



Office Memorandum

Date: October 22, 2014

To: All Employees

From: William A. Covino
President

Copies: L. Chavez, J. Dial, J. Gomez, C. Ney, P. Quan, A. Ross

Subject: Annual Notification of Campus Statement on Nondiscrimination, Title IX of the Education Amendment Act of 1972, VAWA/Campus SaVE Act, and Related Sex Discrimination, Sexual Harassment and Sexual Violence Legislation and the Prohibition of Sexual Harassment and Compliance with the Americans with Disabilities Act

Each year the University is required to inform the campus community of its commitment to nondiscrimination, Title IX of the Education Amendment Act of 1972, related sex discrimination, sexual harassment and sexual violence federal and state legislation as well as the policy on the prohibition of sexual harassment, and compliance with the Americans with Disabilities Act. **In addition, those specific areas copies below must ensure that these policy statements appear in their respective publications at least annually.** The University's policies and statements are attached.

Thank you for your cooperation and assistance in this matter. If you have any questions, please contact the Office for Equity, Diversity and Inclusion, Human Resources Management, Administration Building Room 606, extension 3-3040.

COPIES:

C. Lenz, Career Development Center; F. Smith, University-Student Union; R. Tran, University-Student Union; J. Celaya-Davis, University-Student Union; M. Jazzabi, Student Health Center; C. Mancillas, Registrar's Office; E. Stern, Communications and Public Affairs; J. Xing, Undergraduate Studies; K. Elliot-Brown, Graduate Studies; E. Bullard, Professional and Global Education; P. McAllister, Arts and Letters; J. Goodrich, Business and Economics; E. Hyun, Charter College of Education; E. Allen, Engineering, Computer Science, and Technology; B. Yorker, Health and Human Services; S. Bowman, Natural and Social Sciences; A. Kawakami, University Librarian; D. Bridges, Athletics; M. Hawley, Honors College.

NONDISCRIMINATION STATEMENT

California State University, Los Angeles, affirms its commitment to equality of opportunity for all individuals. This commitment requires that no discrimination shall occur in any program or activity of the University on the basis of race, color, religion, national origin, sex, gender identity, gender expression, ancestry, physical or mental disability, medical condition, pregnancy, age (over 40), marital status, political affiliation, sexual orientation, genetic information, covered veteran status, or any other classification prohibited by state or federal laws. Further, the University's commitment requires that no retaliation shall occur because an individual filed a complaint of discrimination or in some other way opposed discriminatory practices, or participated in an investigation or administrative or judicial proceeding related to such a complaint. This policy is in accord with Title VII of the Civil Rights Act of 1964, as amended, Title IX of the Educational Amendments of 1972, as amended, Sections 503 and 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, Genetic Information Nondiscrimination Act of 2008, related California state laws, and related administrative regulations and executive orders. Inquiries concerning the application of these and other nondiscrimination laws may be referred to the Office for Equity, Diversity and Inclusion, Human Resources Management, telephone: (323) 343-3040, the campus office assigned the administrative responsibility of reviewing such matters. Title IX inquiries may also be directed to the Regional Director of the Office for Civil Rights, Region IX, Old Federal Building, 50 Beale St., Suite 7200, San Francisco, CA 94105.

**NOTIFICATION REGARDING COMPLIANCE WITH TITLE IX
OF THE EDUCATION AMENDMENTS ACT OF 1972, VIOLENCE AGAINST WOMEN
ACT/CAMPUS SAVE ACT, RELATED STATE LAWS AND UNIVERSITY POLICY ON THE
PROHIBITION OF SEXUAL HARASSMENT**

California State University, Los Angeles, 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 sex stereotyping, even if those acts do not involve conduct of a sexual nature, sexual harassment, sexual assault, dating violence, domestic violence, and stalking.

California State University, Los Angeles, will take action to eliminate and prevent sexual harassment and to address its effects, as mandated by the Chancellor's Executive Order No. 1095, 1096 and 1097.

http://web.calstatela.edu/univ/hrm/docs/eqty_div/eo1095.pdf - Implementation of Title IX, VAWA/Campus SaVE Act, and Related Sex Discrimination, Sexual Harassment and Sexual Violence Legislation

<http://www.calstate.edu/EO/EO-1096-rev-6-23-15.pdf> - Systemwide *Policy* Prohibiting Discrimination, Harassment and Retaliation Against Employees and Third Parties and *Procedure* for Handling Discrimination, Harassment and Retaliation Allegations by Employees and Third Parties

<http://www.calstate.edu/EO/EO-1097-rev-6-23-15.pdf> - Systemwide *Policy* Prohibiting Discrimination, Harassment and Retaliation Against Students and Systemwide *Procedure* for Handling Discrimination, Harassment and Retaliation Complaints by Students

Sexual harassment is conduct subject to disciplinary action, including termination.

Sex Discrimination means an adverse action taken against an individual because of gender or sex (including sexual harassment, sexual violence, domestic violence, dating violence, and stalking) as prohibited by Title IX; Title IV; VAWA/Campus SaVE Act; California Education Code § 66250 et seq.; and/or California Government Code § 11135. *See also* Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act (Cal. Govt. Code § 12940 et seq.), and other applicable laws. Both men and women can be victims of Sex Discrimination.

Sexual Harassment, a form of Sex Discrimination, is unwelcome verbal, nonverbal or physical conduct of a sexual nature that includes, but is not limited to sexual violence, sexual advances, requests for sexual favors, and indecent exposure, where:

- a. Submission to, or rejection of, the conduct is explicitly or implicitly used as the basis for any decision affecting a student's academic status or progress, or access to benefits and services, honors, programs, or activities available at or through the University; *or*

- b. 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 student, and is in fact considered by the student, as limiting the student's ability to participate in or benefit from the services, activities or opportunities offered by the University; *or*
- c. Submission to, or rejection of, the conduct by a University employee is explicitly or implicitly used as the basis for any decision affecting a term or condition of employment, or an employment decision or action; *or*
- d. 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 University employee or third party, and is in fact considered by the University employee or third party, as intimidating, hostile or offensive.

Sexual Harassment 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.

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.¹ 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 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.²

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.³

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

¹ See definition of Consent below.

² Cal. Penal Code § 240.

³ Cal. Penal Code § 242.

(such as family member, spouse, friend, acquaintance or stranger) is irrelevant.⁴ (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 *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.

⁴ Cal. Penal Code §§ 261-263.

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.⁵

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.⁶ 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 to suffer substantial emotional distress.⁷

Although this policy focuses on the treatment of persons lacking or holding lesser authority by persons possessing greater authority, it does not preclude the possibility that sexual harassment may also be perpetrated by or between persons lacking or holding lesser authority, e.g., employee, student, or applicant. In determining whether conduct constitutes sexual harassment, the circumstances surrounding the conduct are considered.

Certain University employees, such as physicians, psychotherapists, professional counselors and clergy who work or volunteer on or off campus and who provide medical or mental health treatment or counseling, and 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) are required by law to maintain near or complete confidentiality;⁸ talking to them is sometimes called a "privileged communication." University law enforcement employees 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, including the identity of the perpetrator. **Most other University employees are required to report all details of a Sexual Violence incident (including the identities of both the victim and alleged perpetrator) to the Title IX Coordinator** so the University can take immediate action to protect the victim, and take steps to correct and eliminate the cause of Sexual Violence.

In addition, all individuals with supervisory authority are responsible for reporting a complaint about sexual harassment to the Office for Equity, Diversity and Inclusion/Title IX Coordinator. Failure to do so may lead to appropriate administrative action.

⁵ Cal. Penal Code § 13700(b) and Cal. Family Code § 6211.

⁶ Cal. Penal Code § 13700(b).

⁷ Cal. Penal Code § 646.9.

⁸ Specific exceptions to this confidentiality apply.



Please see specific rules and procedures for reporting complaints of sexual harassment and for pursuing available remedies in the links to applicable Executive Orders listed above. Additional information is available in the following locations: Human Resources Management; Office for Equity, Diversity and Inclusion; Office of the Vice President for Student Affairs; and the University Student Health Center.

Contact the following University personnel or departments for help or to report a violation:

University Title IX Coordinator

Mariel S. Mulet
Director, Diversity and Inclusion
Human Resources Management
(323) 343-3040
Mariel.Mulet@calstatela.edu

Deputy Title IX Coordinators

Letycia Gomez
Judicial Affairs Officer
Student Affairs
(323) 343-3812
LTGomez@cslanet.calstatela.edu

Sheila Hudson
Associate Athletics Director
Intercollegiate Athletics
(323) 343-5240
shudson@calstatela.edu

Rebecca Palmer
Housing Services
Associate Director, Housing Services
(323) 343-4812
rpalmer@cslanet.calstatela.edu

University Police
(323) 343-3700

Student Health Center
Counseling and Psychological Services
(323) 343-3314

**NOTIFICATION OF COMPLIANCE WITH THE AMERICANS
WITH DISABILITIES ACT (ADA) OF 1990, AS AMENDED**

California State University, Los Angeles, does not permit discrimination on the basis of disability in admission to, access to, or operation of its instruction, programs, services, or activities, or in its hiring and employment practices. Also, the University does not permit unlawful harassment based on a protected disability. In addition, the University does not permit discrimination or unlawful harassment based on an applicant's, employee's, or student's relationship with or association with anyone with a known protected disability.

Upon request, the University will consider a request for reasonable accommodation(s) when needed to facilitate the participation of qualified individuals with protected disabilities. Reasonable accommodations will be considered to permit qualified individuals with protected disabilities to: (a) complete the admission/employment process; (b) perform essential job functions; (c) participate in instruction, programs, services or activities; and, (d) enjoy other benefits and privileges of similarly situated individuals without disabilities.

Questions, concerns, complaints and requests for reasonable accommodation or additional information may be forwarded to Human Resources Management, Office for Equity, Diversity and Inclusion, the campus office assigned responsibility for compliance with the ADA. The Office for Equity, Diversity and Inclusion is located in Administration 606 and is open Monday through Friday, 8 a.m. to 5 p.m., (323) 343-3040, or TDD: (323) 343-3670.