.edu

³ Cal. Evid. Code § 990 *et seq.*, § 1010 *et seq.*, and § 1030 *et seq.*

⁴ 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 Violence, Domestic Violence, and Dating Violence).⁵ This exception does *not* apply to sexual assault and domestic violence counselors and advocates. Health care practitioners should 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.⁶ These professionals will explain this limited exception to you, if applicable.

Finally, some or all of these professionals may also have reporting obligations under California law to (1) local law enforcement in cases involving threats of immediate or imminent harm to self or others where disclosure of the information is necessary to prevent the threatened danger;⁷ or (2) to the court if compelled by court order or subpoena in a criminal proceeding related to the

⁵ 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. Cal. Penal Code §§ 11160-11163.2.

⁶ Cal. Penal Code §§ 11164-11174.3; see also CSU Executive Order 1083 or any superseding executive order.

⁷ Cal. Evid. Code § 1024.

Sexual Violence incident.⁸ If applicable, these professionals will explain this limited exception to you.

Reporting to University or Local Police

If you report to local or University Police about Sexual Violence, the police are required to notify you that your name will become a matter of public record **unless confidentiality is requested.**⁹ 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 violence when they are on notice of it. When you tell the Title IX Coordinator or another University employee about a sexual violence 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 violence directly to the Title IX Coordinator.***

As detailed above, all University employees ***except*** physicians, licensed counselors, sexual assault counselors and advocates, must report to the Title IX Coordinator all relevant details about any sexual violence 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 to the incident. The University will protect the privacy of individuals involved in a sexual violence incident except as otherwise required by law or University policy. A sexual violence

⁸ Cal. Evid. Code § 1035.4.

⁹ Cal. Penal Code § 293; Cal. Gov. Code § 6254(f).

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 report of sexual violence. In such cases, efforts will be made to redact the records, as appropriate, in order to protect our identity and privacy and the privacy of other involved individuals.

The Interim Title IX Coordinator can be reached at:

Cherie Scricca
Student Services Building 403
(415) 338-2032, scricca@sfsu.edu

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 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 violence 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;
- 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 perpetrator 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 of sexual violence unless you are under the age of 18 or you provide the University with written permission to do so.¹⁰

Under California law, and pursuant to University policy, all 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 Sexual Violence incident to the police.¹¹ However, the identity of the person who reports and the report itself are confidential and disclosed only among appropriate agencies.¹²

Because the University is under a continuing legal obligation to address the issue of sexual violence campus-wide, reports of sexual violence (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 sexual violence 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 Ombuds provides SF State staff confidential, neutral and informal dispute resolution services, provides information about University policies and procedures, and makes referrals. However, in sexual violence cases, California law mandates that the Resource Advocate as well as all other University employees (except for physicians, licensed counselors, sexual assault counselors and advocates as discussed in the Privileged and Confidential Communications section of this policy above) report sexual violence incidents to the Title IX Coordinator.

The Resource Advocate can be reached at:

Christina Sabee, Dean of Equity Initiatives
Student Services Building 403
(415) 338-2032, csabee@sfsu.edu.

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

¹⁰ 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).

¹¹ Cal. Penal Code §§ 11164-11174.3; see also CSU Executive Order 1083 or any superseding executive order.

¹² Cal. Penal Code § 11167(d).

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 violence;
- Assists someone with a sexual violence; or
- Participates in any manner in an investigation or resolution of a sexual violence complaint.

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 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 violence, written findings sent to the accuser and the accused, 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.¹³ Your campus Title IX Coordinator can explain these procedures in detail.

¹³ Executive Order 1096 (Systemwide *Policy* Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and *Procedure* for Handling Discrimination, Harassment and Retaliation Allegations

At the conclusion of the University's complaint procedure, any employee or student found to have violated University policy against sexual violence will be subject to discipline. Discipline would be administered consistent with applicable collective bargaining agreements (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 violence will:

- Provide a prompt, fair, and impartial process and resolution;
- Be conducted by officials who receive annual training on sexual violence and how to conduct a hearing process that protects the safety of victims and promotes accountability;
- Provide the accuser and the accused the same opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice;
- Simultaneously inform the accuser and the accused in writing of:
 - o The outcome of the disciplinary proceeding;
 - o The University's procedures for the accused to appeal the results of the disciplinary proceeding;
 - o Any change to the disciplinary results that occurs prior to the time such results become final; and
 - o When disciplinary results become final.

WHAT ARE SEXUAL VIOLENCE, DATING VIOLENCE, DOMESTIC VIOLENCE, STALKING AND CONSENT?

Sexual Violence is a form of Sexual Harassment and means physical sexual acts, such as unwelcome sexual touching, sexual assault, sexual battery, rape, domestic violence, dating violence, and stalking (when based on gender or sex), perpetrated against an individual against his or her will and without consent or against an individual who is incapable of giving consent due to that individual's use of drugs or alcohol, status as a minor, or disability.¹⁴ Sexual Violence may include physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person's incapacitation (including voluntary intoxication).

Men as well as women can be victims of these forms of Sexual Violence. Unlawful sexual intercourse with a minor (statutory rape) occurs even if the intercourse is consensual when the

by Employees and Third Parties); Executive Order 1097 (Systemwide *Policy* Prohibiting Discrimination, Harassment and Retaliation Against Students and Systemwide *Procedure* for Handling Discrimination, Harassment and Retaliation Complaints by Students) Executive Order 1095 (Implementation of Title IX, the Campus SaVE Act, and Related Sex Discrimination, Sexual Harassment and Sexual Violence Legislation)

¹⁴ See definition of Consent below.

victim is under 18 years old, because the victim is considered incapable of giving legal consent due to age.

Sexual Assault is a form of Sexual Violence and is an attempt, coupled with the ability, to commit a violent injury on the person of another because of that person's gender or sex.¹⁵

Sexual Battery is a form of Sexual Violence and is any willful and unlawful use of force or violence upon the person of another because of that person's gender or sex.¹⁶

Rape is a form of Sexual Violence and is non-consensual sexual intercourse that may also involve the use of threat of force, violence, or immediate and unlawful bodily injury or threats of future retaliation and duress. Any sexual penetration, however slight, is sufficient to constitute rape. Sexual acts including intercourse are considered non-consensual when the person is incapable of giving consent because s/he is incapacitated from alcohol and/or drugs, is under 18 years old, or if a mental disorder or developmental or physical disability renders the person incapable of giving consent. The accused's relationship to the person (such as family member, spouse, friend, acquaintance or stranger) is irrelevant.¹⁷ (See complete definition of Consent below.)

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

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

- Consent must be **voluntary**, and given without coercion, force, threats, or intimidation. Consent requires positive cooperation in a particular sexual act, or expression of intent to engage in that sexual act through the exercise of free will.
- Consent can be **withdrawn or revoked**. Consent to one form of sexual activity (or one sexual act) does not constitute consent to other forms of sexual activity (or other sexual acts). Consent to sexual activity given on one occasion does not constitute consent to sexual activity on another occasion. The fact that two people are or were in a dating or sexual relationship does not constitute consent to engage in sexual activity. There must **always** be mutual and affirmative consent to engage in sexual activity. Consent to a sexual act may be withdrawn or revoked at any time, including after penetration. The victim's request for the perpetrator to use a condom or birth control does not, in and of itself, constitute consent. Once consent is withdrawn or revoked, the sexual activity must stop immediately.
- Consent cannot be given by a person who is **incapacitated**. For example, a person cannot give consent if s/he is unconscious or coming in and out of consciousness. A person is

¹⁵ Cal. Penal Code § 240.

¹⁶ Cal. Penal Code § 242.

¹⁷ Cal. Penal Code §§ 261-263.

incapacitated if s/he lacks the physical and/or mental ability to make informed, rational judgments. Examples of incapacitation include unconsciousness, sleep and blackouts. Whether an *intoxicated* person (as a result of using alcohol or other drugs) is *incapacitated* depends on the extent to which the alcohol or other drugs impact the person's decision-making capacity, awareness of consequences, and ability to make fully informed judgments. A person with a medical or mental disability may also lack the capacity to give consent.

- Being intoxicated by drugs or alcohol does not diminish a person's responsibility to obtain consent from the other party before engaging in sexual activity. Factors to be considered include whether the person knew, or whether a reasonable person in the accused's position should have known, that the victim did not give, or revoked, consent; was incapacitated; or was otherwise incapable of giving consent.
- Sexual intercourse with a minor is never consensual when the victim is under 18 years old, because the victim is considered incapable of giving legal consent due to age.

Domestic Violence is a form of Sexual Violence and is abuse committed against someone who is a current or former spouse, current or former cohabitant, someone with whom the abuser has a child, someone with whom the abuser has or had a dating or engagement relationship, or a person similarly situated under California domestic or family violence law. Cohabitant means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.¹⁸

Dating Violence is a form of Sexual Violence and is abuse committed by a person who is or has been in a social or dating relationship of a romantic or intimate nature with the victim.¹⁹ This may include someone the victim just met; i.e., at a party, introduced through a friend, or on a social networking website.

Stalking means a repeated course of conduct directed at a specific person (when based on gender or sex) that places that person in reasonable fear for his/her or others' safety, or causes the victim to suffer substantial emotional distress.²⁰

¹⁸ Cal. Penal Code § 13700(b) and Cal. Family Code § 6211.

¹⁹ Cal. Penal Code § 13700(b).

²⁰ Cal. Penal Code § 646.9.