



# CAL STATE LA

CALIFORNIA STATE UNIVERSITY, LOS ANGELES

Date: October 31, 2016

To: All Employees

From: William A. Covino  
President

Copies: L. Chavez, J. Dial, J. Gomez, L. Mahoney, N. Wada-McKee

Subject: Annual Notification of Campus Statement of Nondiscrimination, Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence and Stalking against Employees and Third Parties and Systemwide Procedure for Addressing Such Complaints by Employees and Third Parties (Executive Order 1096), Policy Regarding Consensual Relationships between Employees or Employees and Students, and Statement of Compliance with the Americans with Disabilities Act

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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 antidiscrimination, harassment and retaliation University policy, federal and state legislation as well as the University policy on the prohibition of sexual harassment and sexual misconduct and its compliance with the Americans with Disabilities Act. **In addition, those specific areas copied below must ensure that these policy statements appear in their respective publications at least annually.** The University's policies and summary 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/Title IX Coordinator, Human Resources Management, Administration Building Room 606, extension 3-3040.

COPIES: C. Lenz, Career Development Center; S. Fleischer, University-Student Union; M. Jazzabi, Student Health Center; C. Cobb, Registrar's Office; R. Lopez, Communications and Public Affairs; M. Hawley, Undergraduate Studies; K. Elliot-Brown, Graduate Studies; E. Bullard, Professional and Global Education; R. Schoepflin, Arts and Letters; J. Goodrich, Business and Economics; C. Ney, Charter College of Education; E. Allen, Engineering, Computer Science, and Technology; R. Vogel, Health and Human Services; P. Scott-Johnson, Natural and Social Sciences; C. Rodriguez, University Librarian; D. Gross, Athletics; T. Pham, Honors College.

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## NONDISCRIMINATION STATEMENT

California State University, Los Angeles (Cal State L.A.), is committed to maintaining an inclusive community that values diversity and fosters tolerance and mutual respect. We embrace and encourage our community differences in Age, Disability (physical and mental), Gender (or sex), Gender Identity (including transgender), Gender Expression, Genetic Information, Marital Status, Medical Condition, Nationality, Race or Ethnicity (including color or ancestry), Religion (or Religious Creed), Sexual Orientation, and Veteran or Military Status, and other characteristics that make our community unique. All individuals have the right to participate fully in Cal State L.A. programs and activities free from Discrimination, Harassment, and Retaliation. Cal State L.A. prohibits Harassment of any kind, including Sexual Harassment, as well as Sexual Misconduct, Dating and Domestic Violence, and Stalking. Such misconduct violates University policy and may also violate state or federal law.

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 sexual activity is Sexual Misconduct and constitutes a violation of this policy, whether or not the sexual activity violates any civil or criminal law.

This policy is established in compliance with the California Equity in Higher Education Act, Title IX of the Education Amendments of 1972, the Violence Against Women Reauthorization Act of 2013 (which amends the Jeanne Clery Disclosure of Campus Security and Campus Crimes Statistics Act, commonly known as the Clery Act) (VAWA) under its Campus Sexual Violence Elimination Act provision (Campus SaVE Act), Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and the Age Discrimination Act of 1975, among other applicable state and federal laws.

**Prohibited Conduct.** Cal State L.A. prohibits:

1. Discrimination, including Harassment, because of any Protected Status: i.e., Age, Disability (physical or mental), Gender (or sex), Gender Identity (including transgender), Gender Expression, Genetic Information, Marital Status, Medical Condition, Nationality, Race or Ethnicity (including color or ancestry), Religion (or Religious Creed), Sexual Orientation, sex stereotype, and Veteran or Military Status;
2. Retaliation for exercising rights under this policy, opposing Discrimination or Harassment because of a Protected Status, or for participating in any manner in any related investigation or proceeding;
3. Dating and Domestic Violence, and Stalking;
4. Sexual Misconduct of any kind, which includes sexual activity engaged in without Affirmative Consent; and,

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5. Employees from entering into a consensual relationship with any Student or Employee over whom they exercise direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority.

The following persons have been designated to handle inquiries regarding the non-discrimination and sexual misconduct policies:

Office for Equity, Diversity and Inclusion/Title IX Coordinator

**Maribel S. Mulet**, Director/Title IX Coordinator

5151 State University Drive, Administration, Rm. 606

Los Angeles, CA 90032

[Maribel.Mulet@calstatela.edu](mailto:Maribel.Mulet@calstatela.edu)

**(323) 343-3040**

Office for Equity, Diversity and Inclusion/Title IX Coordinator

**Lindsey Jones**, Assistant Investigator/ADA Compliance Specialist

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**(323) 343-3040**

Title IX inquiries may also be directed to the U.S. Department for Civil Rights, 50 United Nations Plaza, San Francisco, CA 94102.

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Cal State L.A. will take action to eliminate and prevent sexual harassment and to address its effects, as mandated by the Chancellor Office's Executive Orders No. 1095, revised on June 23, 2015 and 1096 and 1097, revised October 5, 2016.

[http://web.calstatela.edu/univ/hrm/docs/eqty\\_div/eo1095.pdf](http://web.calstatela.edu/univ/hrm/docs/eqty_div/eo1095.pdf) - Systemwide Sex Discrimination, Sexual Harassment, Sexual Misconduct, Dating and Domestic Violence, and Stalking Policy Executive Order 1095 Revised June 23, 2015.

<http://www.calstate.edu/eo/eo-1096-rev-10-5-16.pdf> - Systemwide Policy Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Employees and Third Parties and Systemwide Procedure for Addressing Such Complaints by Employees and Third Parties Executive Order 1096 Revised October 5, 2016.

<http://www.calstate.edu/eo/eo-1097-rev-10-5-16.pdf> - Systemwide Policy Prohibiting Discrimination, Harassment and Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Students and Systemwide Procedure for Addressing Such Complaints by Students Executive Order 1097 Revised October 5, 2016.

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

### **WHAT ARE SEXUAL MISCONDUCT, AFFIRMATIVE CONSENT, DATING AND DOMESTIC VIOLENCE AND STALKING?**

**Sexual Misconduct.** All sexual activity between members of the California State University (CSU) community must be based on Affirmative Consent. Engaging in any sexual activity without first obtaining Affirmative Consent to the specific activity constitutes Sexual Misconduct and is a violation of this policy, whether or not the conduct violates any civil or criminal law.

Sexual Misconduct is a form of Sexual Harassment and may create a sexually hostile environment that affects access to or participation in CSU programs and activities. CSU prohibits all such conduct whether or not it also amounts to Sexual Harassment.

Sexual activity includes but is not limited to kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex.

**Affirmative Consent** means an informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure Affirmative Consent has been obtained from the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean Affirmative Consent, nor does silence mean Affirmative Consent. Affirmative Consent must be voluntary, and given without coercion, force, threats or intimidation.

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, constitute Affirmative Consent. Affirmative 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. Consent given to sexual activity on one

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occasion does not constitute consent on another occasion. There must always be mutual and affirmative consent to engage in sexual activity. Consent must be ongoing throughout a sexual activity and can be revoked at any time, including after penetration. Once consent is withdrawn or revoked, the sexual activity must stop immediately.

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 that 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.

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.

A person with a medical or mental disability may also lack the capacity to give consent.

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 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.

**Dating Violence** 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. This may include someone the victim just met; i.e., at a party, introduced through a friend, or on a social networking website. For purposes of this definition, "abuse" means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another. Abuse does not include non-physical, emotional distress or injury.

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**Domestic Violence** 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. For purposes of this definition, “abuse” means intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another. Abuse does not include non-physical, emotional distress or injury.

**Stalking** means engaging in a repeated course of conduct directed at a specific person that would cause a reasonable person to fear for his/her 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 the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property;

**Reasonable Person** means a reasonable person under similar circumstances and with the same protected statuses as the Complainant;

**Substantial Emotional Distress** means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

### DUTY TO REPORT

Except as provided below, **any** Employee who knows or has reason to know of allegations or acts that violate this policy shall promptly inform the DHR Administrator or Title IX Coordinator. These Employees are required to disclose all information, including the names of the Parties, **even where the person has requested anonymity**. The DHR Administrator or Title IX Coordinator will determine whether such confidentiality is appropriate given the circumstances of each such incident.

Employees Who Do Not Have A Duty to Report:

**1.** The following Employees are **not** required to report **any** information about an incident of Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking to the DHR Administrator or Title IX Coordinator:

a. Physicians; psychotherapists; professional licensed counselors; licensed clinical social workers, and clergy who work on or off Campus, acting solely in those roles or capacities as part of their employment, in the provision of medical or mental health treatment or counseling (*and those who act under their supervision, including all individuals who work or volunteer in these centers and offices*); and

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b. 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, gender equity centers, and health centers and who are acting solely in that role (*including those who act in that role under their supervision, along with non-professional counselors or advocates who work or volunteer in sexual assault centers, victim advocacy offices, women’s centers or health centers*).<sup>1</sup>

c. A CSU employee/union representative is not required to report a possible violation of this Executive Order if the information is provided to the union representative, acting in that role, in a confidential setting by a union member seeking advice about a possible violation or representation in a matter within the scope of representation. However, CSU employee/union representatives are **strongly encouraged** to report the information to the DHR Administrator or Title IX Coordinator.

2. University police are **not** required to report any **personally-identifiable information** about a victim of certain sex offenses,<sup>2</sup> **if the victim requests confidentiality of identity**, but must report all known facts of the incident, including the identity of the perpetrator (if known), to the Title IX Coordinator.

We encourage victims of sexual misconduct, dating or domestic violence, or stalking to talk to someone about what happened – so they can get the support they need, and so the University can respond appropriately.

### CONFIDENTIAL RESOURCES:

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

Sexual Assault Victim’s Advocate  
Sonia Rivera  
Director of Sexual Assault & Emergency Services  
East Los Angeles Women’s Center  
(800) 585-6231 (hotline) or (323) 526-5819

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<sup>1</sup> Notwithstanding this, there may be other reporting requirements.

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**POLICY REGARDING CONSENSUAL  
RELATIONSHIPS BETWEEN EMPLOYEES OR  
EMPLOYEES AND STUDENTS**

Executive Order 1096, Systemwide *Policy* Prohibiting Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking against Employees and Third Parties and Systemwide *Procedure* for Addressing Such Complaints by Employees and Third Parties Executive Order 1096 Revised October 5, 2016 states as follows:

**Consensual Relationships.** Consensual relationship means a sexual or romantic relationship between two persons who voluntarily enter into such a relationship. While sexual and/or romantic relationships between members of the University community may begin as consensual, they may evolve into situations that lead to Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking subject to this policy.

**A CSU Employee shall not enter into a consensual relationship with a Student or Employee over whom that employee exercises or influences direct or otherwise significant academic, administrative, supervisory, evaluative, counseling, or extracurricular authority. In the event such a relationship already exists, each Campus shall develop a procedure to reassign such authority to avoid violations of this policy.**

This prohibition does not limit the right of an Employee to make a recommendation on personnel matters concerning a family or household member where the right to make recommendations on such personnel matters is explicitly provided for in the applicable collective bargaining agreement or MPP/confidential personnel plan.

For more information, contact:

Title IX Coordinator  
Mariel S. Mulet  
Director, Equity, Diversity and Inclusion  
Human Resources Management  
(323) 343-3040  
[Mariel.Mulet@calstatela.edu](mailto:Mariel.Mulet@calstatela.edu)



## **California State University, Los Angeles**

### **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.