

SEXUAL ASSAULT

Assaults or Physical Abuse

Any assaults or physical abuse, including, but not limited to, sexual assault, rape, domestic violence, dating violence, or stalking, as defined by California law or District policy, whether committed by an employee, student, or member of the public, is a violation of District policies and regulations if the assault took place on District property, on an off-campus site or facility maintained by the District, on grounds or facilities maintained by an affiliated student organization, or at a District-sponsored activity on non-District property (collectively referred to herein as "on District grounds or in relation to District activities"), and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures.

For a sexual assault against a student, employee, or a third party associated with the District which takes place off campus and unrelated to any District activity, the District may investigate to the extent necessary to determine if the facts indicate the need for remedial measures for the victim or other safety related measures for the District.

Definitions

"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 current or former spouse of the victim;

By a person with whom the victim shares a child in common;

By a person who is cohabitating with or has cohabitated with the victim as a spouse;

By a person similarly situated to a spouse of the victim under California law; or

By 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.

“Sexual violence” means physical sexual acts perpetrated against a person without the person’s affirmative consent, as defined in paragraph (1) of subdivision (a) of Education Code Section 67386. Physical sexual acts include both of the following:

- (A) Rape, defined as penetration, no matter how slight, of the vagina or anus with any part or object, or oral copulation of a sex organ by another person, without the consent of the victim.
- (B) Sexual battery

“Sexual battery” means the intentional touching of another person’s intimate parts without consent, intentionally causing a person to touch the intimate parts of another without consent, or using a person’s own intimate part to intentionally touch another person’s body without consent.

“Sexual exploitation” means a person taking sexual advantage of another person for the benefit of anyone other than that person without that person’s consent, including, but not limited to, any of the following acts:

- (A) The prostituting of another person.
- (B) The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor or services, through force, fraud, or coercion.
- (C) The recording of images, including video or photograph, or audio of another person’s sexual activity or intimate parts, without that person’s consent.
- (D) The distribution of images, including video or photograph, or audio of another person’s sexual activity or intimate parts, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to the disclosure.
- (E) The viewing of another person’s sexual activity or intimate parts, in a place where that other person would have a reasonable expectation of privacy, without that person’s consent, for the purpose of arousing or gratifying sexual desire.

Information and Assistance

These written procedures and protocols are designed to ensure victims of domestic violence, dating violence, sexual assault, sexual violence, sexual exploitation or stalking on District grounds or in relation to District activities receive treatment and 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 grounds or in relation to District activities shall be provided with information regarding options and assistance available to them. Information shall be available from the chief of Police Services, which shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until the chief of Police Services is authorized to release such information by court order. Information may also be available from the Vice President, Human Resources, and the Title IX Coordinator.

A student who alleges being a victim of sexual assault may choose for the investigation to be pursued through:

The criminal justice system and the Title IX Coordinator; or

Only the Title IX Coordinator.

The chief of Police Services shall provide all alleged victims of domestic violence, dating violence, sexual assault or stalking with the following, upon request:

A copy of the Board Policy and Administrative Procedure regarding domestic violence, dating violence, sexual assault or stalking.

A list of personnel on campus who should be notified (Superintendent/President, Assistant Superintendent/Senior Vice-Presidents, Title IX Coordinator) and procedures for such notification, if the alleged victim consents.

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, by Police Services;

Counseling by a Mental Health Counselor, or referral to a counseling center by Student Health Services for students or the District's Employee Assistance Program for employees;

Notice to the police, if desired, by Police Services;

A list of other available campus resources or appropriate off-campus resources by Police Services and/or Student Health Services.

Information about the existence of at least the following:

Criminal prosecution;

Civil prosecution (i.e., lawsuit);

District disciplinary procedures for students and/or employees, as applicable;

Academic assistance alternatives, including tutoring;

Modification of class schedules.

Information regarding the victim's options to:

Notify proper law enforcement authorities, including on-campus and local police;

Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and

Decline to notify such authorities.

Information on the rights of victims and the District's responsibilities regarding orders of protection, no contact orders, or similar lawful orders issued by a court.

Information about how the District will protect the confidentiality of victims.

Written notification regarding 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.

The Title IX Coordinator, or designee, and a Mental Health Counselor should be available to provide assistance to District law enforcement unit employees regarding how to respond appropriately to reports of sexual violence.

District Investigation

The District will investigate all complaints alleging sexual assault under the procedures for sexual harassment investigations described in AP 2002, Prohibition of Harassment, regardless of whether a complaint is filed with local law enforcement. All alleged victims of domestic violence, dating violence, sexual assault, or stalking on District grounds or in relation to District activities shall be kept informed, through the Title IX Coordinator, or designee, of any ongoing investigation, including 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 grounds or in relation to District activities in confidence unless the alleged victim or witness specifically waives that right to confidentiality or as necessary to conduct an investigation. All inquiries from reporters or other media representatives about alleged domestic violence, dating violence, sexual assaults, or stalking on District grounds or in relation to District activities shall be referred to the District's Public Information Office, which shall work with Police Services to assure that all confidentiality rights are maintained.

A complainant or witness who participates in an investigation of sexual assault, domestic violence, dating violence, or stalking on District grounds or in relation to District activities 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 an action that involves academic dishonesty, including but not limited to, plagiarism, cheating, or academic honesty.

In the evaluation of sexual misconduct complaints in any disciplinary process, it shall not be a valid excuse to allege 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 sexual misconduct complaints in the disciplinary process, it shall not be a valid excuse that the accused believed 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.

The standard used in determining whether the elements of the complaint against the accused have been demonstrated is the preponderance of the evidence.

Annual Security Report

The Annual Security Report will include a statement regarding the District's programs to prevent sexual assault, domestic violence, dating violence and stalking and procedures that should be followed after an incident of sexual assault, domestic violence, dating violence, or stalking has been reported, including a statement of the standard of evidence that is used during and in any District proceeding arising from such a report. The statement will 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, the importance of trauma-informed investigation techniques, 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, including how publicly available recordkeeping will be accomplished without the inclusion of identifying information about the victim, to the extent permissible by law;

Information for students about existing on- and off-campus counseling, mental health, victim advocacy, legal assistance, or other student services for victims of sex offenses;

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, sex offense, or stalking, including a clear statement that:

Such proceedings will provide a prompt, fair, and impartial resolution;

Such proceedings will 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 includes trauma informed techniques to protect the safety of victims and promote 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, sex offense, or stalking; of 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, or designee, 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, and shall include sexual assault prevention strategies including empowerment programming for victim prevention, awareness raising campaigns, primary prevention, bystander intervention, and risk reduction.

Post sexual violence prevention and education information on the campus website regarding domestic violence, dating violence, sexual assault and stalking.

Maintain compliance with the Clery Act and Kristin Smart Campus Safety Act through updated written agreements with local law enforcement agencies regarding the investigation and operational responsibilities over sexual assaults and other assaults on District property or on an off-campus site or facility maintained by the District or on grounds or facilities maintained by a student organization or at a District-sponsored activity on non-District property. Such agreements shall be revised and updated pursuant to law.

The District's Office of Human Resources shall:

Provide to employees, as part of each campus' established on-campus orientation program, education and prevention information about domestic violence, dating violence, sexual assault and stalking.

The information 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 including empowerment programming for victim prevention, awareness raising campaigns, primary prevention, bystander intervention, and risk reduction.

For additional information and resources on sexual assault, domestic violence, dating violence, and stalking in the educational/campus environment, the Department of Justice has established a clearinghouse of resources geared towards colleges and universities, which can be accessed at the California Attorney General's website.

Jeanne Clery Disclosure of Campus Security Policy and Campus Criminal Statistics Act

34 Code of Federal Regulations Section 668.46(b)(11)

20 U.S. Code Section 1092(f) California Education Code Sections 67385, 67385.7, 67836, 76033, 76034
and 66262