

Title IX



Guide for **Student Complainants** in Sexual Assault, Sexual Harassment, Dating and Domestic Violence, Sexual Exploitation, and Stalking matter.

Informational Support Packet

Being accused of sexual assault, dating and domestic violence, sexual exploitation, and stalking can be confusing and unsettling. This guide provides information on the CSU campus policy prohibiting the conduct and your policy protections and rights as well as resources available to you.

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We are committed to creating an environment that is safe and free of forms of violence. The university prohibits the conduct defined below.

1. 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.

- 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.
- Sexual misconduct includes, but is not limited to, the following conduct:
 - an attempt, coupled with the ability, to commit a violent injury to 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.
- Intimate body part means the sexual organ, anus, groin, buttocks, or breasts of any person.
- 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.
- 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 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 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
 - 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;
 - The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the person affirmatively consented.
2. **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:
- 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
 - 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
 - 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
 - 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 campus 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 Nondiscrimination Policy.

3. **Sexual Exploitation** means a person taking sexual advantage of another person for the benefit of anyone other than that person without that person's consent, including, but not limited to, any of the following acts:
 - The prostituting of another person.
 - The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor of services, through force, fraud, or coercion.
 - The recording of images, including video or photograph, or audio of another person's sexual activity or intimate parts, without that person's consent.
 - The distribution of images, including video or photographs, or audio of another person's sexual activity or intimate parts, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to the disclosure.
 - The viewing of another person's sexual activity or intimate parts, in a place where that other person would have a reasonable expectation of privacy, without that person's consent, for the purpose of arousing or gratifying sexual desire.
4. **Dating Violence and Domestic Violence** means physical violence or threat of physical violence committed by a person:
 - who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and
 - 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.

5. **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.

REPORTING

Reports of sexual misconduct are received by the Title IX Office in a variety of ways. Persons can report directly to the Title IX Coordinator, Campus police, or other Responsible Employees at CSU East Bay. A person can report to a law enforcement agency for a criminal investigation. An individual has the right to pursue a criminal investigation, campus investigation both or neither.

Supportive Measures/Accommodations

As a result of an incident of Sexual misconduct and/or gender-based violence, it can be difficult for both parties to know what support may be needed:

- Medical and mental health services, including counseling
- Assistance in finding alternative campus housing and/or dining locations
- Assistance in arranging for alternative university employment
- Assistance with Student Financial Services
- Assistance seeking visa and/or immigration assistance
- A mutual no-contact order.
- Providing an escort to ensure that the individual can move safely between school programs and activities
- Transportation accommodations
- Assistance in identifying an advisor of choice
- It may be possible to secure time-limited academic accommodations, such as:
 - » Rescheduling an exam, assignments, etc.
 - » Attendance accommodation
- Transferring to another section of a lecture or laboratory
- Accessing academic support (e.g., tutoring)
- Arranging for incompletes, a leave of absence or withdrawal from campus
- Preserving eligibility for academic, athletic or other scholarships, financial aid, internships, study abroad or foreign student visas
- If the student experiences persistent academic difficulties as a result of the incident (e.g., including difficulties stemming from anxiety, depression, post-traumatic stress disorder or any other mental or physical illnesses or injuries), the student may request more long-term academic accommodations, such as:
 - » A temporary leave of absence.
- You may also be entitled to additional services and support if you have a disability or developed a disability as a result of experiencing sexual misconduct.

Investigation & Resolution Process

After a report is made to the Title IX Office, the Title IX Coordinator will reach out to schedule an intake meeting with the alleged Complainant. At the meeting, information is gathered about the incident and an offer of supportive measures and a review of the CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation (Nondiscrimination Policy). At the conclusion of the meeting, the Complainant can take a few days to decide what next steps.

1. File a formal complaint and seek an investigation
2. Not move forward ¹with a formal complaint and seek supportive resources

After a decision is made about how a Complainant would like to proceed, a meeting is scheduled with the **Respondent** to indicate that they have been named in an alleged incident of sexual misconduct or gender-based violence. If the **Complainant** elects to move forward with a formal complaint and an informal resolution process, the Title IX Coordinator will work closely with both parties to help facilitate a mutually desired outcome. If a Complainant elects to move forward with a formal complaint and a formal resolution process, an investigator from Campus Safety will contact you, the Complainant, and any witnesses who are indicated and conduct an investigation. This includes questioning all parties involved and collecting a statement and any relevant evidence from all parties.

Report received by	Title IX Coordinator assesses student safety and offers support measures
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¹ The Title IX Office has the duty and responsibility to proceed with a formal complaint— even if not supported by the Complainant — when an incident of sexual misconduct and gender-based violence rises to a threshold that the Respondent poses a significant threat

Title Office	
	Responding to a Campus report Rights and options document Offer supportive measures Advisor Advise of formal and informal process Confidentiality
	TitleIX Coordinator and/or DHR Administrator determine which track to pivot case. See the chart below for the characteristics of each track.
	Title IX Coordinator meets with Respondent for a meeting to review Responding to a Campus report Offer supportive measures Advise of formal and informal process Confidentiality
	Investigation

Track System

Track 1	Track 2	Track 3
Federal mandated hearing	State mandated hearing	Non-hearing
Alleged conduct meets the Sexual Harassment; definition(Article VII C.) Occurred in the U.S. and occurred in an education program or activity	Alleging Sexual Misconduct, Dating, or Domestic and credibility of one or both central to the determination of whether a student violated the policy, and student is facing severe disciplinary sanction expulsion/suspension if found in violation.	Applies to all complaints alleging a violation of Nondiscrimination policy violation
Student, employee	Student only	Student, employee

Reporting & Confidentiality

We encourage anyone who has been accused of harm to talk to somebody about what happened. Various employees on campus have different abilities to maintain confidentiality. The Title IX Coordinator can also connect you to a Respondent Support Person.

They are:

1. CONFIDENTIAL EMPLOYEES Talking with a staff member in this capacity will not result in a report to the University. Confidential employees are available in Counseling and Psychological Services.
2. RESPONSIBLE EMPLOYEES Some employees are required to report all the details of an incident (including the identities of both the victim and alleged perpetrator) to the Title IX Coordinator. This group includes Title IX coordinators, student staff, and all faculty and staff who are not listed as confidential or semi-confidential.

All individuals are encouraged to talk to someone in one or more of these groups. Refer to the chart below so you can make an informed decision.

Confidential	Responsible Employees
Counseling and Psychological Services Student Health Center Confidential Advocate	All Faculty All Staff Title IX Coordinator All Student Employees and Residential Assistants All other University Employees

REPORTING ELECTRONICALLY If you would like to initiate a report online, please fill out the form at [Title IX/Discrimination Harassment Retaliation Incident Reporting Form](#) Your online report will go directly to the Title IX coordinator and they will be in touch with you as soon as possible. Incidents requiring an immediate response should be reported to Campus police at 510-885-3791.

Resources:

ADDITIONAL SUPPORT SERVICES

Contact information for both on-campus and off-campus Confidential Support Services are listed below. If a student wishes to connect with any of these services, please print this or direct them to the Title IX Website:

<https://www.csueastbay.edu/diversity/title-ix/>.

You can call on behalf of the student or walk the student over to make sure the student is supported every step of the way.

If a student wishes to disclose sexual assault, dating/domestic partner violence, stalking, or harassment, they can contact:

Title IX Office

Reports to the Title IX Coordinator may be completed by the student, or by faculty and staff on behalf of the student, [online](#) or by calling the Title IX Coordinator or Confidential Office Coordinator:

Terri La Beaux, Title IX Coordinator

Telephone: (510) 885- 4918

Email: title9@csueastbay.edu

Website: <https://www.csueastbay.edu/hr/title-ix/>

Title IX Office:

Ellen G. Maloney Ruhe

510-885-2743

ellen.maloneyruhe@csueastbay.edu

University Police Department

Reports to the University Police may be made through a phone call to UPD, who will complete an initial report at the discretion of the student:

Lieutenant Omar Miakhail

Emergency: **911**

Telephone: (510) 885- 3791

Anonymous Phone Line: (510) 885- 2444

Website: <https://www.csueastbay.edu/upd/>

On-Campus Confidential Support Services

Confidential Advocate

Michelle Luqueno-Diaz

Student Health and Counseling Services 1152

Telephone: 510-885-3700

Email: Michelle.luquenodiazs@csueastbay.edu, advocate@csueastbay.edu

Website: <https://www.csueastbay.edu/advocacy-services/confidential-campus-advocate/>

Student Health and Counseling Services

Student Health and Counseling Services 1209

Telephone: (510) 885- 3735

After-hours Crisis Counselors: (510) 885- 3735, option 2

Email: shcscounseling@csueastbay.edu

Website: <https://www.csueastbay.edu/shcs/>

Off-Campus Confidential Support Services

Hayward Police Department

Special Victims Unit

300 W. Winton Ave., Hayward, CA 94544

Emergency: **911**

Telephone: (510) 293-7034

Non-emergency Line: (510) 293-7000

Website: <https://www.hayward-ca.gov/police-department>

Concord Police Department

1350 Galindo St., Concord, CA 94520

Emergency: **911**

Non-emergency Line: (925) 671-3333

Website: <https://cityofconcord.org/183/Police>

Oakland Police Department

455 7th St., Oakland, CA 94607

Emergency: **911**

Telephone: (510) 238-3455

Non-emergency Line: (510) 777-3333

Website: <https://www.oaklandca.gov/departments/police>

BART Police

Emergency: **911**

Telephone (to report a crime): (510) 464-7000

Non-emergency Line: (510) 200-0992

Website: <https://www.bart.gov/about/police>

Alameda County Sheriff's Office

1401 Lakeside Dr., 12th Floor, Oakland, CA 94612

Emergency: **911**

Telephone: (510) 272-6878

Website: <https://www.alamedacountysheriff.org/>

East Bay Regional Park District Police Department

2950 Peralta Oaks Court, Oakland, CA 94605

Emergency: 911 or (510) 881-1121 from cell phone

Non-emergency, 24-hour line: (510) 881-1833

Website: <https://www.ebparks.org/about/police/>

BAWAR – Bay Area Women Against Rape

470 27th Street, Oakland, CA 94612

Telephone: 24-hour hotline: 510-845-7273

Email: bawar@bawar.org

Website: www.bawar.org

Alameda County Family Justice Center

470 27th Street Oakland, Ca 94612

Telephone: (510)267-8800

Email: info@acfjc.org

Website: <http://www.acfjc.org/services/>

Description: “The Alameda County Family Justice Center is open and ready to serve crisis needs for victims of domestic violence, stalking, sexual assault and exploitation, child abuse, child abduction, elder and dependent abuse, and human trafficking.”

Contra Costa County Family Justice Center

Richmond Telephone: 510-974-7200

Concord Telephone: 925-521-6366

Antioch Telephone: 925-281-0970

Website: <http://www.cocofamilyjustice.org/>

Description: “The Family Justice Center (the “Center”) is a warm and welcoming one-stop center for victims of domestic violence, sexual assault, child abuse, elder abuse, and human trafficking. The Center is where families come first. We bring resources to meet the needs of children, youth, and families impacted by interpersonal violence, recognizing that family violence greatly impacts children’s healthy development including their emotional, mental, and physical health.”

California Partnership to End Domestic Violence

Telephone: (916) 444-7163

Website: <https://www.cpedv.org/>

Link to map of domestic violence organizations in California:

<https://www.cpedv.org/domestic-violence-organizations-california>

Description: “The California Partnership to End Domestic Violence (the Partnership) is California’s recognized domestic violence coalition, representing over 1,000 advocates, organizations and allied groups.”

California Courts: The Judicial Branch of California

Website: <https://www.courts.ca.gov/home.htm>

Link: [Asking for a Restraining Order](#)

Link: [What is a Workplace Restraining Order?](#)

BACS (Bay Area Community Services)

Telephone: (510) 613-0330

Email: bacs@bayareacs.org

Website: <https://www.bayareacs.org/>

Description: “Bay Area Community Services (BACS) provides innovative behavioral health and housing services for teens, adults, older adults, and their families across the Bay Area. We envision a world where all people are healthy, safe, and engaged in community wellness, with access to quality housing. Every year, BACS makes a difference in the lives of more than 12,500 people.”

SFWAR (San Francisco Women Against Rape)

3543 18th St., Suite 7, San Francisco, CA 94110

Telephone: 24-hour crisis line: (415) 647-7273

Email: info@sfiwar.org

Website: <http://www.sfwar.org>

Description: "San Francisco Women Against Rape provides resources, support, advocacy, and education to strengthen the work of all individuals, and communities in San Francisco that are responding to, healing from and struggling to end sexual violence."

The Men's Center for Counseling & Psychotherapy

2925 Shattuck Avenue, Berkeley, CA 94705

Telephone: (510) 644-8262

Email: jsaah@igc.org

Website: <http://www.menscenter.com/>

Description: "The Men's Center for Counseling and Psychotherapy was founded in 1984 as the Bay Area's first organization with a collective commitment to provide men with the particular understanding and professional therapy services that enable them to successfully explore and resolve a wide range of needs, conflicts, and issues."

Family Violence Law Center

470 27th Street, Oakland, Ca 94612

Telephone: (510) 208-0220

Alameda County 24-hour crisis hotline: (800) 947-8301

Email: info@fvlc.org

Website: <http://fvlc.org/>

Description: "Founded in 1978, Family Violence Law Center (FVLC) helps diverse communities in Alameda County heal from domestic violence and sexual assault, advocating for justice and healthy relationships. We provide survivor-centered legal and crisis intervention services, offer prevention education for youth and other community members, and engage in policy work to create systemic change."

National Domestic Violence Hotline

Telephone: 1 (800) 799-7233

Website: <https://www.thehotline.org/>

1 in 6 (Male Survivors of Sexual Assault)

Telephone: 1 (877) 628-1466

Link to 24-hour helpline chat: <https://1in6.org/helpline/>

Website: www.1in6.org

Description: "The mission of 1in6 is to help men who have had unwanted or abusive sexual experiences live healthier, happier lives. Our mission also includes serving family members, friends, partners, and service providers by providing information and support resources on the web and in the community."

[Domestic Violence Resources in Alameda County \(Click to Download PDF\)](#)