

Any “Sexual and Gender-Based Misconduct” or physical abuse, defined as, but not limited to, sexual assault, dating violence, domestic violence, and stalking, as defined by California law, whether committed by an employee, student, or member of the public, occurring on District property, 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” means actual or attempted sexual contact with another person without that person’s consent. Sexual Assault includes but is not limited to, rape, statutory rape, incest, fondling, 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 reporting party’s statement with consideration of 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 or intimate partner;
- 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 their safety or the safety of others, or to suffer substantial emotional distress.

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

It is the responsibility of each person involved in sexual activity to ensure that they have 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 Title IX, Diversity, and Inclusion, 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 on District property shall be provided with information regarding options and assistance available to them. Information shall be available from the Office of Title IX, Diversity, and Inclusion, which shall maintain discretion and confidentiality, to the extent possible, regarding the identity and other information about alleged sexual assault victims unless and until the Office of Title IX, Diversity, and Inclusion is authorized to release such information.

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, and the persons on campus available to provide those services if requested. Services and those responsible for provided or arranging them 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. Where respondent is a Student, the Director of Student Development, or designee, shall act as the District Disciplinary Officer under Administrative Procedure 5500. Where respondent is an Employee, the Director of Human Resources, or designee, shall act as the District Disciplinary Officer under applicable District Administrative Procedure, bargaining unit agreements, and in compliance with the Education Code;

- e. information about other available campus resources or appropriate off-campus resources (i.e., 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;
5. Information about the participation of victim advocates and other supporting people;
6. The rights of victims and the institution's responsibilities regarding orders of protection, no contact orders, or similar lawful orders issued by a court;
7. Information about how the district will protect the confidentiality of victims;
8. Written notification of victims about options for, and available assistance in, changing academic, living, transportation, and working situations, if requested and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.
9. Information about the following procedures:
 - a. Criminal prosecution;
 - b. Civil prosecution;
 - c. District disciplinary procedures for both students and employees;
 - d. Academic and other 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 Title IX, Diversity, and Inclusion, regardless of whether a complaint is filed with local law enforcement. These procedures can be found at the Office of Title IX, Diversity, and Inclusion and on the District's website.

Using a preponderance of evidence standard, the District will conduct an investigation and Title IX Hearing to determine whether it is more likely than not that Sexual and Gender-Based Misconduct occurred; this process 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 respondent, witness, or third-party reporter of Sexual or Gender-Based Misconduct on District property), unless the parties specifically state otherwise. All inquiries from reporters or other media representatives about alleged incidents of Sexual and Gender-Based Misconduct on District property shall be referred to the District's Office of Marketing and Communications, which shall work with the Office of Title IX, Diversity, and Inclusion to assure that all confidentiality rights are maintained consistent with state and federal law.

All alleged victims and respondents shall be kept informed, through the Office of Title IX, Diversity, and Inclusion of any ongoing investigation. Information shall include the status of any student or employee disciplinary proceedings or appeals.

Based on the outcome of the Title IX process, the District may impose sanctions following a determination by the District Disciplinary Officer 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.

A complainant or witness who participates in an investigation of Sexual or Gender-Based Misconduct will not be subject to disciplinary sanctions for a violation of the District's student conduct policy at or near the time of the incident, unless the District determines that the violation was egregious, including but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic honesty.

In the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent that the accused believed that the complainant consented to the sexual activity under either of the following circumstances:

- The accused's belief in affirmative consent arose from the intoxication or recklessness of the accused.
- The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented.

In the evaluation of complaints in the disciplinary process, it shall not be a valid excuse that the accused believed that the complainant affirmatively consented to the sexual activity if the accused knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances:

- The complainant was asleep or unconscious.
- The complainant was 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.
- The complainant was unable to communicate due to a mental or physical condition.

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.

The statement must include the following:

- A description of educational programs to promote the awareness of rape, acquaintance rape, 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, and to whom the alleged offense should be reported;
- 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, and the right to decline to notify these authorities;
- Information about how the District will protect the confidentiality of victims;
- Information for students about existing on- and off-campus counseling, mental health, victim advocacy, legal assistance, or other services for victims;
- Written notification of victims about options for, and available assistance in, changing academic, living, transportation, and working situations, if requested and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement;
- Procedures for campus disciplinary action in cases of an alleged domestic violence, dating violence, sexual assault, or stalking including a clear statement that:
 - Such proceedings shall provide a prompt, fair, and impartial resolution;
 - Such proceedings shall be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;
 - 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 domestic violence, dating violence, sexual assault, or stalking, the procedures for the accused and victim to appeal the results of the disciplinary proceeding, of any changes to the results that occurs prior to the time that such results become final, and when such results become final. 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 Title IX Coordinator shall:

Provide education, prevention, and outreach information, including as part of the District's established orientation program, about Sexual or Gender-Based Misconduct. The information, to the extent possible, shall be developed in collaboration with campus-based and community-based victim advocacy organizations and shall include the District's sexual assault policy and prevention strategies, Sexual and Gender-Based Misconduct policy and prevention strategies including awareness raising campaigns, primary prevention, bystander intervention, and risk reduction. 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)

Adopted: 11/16/15

Amended: 4/18/22