

## Sonoma State University

### Annual Title IX Report

AY 2016-2017

#### **Introduction**

Sonoma State University is committed to creating and maintaining an environment in which all persons who live, work and learn in our campus community can be free of all forms of sexual violence, sexual misconduct, dating violence, domestic violence, stalking and retaliation. Sex offenses threaten the emotional, physical and psychological well-being of our students, staff and faculty and endanger the safety of our community. Sex offenses impact our students' ability to feel safe on our campus and to achieve their greatest potential in the classroom.

This first annual report provides information about complaints of sexual violence brought to the attention of the Title IX office for the reporting period of July 1, 2016 to June 30, 2017 and the actions taken to address these complaints.

This report is intended to raise awareness of the sexual violence that occurs in our campus community. Our hope is that increased awareness will encourage greater participation in programs that prevent sexual violence and that our campus culture increases a commitment to support survivors and never tolerate any form of sexual violence. Confidentiality is of the utmost importance and therefore this report does not contain identifying information about specific cases in order to protect the privacy of all individuals involved.

Sexual violence as defined in California State University (CSU) Executive Orders encompasses a broad range of behaviors. Because of privacy obligations, the report cannot fully convey the variety and complexity of circumstances of each incident. The report includes complaints of sexual misconduct committed by or against a member of our campus community independent of criminal complaints and geographic location. One other point of clarification is that, the report includes incidents that occurred outside the reporting period but that were *reported* during the reporting period.

#### **Policies**

The Title IX office is a neutral resource for students, employees, and others to report concerns about sexual violence to the administration and to have those concerns addressed. The Title IX webpage can be found at: <http://www.sonoma.edu/hr/titleix/>

The following are CSU policies in effect during the reporting period. They can be found at: <http://www.sonoma.edu/hr/erc/title-ix/> :

Executive Order 1095, revised June 23, 2015

Executive Order 1096, revised October 5, 2016

Executive Order 1097, revised October 5, 2016

## **Reported Policy Violations**

Under CSU policies the Title IX office responds to reported policy violations. In some circumstances, the report of misconduct may follow the complaint procedures set forth in the Executive Orders. When this occurs, the Title IX office investigates the complaint and reaches a determination as to whether or not a preponderance of the evidence reflects that the respondent violated the policy. Where a violation is found, the finding is referred to the applicable disciplinary process.

The report includes misconduct by third parties who were neither students nor employees, but, over whom the campus had some degree of control. CSU procedures include an option to resolve a concern of possible misconduct without an investigation. The cases that were resolved by Early Resolutions are included in the report.

Not all reports of possible policy violations arise as a complaint made by someone seeking to use the complaint or resolution procedures. The Title IX office also responded to reports where the information is insufficient to open an investigation. Circumstances include persons who report incidents to police but not to administration and request that their identity be kept confidential, persons who report incidents but decline to identify any perpetrator, incidents where the person reporting the misconduct requests their identity not be disclosed in any investigation, and incidents in which the reporting person requests that no investigation be opened.

When confidentiality is requested or the individual does not want to pursue an investigation, the individual is informed that the response may be limited and reminded, as in all cases, retaliation is prohibited by CSU policy.

The Title IX office evaluates a request not to reveal identifying information in balance with the responsibility to provide a safe and nondiscriminatory environment for all. If the request is honored, even if the campus cannot take disciplinary action, the Title IX office pursues other steps to limit the effects of any misconduct and prevent recurrence.

The campus also receives reports of incidents that did not occur on campus and did not involve a member of our campus community. The Title IX office provides support and resources in those circumstances, but, those reports are not included in this report because they do not involve allegations of misconduct subject to CSU policy.

## **Definitions**

**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 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 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.<sup>10</sup> 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 self or another. Abuse does not include non-physical, emotional distress or injury.

**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 advances, requests for sexual favors, and any other conduct of a sexual nature where:

1. 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**
2. 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 his or her ability to participate in or benefit from the services, activities or opportunities offered by the University; **or**
3. 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; 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 classroom that are unrelated to the coursework.

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.

This policy covers unwelcome conduct of a sexual nature. While romantic, sexual, intimate, personal or social relationships between members of the University community may begin as consensual, they may evolve into situations that lead to Sexual Harassment or Sexual Misconduct, including Dating or Domestic Violence, or Stalking, subject to this policy.

Claiming that the conduct was not motivated by sexual desire is not a defense to a complaint of harassment based on Gender.

**Stalking** means engaging in a repeated 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.<sup>27</sup> For purposes of this definition:

1. **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;

2. **Reasonable Person** means a reasonable person under similar circumstances and with the same Protected Status(es) as the Complainant;
3. **Substantial Emotional Distress** means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

Total of Reports Received July 1, 2016 – June 30, 2017

Number of reports received	<b>66</b>
Reports completed with a full investigation	12
Reports completed without a full investigation	56
Reports pending at the time of this report	4 <sup>1</sup>
Reports pending on July 1, 2016	6

Sexual Misconduct, Dating or Domestic Violence, and Stalking Reports for July 1, 2016 – June 30, 2017

Total number of Sexual Misconduct, Dating/Domestic Violence, and Stalking Reports	<b>72</b>
Number of Sexual Misconduct, Dating/Domestic Violence, and Stalking Reports in which the Respondent is a Student	37
Number of Sexual Misconduct, Dating/Domestic Violence, and Stalking Reports in which the Respondent is an Employee	6
Number of Sexual Misconduct, Dating/Domestic Violence, and Stalking Reports in which the Respondent is a Third Party	17
Number of Sexual Misconduct, Dating/Domestic Violence, and Stalking Reports in which the Respondent is Unknown	12

Total number of Sexual Misconduct, Dating/Domestic Violence, and Stalking Reports completed with a full administrative investigation	<b>12</b>
Number of full administrative investigations for sexual misconduct <sup>2</sup>	10
Number of full administrative investigations for dating/domestic violence	2
Number of full administrative investigations for stalking	0

Total number of Sexual Misconduct, Dating/Domestic Violence, and Stalking Reports completed without a full administrative investigation <sup>3</sup>	<b>56</b>
--	-----------

<sup>1</sup> Pending reports include ones where a complainant is engaging with the Title IX office but is still deciding whether to proceed, a report is still being investigated, investigation appeal rights are still active, or sanctions/discipline are being contested, and therefore the process is not final.

<sup>2</sup> Investigations involving multiple allegations were categorized by the primary policy violation being alleged.

<sup>3</sup> In the case where a report had multiple reasons for not being investigation (i.e. Complainant did not want to pursue an investigation and the alleged respondent was not affiliated with the university) the report was only categorized under one reason.

Number of reports involving complainants who did not want to proceed with an investigation <sup>4</sup>	7
Number of reports that resulted in no response from the complainant <sup>5</sup>	19
Number of reports in which the respondent(s) were not affiliated with Sonoma State University	13
Number of reports in which the known information was insufficient to proceed with an administrative investigation	7
Number of reports completed by early/informal resolution	10

Number of Sexual Misconduct, Dating/Domestic Violence, and Stalking Reports in which there was sufficient evidence to determine a violation of the policy occurred.	4
Number of Sexual Misconduct, Dating/Domestic Violence, and Stalking Reports in which there was not sufficient evidence to determine a violation of the policy occurred.	8

### **Description of Resolution for Early/Informal Resolution Agreements**

Resolution Agreement #1: Sexual misconduct involving students - Facilitated education and apology

Resolution Agreement #2: Sexual misconduct involving students - Withdrawal from university, prohibited from re-enrolling at any CSU institution, Notation on transcript

Resolution Agreement #3: Sexual misconduct involving students - Withdrawal from university, prohibited from re-enrolling at any CSU institution, Notation on transcript

Resolution Agreement #4: Dating violence and Stalking involving students - No contact order, No accessing of accounts or subscriptions

Resolution Agreement #5: Sexual misconduct involving students – No contact order, No enrollment in same classes, No attendance at mutual club events

Resolution Agreement #6: Sexual harassment involving students – Academic accommodation

Resolution Agreement #7: Sexual misconduct involving student and faculty – Faculty resigned and waived emeritus status

Resolution Agreement #8: Sexual harassment involving students – Facilitated education

Resolution Agreement #9: Sexual harassment involving students – Academic/Classroom accommodations and adjustments

Resolution Agreement #10: Sexual harassment involving staff – Informally resolved after investigation

---

<sup>4</sup> Resources were provided to the complainants who did not want to proceed and were made aware the option to proceed remained available

<sup>5</sup> No response was received from complainants, despite multiple attempts utilizing multiple methods of communication (phone, email, etc.)

### **Description of final sanction for Administrative Investigations**

Investigation #1: Dating violence involving students – One semester suspension, Requirement to complete anger management program before reenrollment

Investigation #2: Dating violence involving students – Two semester suspension, Restricted campus access during suspension

Investigation #3: Sexual misconduct involving student and staff – No contact order, Staff not eligible for rehire

Investigation #4: Sexual misconduct involving former student and faculty – Reprimand letter in faculty file