

Sexual and Other Assaults

Reference: Education Code Sections 67385 and 67386;
Jeanne Clery Disclosure of Campus Security Policy and Campus Criminal
Statistics Act;
34 C.F.R. § 668.46(b)(11)
20 U.S. Code Section 1092(f)

Any sexual assault or physical abuse, including, but not limited to, rape, domestic violence, dating violence, sexual activity without affirmative consent, or stalking, whether committed by an employee, student, or member of the public, is prohibited and constitutes a violation of District policies and procedures. This policy applies to all District employees and students at all District locations and all college or district related activities regardless of location. This policy may apply to locations not associated with the District based on the employee or student status of the alleged perpetrator or the relationship between a victim of sexual assault and the alleged perpetrator. Any person who engages in prohibited conduct will be subject to all applicable punishment, including criminal prosecution and employee or student discipline procedures. Employees may be disciplined up to and including termination. Students may be disciplined up to and including expulsion. (See also AP 5500 - Standards of Student Conduct.)

“Affirmative consent” means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each party involved in sexual activity to ensure that he or she has the affirmative consent of the other or others before engaging in the sexual activity. An individual’s affirmative consent can be revoked at any time, and the existence of a relationship or past sexual relations cannot be assumed to be an indicator of consent. Lack of protest, lack of resistance, or silence do not constitute consent. There is no consent when alleged consent is obtained by expressed or implied threat of force, coercion, intimidation, threats or duress. *A participant’s affirmative and voluntary consent to sexual activity may be voided by another’s misrepresentation regarding the use of a prophylactic or contraceptive device or the nonconsensual removal of such item during sexual activity.*

A Respondent’s belief that the Complainant consented to the alleged activity shall not constitute a valid excuse where:

1. The Respondent’s belief arose from the Respondent’s own intoxication or recklessness;
2. The Respondent did not take reasonable steps, under the circumstances known at the time, to ascertain whether the Complainant affirmatively consented; or
3. The Respondent knew, or a reasonable person should have known, that the Complainant was unable to consent to the sexual activity because the Complainant was:
 - a. Asleep or unconscious;
 - b. Incapacitated due to the influence of drugs, alcohol, or medication, so that the Complainant could not understand the fact, nature, or extent of the sexual activity; or
 - c. Unable to communicate due to a mental or physical condition.

“Sexual assault” is actual or attempted sexual contact with another person without that person’s affirmative consent. 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.

“Dating violence” means violence or fear of serious bodily injury committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of a romantic or intimate relationship will be determined based on the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

“Domestic violence” includes felony or misdemeanor crimes of violence or fear of serious bodily injury committed by:

- a current or former spouse of the victim;
- a person with whom the victim shares a child in common;
- a person who is cohabitating with or has cohabitated with the victim as a spouse;
- a person similarly situated to a spouse of the victim under California law; or
- any other person against an adult or youth victim who is protected from that person’s acts under California law.

“Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or to suffer substantial emotional distress.

These written procedures and protocols are designed to ensure victims of domestic violence, dating violence, sexual assault, or stalking receive treatment information.

All students, faculty members or staff members who allege they are the victims of domestic violence, dating violence, sexual assault, or stalking, on District property shall be provided with information regarding options and assistance available to them. Information shall be available from the Chief Business Officer who shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until the Chief Business Officer is authorized to release such information.

The Chief Business Officer shall provide all alleged victims of domestic violence, dating violence, sexual assault, or stalking with the following, upon request:

- A copy of the District’s policy and procedure regarding sexual assault;
- A list of personnel on campus who should be notified of the assault, and procedures for such notification, if the alleged victim consents;
 - Superintendent/President
 - Chief Business Officer
 - Vice President of Instruction Services and Student Services
 - Director of Human Resources
- Information about the importance of preserving evidence and the identification and location of witnesses.

- A description of available services, and the persons on campus available to provide those services if requested. Services and those responsible for providing or arranging them include:
 - transportation to a hospital, if necessary;
 - counseling;
 - notice to the police, if desired;
 - a list of other available campus resources or appropriate off-campus resources.

- A description of each of the following procedures:
 - District disciplinary procedures, both student and employee;
 - modification of class schedules;
 - request for tutoring, if necessary.

Reporting Procedure

Any person may report prohibited conduct to Chief Human Resources Officer or to any responsible employee, or to another appropriate office. All administrators, faculty, staff, except those employed to provide medical or counseling services to students, are designated as mandatory reporters for the purpose of this administrative procedure. Any report received by a designated mandatory reporter will be sent to the Chief Human Resources Officer.

There is no time limit for reporting incidents of sexual assault. However, reports of prohibited conduct should be brought forward as soon as possible. Prompt reporting will enable the District to respond, investigate, provide an appropriate remedy, and impose discipline if appropriate.

An individual who participates as a Complainant or witness in the investigation of a sexual assault, domestic violence, dating violence, or stalking incident will not be subject to disciplinary sanctions for a violation of the District's student conduct policy at or near the time of the alleged incident unless the institution determines that the violation was egregious, places the health and safety of another at risk, or involves plagiarism, cheating, or academic dishonesty.

As soon as practicable after receiving a report, the Responsible District Officer will make an initial assessment of the report to determine whether (i) the report, on its face, alleges prohibited conduct as defined above; and (ii) such conduct has a sufficient connection to District activities for it to intervene. The Responsible District Officer may consult with appropriate academic officers for complaints by faculty and other academic appointees', with the Student Services Department for student complaints, and with the Human Resources Office for staff complaints. The initial assessment shall consider the health and safety of the alleged victim and the campus community, available campus and community resources, any temporary remedies immediately necessary (such as no contact orders), and provide to the Complainant a written explanation of rights and reporting options. The District's initial assessment shall include but is not limited to a preliminary victim interview, including interview protocol; a comprehensive followup victim interview; contacting and interviewing the accused; and investigating allegations that alcohol or drugs were involved in the incident.

Following the initial assessment, the District will investigate all complaints alleging sexual assault under the procedures for discrimination and sexual harassment investigations described in AP 3410, regardless of whether a complaint is filed with local law enforcement.

The District will investigate sexual harassment complaints and communicate its findings within 90 days of the date on which the complaint was filed unless extenuating circumstances prohibit a timely completion of the investigation. If an extenuating circumstance prohibits the completion of an investigation within the designated timeframe, the District will inform the Complainant and the Respondent in writing of such delay. For claims involving sexual violence or egregious acts, the District will expedite its investigation timeframe to ensure the investigation is completed within 60 days of the date on which the complaint was filed.

All alleged victims of domestic violence, dating violence, sexual assault, or stalking shall be kept informed, through the Chief Business Officer of any ongoing investigation by District Personnel. To the extent that the District is permitted to release such information, it shall provide the status of any student or employee disciplinary proceedings or appeal; alleged victims of domestic violence, dating violence, sexual assault, or stalking are required to maintain any such information in confidence, unless the alleged assailant has waived rights to confidentiality.

The District shall maintain the identity of any alleged victim or witness of domestic violence, dating violence, sexual assault, or stalking on District property, as defined above, in confidence unless the alleged victim or witness specifically waives that right to confidentiality. All inquiries from reporters or other media representatives about alleged domestic violence, dating violence, sexual assault, or stalking on District property shall be referred to the President's Office which shall work with the Chief Business Officer to assure that all confidentiality rights are maintained.

Additionally, the Annual Security Report will include a statement regarding the District's programs to prevent sex offenses and procedures that should be followed after a sex offense occurs. The procedure for responding to a report of sexual assault must include the following:

- A description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and non-forcible sex offenses; domestic violence, dating violence, or stalking;
- Procedures to follow if a domestic violence, dating violence, sex offense, or stalking occurs, including who should be contacted, the importance of preserving evidence to prove a criminal offense, the identification and location of witnesses, to whom the alleged offense should be reported, and protocols for responding to stranger and nonstranger sexual assault;
- Information on a student's right to notify appropriate law enforcement authorities, including on-campus and local police, and a statement that campus personnel will assist the student in notifying these authorities, if the student so requests;
- Information for students about existing on- and off-campus counseling, health, mental health, legal assistance, and victim advocacy or other student services for victims of sex offenses;
- Notice to students that the campus will change a victim's academic situation after an alleged domestic violence, dating violence, sex offense, or stalking and of the

options for those changes, if those changes are requested by the victim and are reasonably available;

- Procedures for campus disciplinary action in cases of an alleged domestic violence, dating violence, sex offense, or stalking, including a clear statement that:
 - The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and
 - Both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding resulting from an alleged sex offense. Compliance with this paragraph does not violate the Family Educational Rights and Privacy Act. For the purposes of this paragraph, the outcome of a disciplinary proceeding means the final determination with respect to the alleged domestic violence, dating violence, sex offense, or stalking and any sanction that is imposed against the accused.
 - A description of the sanctions the campus may impose following a final determination by a campus disciplinary proceeding regarding rape, acquaintance rape, or other forcible or non-forcible sex offenses, domestic violence, dating violence, or stalking

Education and Prevention Information

The Chief Business Officer shall:

- Provide, as part of each campus' established on-campus orientation program, education and prevention information about domestic violence, dating violence, sexual assault, or stalking. The information shall be developed in collaboration with campus-based and community-based victim advocacy organizations. The prevention program shall include, but is not limited to empowerment programming for victim prevention, awareness raising campaigns, primary prevention, bystander intervention, and risk reduction, as well as information regarding the District's sexual assault policies and procedures.
- Post sexual violence prevention and education information on the campus internet website regarding domestic violence, dating violence, sexual assault and stalking.

See also BP/AP 3410 - Nondiscrimination

See also BP/AP 3515 - Reporting of Crimes

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