

Any sexual and gender-based misconduct or physical abuse, including, but not limited to sexual assault such as rape, dating violence, domestic violence, and stalking, as defined by California law, whether committed by an employee, student, or member of the public, in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities or at another location, or on an off-campus site or facility maintained by the District, or on grounds or facilities maintained by a student organization, is a violation of District policies and regulations, and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures. (See also AP 5500 titled Standards of Student Conduct.)

“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 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 committed by:

- a. a current or former spouse of the victim;
- b. a person with whom the victim shares a child in common;
- c. a person who is cohabitating with or has cohabitated with the victim as a spouse;
- d. a person similarly situated to a spouse of the victim under California law; or
- e. 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.

“Affirmative consent” means affirmative, conscious, and voluntary agreement to engage in sexual activity.

It is the responsibility of each person involved in sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past

sexual relations between them, should never by itself be assumed to be an indicator of consent.

This procedure, in addition to the procedures for unlawful discrimination and Title IX investigations from the Office of Staff & Student Diversity, are designed to ensure victims of sexual or gender-based misconduct receive treatment and information. (For physical assaults/violence, see also AP 3500, 3510, and 3515.)

All students and employees who allege they are the victims of sexual and gender-based misconduct shall be provided with information regarding options and assistance available to them. Information shall be available from the Office of Staff & Student Diversity, which shall maintain discretion and confidentiality, to the extent possible, regarding the identity and other information about alleged sexual assault victims.

The Title IX Coordinator shall make available to alleged victims of sexual or gender-based misconduct the following:

1. A copy of the District's policy and procedures regarding sexual or gender-based misconduct;
2. Information about the victim's option to:
  - a. notify proper law enforcement authorities, including on-campus and local police;
  - b. be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
  - c. decline to notify such authorities;
3. A description of available services and resources, regardless of whether the victim chooses to report the crime to campus police or local law enforcement. Services and resources may include:
  - a. transportation to a hospital by Campus Police, if necessary;
  - b. counseling by a Student Health Center psychologist or referral to a counseling center;
  - c. notice to applicable law enforcement, if desired;
  - d. assistance with the disciplinary process by the District Disciplinary Officer;
  - e. information about existing on- and off-campus counseling, mental health, victim advocacy, legal assistance and remedies, and other services for victims by the Title IX Coordinator;
4. Information about the importance of preserving evidence and the identification and location of witnesses to prove a criminal offense;
5. Information about the following procedures:
  - a. Criminal prosecution;
  - b. Civil prosecution;
  - c. District disciplinary procedures for students and employees;
  - d. Academic accommodations, if necessary.

The District shall investigate all complaints alleging sexual and gender-based misconduct under the procedures for unlawful discrimination and Title IX investigations from the Office of Staff & Student Diversity, regardless of whether a complaint is filed with local law enforcement. These procedures can be found at the Office of Staff and Student Diversity and on the District's website.

Using a preponderance of evidence standard, investigation refers to the fact-finding process the District uses to determine whether it is more likely than not that sexual and gender-based conduct occurred; and shall be adequate, reliable, impartial, and prompt and include the opportunity for both alleged victims and accused to present witnesses and other evidence.

The District shall maintain discretion and confidentiality, to its best ability, amongst the parties involved (including the alleged victim, alleged assailant, witness, or third-party reporter of sexual or gender-based misconduct), unless the parties specifically state otherwise. All inquiries from reporters or other media representatives about alleged incidents of sexual and gender-based misconduct shall be referred to the District's Office of Public Relations, which shall work with the Office of Staff & Student Diversity to assure that any applicable confidentiality and privacy rights are maintained.

All alleged victims and assailants shall be kept informed, through the Office of Staff & Student Diversity of any ongoing investigation. Information shall include the status of any student or employee disciplinary proceedings or appeals. Alleged victims of sexual or gender-based misconduct are required to maintain any such information in confidence, unless the alleged assailant has waived rights to confidentiality.

Based on its investigative findings, the District may impose sanctions following a determination by a District disciplinary proceeding regarding sexual and gender-based misconduct. Such disciplinary proceedings shall provide prompt, fair, and impartial resolution, where both the accuser and accused are entitled the same opportunities for an advisor and to present witnesses and other evidence.

Additionally, the Annual Security Report ("ASR") issued by the District shall include a statement regarding the District's programs to prevent sexual or gender-based misconduct and procedures that should be followed after an incident of sexual or gender-based misconduct has been reported, including a statement of the standard of evidence that will be used during any District proceeding arising from such a report. The ASR shall be published in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act and all other applicable state and federal laws.

## **Education and Prevention Information**

The Title IX Coordinator shall:

1. Provide education and prevention information about sexual or gender-based misconduct. The information shall include the District's sexual and gender-based misconduct policy and prevention strategies including awareness raising campaigns, primary prevention, bystander intervention, and risk reduction.
2. Post sexual violence prevention and education information on the campus internet website regarding sexual and gender-based misconduct.

### **References:**

Education Code Sections 67385, 67385.7, and 67386;  
20 U.S. Code Section 1092(f);  
34 Code of Federal Regulations Section 668.46(b)(11)

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