

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

- **Sexual Discrimination** means an adverse act of sexual discrimination (including sexual harassment and sexual violence) that is perpetrated against an individual on a basis prohibited by Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq., and its implementing regulations, 34 C.F.R. Part 106 (Title IX); California Education Code §66250 et seq. and/or California Government Code §11135.
- **Sexual Harassment** is unwelcome conduct of a sexual nature that includes, but is not limited to, sexual violence, sexual advances, requests for sexual favors, indecent exposure and other verbal, nonverbal or physical unwelcome conduct of a sexual nature, where such conduct is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the individual, and is in fact considered by the individual, as limiting the individual's ability to participate in or benefit from the services, activities or opportunities offered by the university. Sexual harassment also includes gender-based harassment, which may include acts of verbal, non-verbal or physical aggression, intimidation or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature.
- **Sexual Violence** means physical sexual acts (such as unwelcome sexual touching, sexual assault, sexual battery and rape) perpetrated against an individual without consent or against an individual who is incapable of giving consent due to that individual's use of drugs or alcohol, or disability.

Who to Contact If You Have Complaints, Questions or Concerns

The President has designated the Associate Vice President of Human Resources as the Title IX Coordinator who will oversee the activities associated with Title IX. The Associate Vice President of Human Resources will receive the complaint and will be responsible for the administration of the complaint procedures. As well as the Title IX Coordinator, there are three Title IX Deputy Coordinators who can assist with the complaints.

Campus Title IX Coordinator

Beth Pugliese, Associate Vice President, Human Resources
San José State University
One Washington Square
San José, CA 95192
(408) 924-1500
(408) 924-1515/fax

Title IX Deputy Coordinators

- Julie Paisant, Equal Opportunity Manager, Human Resources, (408) 924-2255
- Liz Jarnigan, Associate Athletic Director, Athletics, (408) 924-2462
- Shannon Quihuiz, Interim Director, Student Conduct & Ethical Development, (408) 924-5946

University Police

University Police Department
San José State University
One Washington Square
San José, CA 95192
(408) 924-2222

******If you are in the midst of an emergency, please call the police immediately by dialing 9-1-1.******

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 visit the [Office for Civil Rights](#).

Title IX requires that the CSU adopt and publish complaint procedures that provide for prompt and equitable resolution of sex discrimination complaints, including sexual harassment and violence. CSU [Executive Order 1074](#) is the system wide procedure for all complaints of discrimination, harassment or retaliation **made by students** against the CSU, a CSU employee, other CSU students or a third party.¹ Except in the case of a privilege recognized under California law (examples of which include Evidence Code §§1014 (psychotherapist-patient); 1035.8 (sexual assault counselor-victim); and 1037.5 (domestic violence counselor-victim)), any member of the University community who knows of or has reason to know of sexual discrimination allegations shall promptly inform the campus Title IX Coordinator. Regardless of whether an alleged victim of sexual discrimination ultimately files a complaint, if the campus knows or has reason to know about possible sexual discrimination, harassment or violence, it must review the matter to determine if an investigation is warranted. The campus must then take appropriate steps to eliminate any sex discrimination/harassment, prevent its recurrence and remedy its effects.

Safety of the Campus Community is Primary

The university's primary concern is the safety of its campus community members. The use of alcohol or drugs never makes the victim at fault for sexual discrimination, harassment or violence; therefore, victims should not be deterred from reporting incidents of sexual violence out of a concern that they might be disciplined for related violations of drug, alcohol or other university policies. Except in extreme circumstances, victims of sexual violence shall not be subject to discipline for related violations of the Student Conduct Code.

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

Individuals alleged to have committed sexual assault may face criminal prosecution by law enforcement and may incur penalties as a result of civil litigation. In addition, employees and students may face discipline/sanctions at the university. Employees may face sanctions up to and including dismissal from employment, per established CSU policies and provisions of applicable collective bargaining unit agreements.

Students charged with sexual discrimination, harassment or violence will be subject to discipline, pursuant to the California State University Student Conduct Procedures (see [Executive Order 1073](#)) 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 immediate interim suspension from the university, required move from university-owned or affiliated housing, adjustment to course schedule or prohibition from contact with parties involved in the alleged incident.

Sexual Violence Prevention and Education Statement (Including Facts and Myths)

What You Can Do To Help Stop Sexual Violence

- Sexual contact requires mutual consent. An incapacitated person (for example, a person who is intoxicated by drugs or alcohol) is incapable of giving consent.
- No one deserves to be sexually assaulted, stalked or victimized in any way.
- Don't engage in any behavior that may be considered dating/domestic violence, sexual assault, stalking or any other form of violence.
- Never use force, coercion, threats, alcohol or other drugs to engage in sexual activity.
- Take responsibility for your actions.
- Avoid alcohol and other drugs.
- Remember "no" means "No!" and "stop" means "Stop!"
- Report incidents of violence (including coercion) to law enforcement and campus authorities.

- Discuss dating/domestic violence, sexual assault and stalking with friends—speak out against violence and clear up misconceptions.
- Don't mistake submission or silence for consent.

What You Can Do To Help Minimize Your Risk of Becoming a Victim

- Be aware. Does your partner: Threaten to hurt you or your children? Say it's your fault if he or she hits you and then promises it won't happen again (but it does)? Put you down in public? Force you to have sex when you don't want to? Follow you? Send you unwanted messages and gifts?
- Be assertive. Speak up.
- Stay sober and watch out for dates and/or anyone who tries to get you drunk or high.
- Clearly communicate limits to partners, friends and acquaintances.
- Never leave a party with someone you don't know well and trust.
- Trust your feelings; if it feels wrong, it probably is.
- Learn all you can and talk with your friends. Help them stay safe.
- Report incidents of violence to law enforcement and campus authorities.

What You Can Do If You Are a Victim, in General

- Go to a safe place as soon as possible.
- Preserve evidence.
- Report the incident to University Police or local law enforcement.
- Report the incident to your campus Title IX Coordinator.
- Call a domestic violence, sexual assault or stalking hotline.
- Call a friend or family member for help.

- Know that you are not at fault. You did not cause the abuse to occur and you are not responsible for someone else's violent behavior.

Common Myths and Facts about the Causes of Sexual Violence

1. **Myth:** Victims provoke sexual assaults when they dress provocatively or act in a promiscuous manner.

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

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

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

3. **Myth:** It is not sexual assault if it happens after drinking or taking drugs.

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

4. **Myth:** Most sexual assaults are committed by strangers. It's not rape if the people involved know each other.

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

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

Fact: Rape and sexual assault can occur at any time, in many places, to anyone.

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

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

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

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

8. **Myth:** Only young, pretty women are assaulted.

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

9. **Myth:** It’s only rape if the victim puts up a fight and resists.

Fact: Many states do not require the victim to resist in order to charge the offender with rape or sexual assault. Those who do not resist may feel if they do so, they will anger their attacker, resulting in more severe injury. Many assault experts say that victims should trust their instincts and intuition and do what they believe will most likely keep them alive. Not fighting or resisting an attack does not equal consent.

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

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

What is Dating Violence or Domestic Violence?

Dating/Domestic violence is a pattern of abusive behaviors used to exert power and control over a partner. Dating/Domestic violence can be physical, sexual, emotional, economic or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure or wound someone. Dating/Domestic violence can happen to anyone regardless of race, sexual orientation, social economics, education, age, religion, etc. Dating/Domestic violence can also affect family, friends, co-workers and members in the community, in addition to the victim and abuser. Domestic violence can occur regardless of the relationship status, including individuals who are dating, cohabitating or married.

Types of Dating/Domestic Violence That Includes Sexual Misconduct

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

General Pattern of Behavior

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

Definitions of What Dating/Domestic Violence Looks Like

Any actions used for the intent of gaining power and control over a person:

- **Physical Abuse:** any intentional use of physical force with the intent to cause injury (i.e., grabbing in a way to inflict pain, hitting, shoving, strangling, kicking)
- **Emotional Abuse:** non-physical behaviors such as threats, insults, constant monitoring, humiliation, intimidation, isolation, silent treatment or stalking
- **Sexual Abuse:** any action that impacts the partner's ability to control their sexual activity or the circumstance which sexual activity occurs, including rape, coercion or restricting access to birth control

Warnings or Signs of Potential Dating/Domestic Violence

Ask yourself if your partner engages in one or any of the following activities:

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

Sexual Violence—Risk Reduction Tips

“What can I do in order to help reduce my risk of being a victim of sexual violence?”

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame and with recognition that only those who commit sexual violence are responsible for those actions, these suggestions may nevertheless help you to reduce your risk of experiencing a non-consensual sexual act:

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor “NO” clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.

- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.
- ***In an emergency, call 9-1-1.***

“What can I do in order to help reduce my risk of being an initiator of sexual violence?”

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk of being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- DON'T MAKE ASSUMPTIONS about consent, about someone's sexual availability, about whether they are attracted to you, about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you DO NOT have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves. **Incapacitation means a person is unable to give valid consent.**
- Realize that your potential partner could be intimidated by you or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

Rape and Sexual Assault

Crimes of a sexual nature may be reported to campus or local law enforcement in addition to being reported administratively on campus. **Both men and women can be victims of rape or sexual assault.** For purposes of this notice, rape and sexual assault are defined below:

- **Rape** is non-consensual intercourse that involves the threat of force, violence, immediate and unlawful bodily injury or threats of future retaliation and duress.
- **Sexual assault** is broader in definition than rape: any non-consensual sexual act may be considered sexual assault. Examples of sexual assault include unwanted oral, anal or vaginal intercourse, penetration of the anus or vagina with a foreign object or unwanted touching on an intimate area of a person's body. Sexual assault can include unwanted kissing or bodily contact that is sexual in nature.

In order for a sexual act to be considered rape or sexual assault, the act must be non-consensual. What is consent?

- **Consent** for sexual contact means that an individual is a willing participant in the sexual act. **Individuals are unable to give consent if incapacitated by the influence of drugs or alcohol or they suffer from a physical or mental disorder that makes them incapable of giving consent. Likewise, a minor is unable to give legal consent for sexual intercourse.**

Stalking

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

- Damaging your property.
- Knowing your schedule.
- Showing up at places you go.
- Sending mail, e-mail, texts and pictures.
- Creating a website about you.
- Sending gifts.
- Stealing things that belong to you.
- Calling you repeatedly.
- Any other actions that the stalker takes to contact, harass, track or frighten you.

You can be stalked by someone you know casually, a current boyfriend or girlfriend, someone you dated in the past or a stranger. Getting notes and gifts at your home, on your car or other places might seem

sweet and harmless to other people. But if you don't want the gifts, phone calls, messages, letters or e-mails, it doesn't feel sweet or harmless. It can be scary and frustrating.

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

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

How You Can Help Yourself

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

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

Other Things You Can Do

- Let friends or family members know when you are afraid or need help.
- Be aware of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
- Avoid isolated areas.
- Avoid putting headphones in both ears so you can be more aware of your surroundings.
- Trust your instincts. If a situation or location feels unsafe or uncomfortable, remove yourself.
- Vary your routine, your driving routes and where you park your car.
- When you go out, tell someone where you are going and when you'll be back.
- ***In an emergency, call 9-1-1*** or your local police department.
- Memorize the phone numbers of people to contact or places to go in an emergency.

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

How You Can Help Someone Else

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

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

Additional Resources

- U.S. Department of Education, Regional Office
Office for Civil Rights
50 Beale Street, Suite 7200
San Francisco, CA 94105
(415) 486-5555
TDD (877) 521-2172
- U.S. Department of Education, National Office
Office for Civil Rights
(800) 872-5327
- [Know Your Rights about Title IX](#)

- [California Coalition Against Sexual Assault](#)
1215 K. Street, Suite 1850
Sacramento, CA 95814
(916) 446-2520
 - [SJSU Student Health Center](#)
(408) 924-6122
 - [Employee Assistance Program](#)
 - [Domestic and Family Violence](#)
 - [National Institute of Justice: Intimate Partner Violence](#)
 - [National Domestic Violence Hotline: 1-800-799-SAFE \(7233\)](#)
 - [Office of Violence against Women](#)
 - [Center for Disease Control and Prevention: Intimate Partner Violence](#)
 - [Defending Childhood](#)
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¹ CSU Executive Orders 1089 set forth the university's system wide policy and complaint procedure for discrimination, harassment and retaliation for employees not eligible to file a complaint or grievance under a collective bargaining agreement or whose collective bargaining agreement incorporates the CSU system wide complaint procedure.

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