

CAL POLY

SAN LUIS OBISPO

Dean of Students

Fraternity & Sorority Life

Sexual Assault Policy

The Dean of Students office at California Polytechnic State University, San Luis Obispo expects all its students to abide by the [Cal Poly Sexual Misconduct Policy](#). Furthermore, students are expected to abide by the California Penal Code Section 289 on sexual assault.

Fraternities and sororities are expected to create an environment that reduces the risk of sexual assault occurrences. Chapters will be expected to abide by their national headquarters' policy on sexual assault. If there should ever be a discrepancy on the definition of such a policy or if the chapter does not have a national headquarters sexual assault policy, the chapter will prescribe to the Fraternal Information and Programming Group (FIPG) Sexual Assault and Harassment Policy. If a chapter's national headquarters policy is different from that of the university prescribed FIPG policy, the chapter will be expected to abide by the stricter policy.

Office of Student Rights and Responsibilities

Sexual misconduct

California Penal Code Sections 220, 243.4, 261, 264.1, 286, 288, and 289 define sexual assault as any sexual act or attempted sexual act in which a person is threatened, coerced, or forced to comply against his or her will, or he or she is incapable of giving consent or unconscious of the nature of the act. Additional descriptions of sexual assault (excerpted from the California Penal Code) are defined as:

- Sexual Battery is any unwanted touching of intimate body parts
- Rape is forced sexual intercourse that is perpetrated against the will of the survivor or when he or she is unable to or incapable of giving consent (i.e., unconscious, asleep or under the influence of alcohol or drugs) and may involve physical violence, coercion, or the threat of harm of the survivor
- Rape is complete at the point of penetration no matter how slight that penetration
- Acquaintance Rape involves rape by a non-stranger who could be a friend, acquaintance, family member, neighbor or co-worker
- Date Rape involves rape by someone with whom the survivor has been or is a voluntary companion
- Acquaintance Gang Rape is a rape by more than one person, at least one of whom is known to the survivor.

California Administrative Code Title 5, Education Part 5 Section 41301 (Code of Student Conduct) specifically prohibits "conduct that threatens or endangers the health or safety of any person within or related to the University community, including physical abuse, threats, intimidation, harassment,

or sexual misconduct.” Any violation of the Code of Student Conduct by an individual will be investigated for possible disciplinary and legal action regardless of whether the alleged assault occurred on or off campus.

Note: It is common for survivors to question whether an assault may be defined as sexual assault. In such cases the survivor is strongly encouraged to call any of the resources listed in this policy and seek assistance and clarification regarding their particular situation.

What is consent?

For purposes of criminal prosecution for sexual assault, California Penal Code Sec. 261.6 defines “consent” to mean “positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved. A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is at issue in a prosecution (for sexual assault).”

For 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 either hear this consent stated verbally or receive this communication nonverbally in a way that would nonetheless be seen as consent by reasonable people. As noted above, 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. It is important to remember: the absence of "no" ≠ "yes."

Source:

California Polytechnic State University. (2014). Sexual Assault Policy. *Campus Administrative Policies*. Section 160. Retrieved from <http://policy.calpoly.edu/cap/100/cap160.htm>

<p>FIPG RISK MANAGEMENT POLICY January 2013; Revised (excerpt)</p>

SEXUAL ASSAULT AND HARASSMENT

The fraternity will not tolerate or condone any form of sexist or sexually abusive behavior on the part of its members, whether physical, mental or emotional. This is to include any actions, activities or events, whether on chapter premises or an off-site location which are demeaning to women or men, including but not limited to verbal harassment, sexual assault by individuals or members acting together. The employment or use of strippers, exotic dancers or similar, whether professional or amateur, at a fraternity event as defined in this policy is prohibited.