

CALIFORNIA STATE UNIVERSITY, BAKERSFIELD SEXUAL ASSAULT EDUCATION AND RESPONSE POLICY AND PROCEDURES

Background

Consistent with state and federal law and California State University policy, California State University, Bakersfield (University or CSUB) is firmly committed to maintaining a learning and working environment that is free from sexual violence. Sexual assault is prohibited by law and CSU policy and is contrary to the educational mission and behavioral expectations of the University. As a matter of policy and practice, sexual assault is regarded by the University as discriminatory behavior that will not be permitted, tolerated or condoned.

Sexual assault can occur between persons of the same status and among persons of the same sex. All members of the campus community including students, faculty, staff, administrators, auxiliary employees, and vendors should be aware that the University will not tolerate sexual violence. Cases concerning individuals not subject to University policy, but who violate state or federal laws will be referred to the appropriate state and federal authorities.

University Policy

The University takes comprehensive action regarding the prevention, detection, and prosecution of sex crimes. All reported instances of sexual violence will be taken seriously. When there is reason to believe that a crime has been committed, the University will pursue criminal charges. Any time a student or employee has engaged in sexual violence, the University will pursue strong disciplinary action, whether a crime has been committed or not. Such incidents will be handled in a manner which provides the greatest protection for the victim, and the campus community. The University is equally committed to coordinating the most comprehensive support system to victims. The University strongly encourages all members of the campus community to report to the University Police Department, or other law enforcement agencies, any incident of sexual assault.

such person found to commit sexual harassment or sexual assault will be subject to disciplinary action by the University and/or referred for criminal sanctions by the appropriate courts.

For more information on the procedures for filing complaints of discrimination, harassment or retaliation by students and applicants against University employees and third parties, visit: www.calstate.edu/eo/EO-1074.html.

Definitions

Sexual assault (as defined in Section 67385 of the Education Code) is any sexual act in which a person is threatened, coerced or forced to comply against her/his will. At its most basic level, sexual assault therefore refers to any form of nonconsensual sexual activity. Sexual assault includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault.

Sexual battery (as defined in California Penal Code Section 243.4) includes incidents in which the victim's or person's intimate part is touched without consent of the victim with specific intent to achieve sexual arousal, gratification or sexual abuse.

Rape (as defined in California Penal Code Section 261) is forced sexual intercourse that is perpetrated against the will of a person or when the person is unable to give the consent (i.e., unconscious, asleep, or under the influence of alcohol or drugs) and may involve physical violence, coercion, or the threat of harm to the individual.

Consent

For the purposes of University policy, the responsibility for establishing consent rests upon the person who is initiating the sexual activity. To establish that someone has consented to sexual activity, the person must receive consent stated verbally or receive this communication nonverbally in a way that would nonetheless be seen as consent by reasonable people. Consent cannot be established simply on the basis of a current or previous dating or romantic relationship. In addition, consent may be withdrawn at any time during the sexual act.

Consent consists of words or conduct indicating a freely given and present agreement to perform a particular sex act with the initiator. Consent can only be given or implied by someone who acts freely, voluntarily and with knowledge of the nature of the act involved.

Consent cannot be given if someone:

- is incapacitated by drugs, including alcohol
- is coerced into submission
- is unconscious
- is physically incapacitated
- is mentally incapacitated

Consent cannot be inferred from:

permission for one particular act or for a series of acts
a prior sexual, romantic or marital relationship
an existing sexual, romantic or marital relationship

Consent is defined as positive willingness in act or attitude. The consenting individual must be of legal age and fully informed about the nature of the act. The interaction must be completely voluntary and may be considered against the will of the victim when he or she is incapable of giving consent due to ingestion of alcohol or drugs, regardless of whether the ingestion was voluntary or not. Consent cannot be inferred if the victim is asleep or unconscious, silent or passive, and the sexual act would be considered non-consensual.

Common Myths and Facts

University's Response to Reported Cases of Sexual Violence

Victim Services Delivery System

CSUB's sexual violence response protocols strive to make victim services a priority. For individuals who report an incident of sexual violence to the University police, this process begins with the assignment of a corporal to provide support to the victim during law enforcement investigation. The corporal can provide information and referrals to on-campus resources for short and long term assistance. If a victim chooses not to report the incident to police, other campus resources are available for support. University resources available to victims are the Student Health Services, Counseling Center, University's Title IX Coordinator, and the Office of the Vice President for Student Affairs

Kern Medical Center (KMC) is currently the primary provider for evidentiary exams for sexual assault victims in the Bakersfield area and for the CSUB campus. While the intent of CSUB's Violence Prevention and Education Program (VPEP) Committee is to increase awareness and availability of services to students within the campus community, it is understood that the KMC Sexual Assault Response Team is committed to supporting the Violence Prevention and Education Program initiatives and working with the campus as a referral source for services to students.

Case Management and Coordination

Whenever a complaint of sexual violence is submitted to the University Police, or Student Housing and Residence Life, Office of Student Rights and Responsibilities, the Title IX Coordinator will be immediately notified. Upon receipt of notice of any allegations of sexual misconduct, the University's Title IX Coordinator will promptly schedule a meeting with the victim to provide a general understanding of this policy, to identify resources within the University and community, and to identify forms of support or immediate interventions available to the victim.

Interim measures will be taken to protect the victim from the alleged perpetrator until an investigation has been completed. The victim will be notified of options for avoiding contact with the alleged perpetrator, including changes to the alleged perpetrator or victim's academic or living situations, as appropriate. Interim measures could include a "no-contact" order to refrain from having contact with one another,

Academic Assistance

Academic assistance can include but is not limited to: mediation with professors, department chairs, and/or school deans for extensions of time on course work or tests; assistance with tutoring; and arranging for the victim to re-take a course or withdraw from a class without penalty and without adverse effect on the victim's academic standing. The Title IX Coordinator will work with the victim, and the Office of the Vice President for Student Affairs and the Office of the Vice President for Academic Affairs, as necessary.

In instances in which the accused is not a student, staff or faculty member of the University, the University lacks authority to take disciplinary action. In such a case, the victim is strongly encouraged in such cases to report the incident to the appropriate law enforcement agency and seek assistance from the Student Health Services and Counseling Cent

Confidentiality

1. Alleged incidents of sexual violence generate a high degree of concern from the campus community, the local media, parents, and others. Every effort will be made by University officials to maintain confidentiality in responding to inquiries regarding the investigation, the Student Conduct process, and the final outcome of the proceedings, to the extent consistent with the law.
2. Victims will be informed of the need to be identified during Student Conduct proceedings and/or criminal prosecution.
3. Victims who are under the age of 18 will be informed of mandatory reporting

- The University's definition of sexual assault and harassment,
- A statement that such behavior is illegal, unprofess

The University will continue to work cooperatively with AAFVSA to provide comprehensive services for victims and educational opportunities and prevention awareness activities for students, faculty and staff. Services from the AAFVSA include 24-hour hospital accompaniment, case management, criminal justice advocacy, assistance with application, and filing domestic violence restraining orders and civil harassment orders, emergency shelter, and counseling services. AAFVSA also provides Sexual Assault Volunteer training for the community at large.