

SEXUAL AND OTHER ASSAULTS ON CAMPUS

Any sexual assault or physical abuse, as defined by California law, including, but not limited to, rape, 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, AR 5401: Student Conduct)

DEFINITIONS

1. "Sexual assault" includes, but is not limited to, rape, forced oral copulation, rape by a foreign object, frottage, sexual battery, or threat of sexual assault.
2. "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.
3. "Domestic violence" includes felony or misdemeanor crimes of violence committed by:
 - a. a current or former spouse of the victim;
 - b. by a person with whom the victim shares a child in common;
 - c. by a person who is cohabitating with or has cohabitated with the victim as a spouse;
 - d. by a person similarly situated to a spouse of the victim under California law; or
 - e. by any other person against an adult or youth victim who is protected from that person's acts under California law.
4. "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.
5. "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.

DISCIPLINARY SANCTIONS EXEMPTION

The District understands that students may be reluctant to file complaints of sexual assault or other violation of this policy when alcohol and/or drugs were used. Whenever possible, the District will respond educationally, rather than punitively, to the use of drugs and/or alcohol so as to promote the reporting of sexual assault or other violation of this policy. However, the District reserves the right to use other remedies dependent upon the severity of the alcohol or drug use. An individual who participates as a complainant or witness in an investigation of sexual assault or other violation of this policy will not be subject to disciplinary sanctions for a violation of the District's student conduct policy at or near the time of the reported 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 dishonesty.

PROCEDURES AND PROTOCOLS

The written procedures and protocols developed by the District shall be designed to ensure victims of domestic violence, dating violence, stalking or sexual assault treatment and receive information in a timely, respectful and confidential manner. (For physical assaults/violence, see also AR-4000.5 Harassment and Discrimination Prevention and Complaint Procedures)

All students, faculty members or staff members who allege they are the victims of a sexual assault on District property shall be provided with information regarding options and assistance available to them. Information shall be available from the Vice President of Student Services, or designee, who shall maintain the identity of other information about alleged sexual assault victims as confidential unless and until the Vice President of Student Services is authorized to release such information. The Vice President of Student Services shall identify his or her designees by position title in the district's procedures or protocols.

The Title IX Coordinator, deputy, or designee, shall provide all alleged victims of sexual assault with the following, upon request:

1. A copy of the District's policy, this administrative regulation and protocols regarding domestic violence, dating violence, stalking, or; sexual assault.
2. A list of personnel on campus, by position title and name, who should be notified of the assault and procedures for such notification, if the alleged victim consents. This information must be updated from time-to-time to reflect changes in personnel.
3. Legal reporting requirements, and procedures for fulfilling them.
4. The District's procedures and protocols shall provide a description of available services, and the persons on campus available to provide those services if requested, including but not limited to the following :
 - a. Transportation to a hospital, if necessary
 - b. Availability of counseling services on campus, if available, or referral to the counseling center
 - c. Notice to the police, if desired by the victim
 - d. A list of other available campus resources or appropriate off-campus resources
 - e. Procedures for ongoing case management, including procedures for keeping the victim informed of the status of any student disciplinary proceedings in connection with the sexual assault, and the results of any student disciplinary proceedings in

connection with the sexual assault, and the results of any disciplinary action or appeal, and helping the victim deal with academic difficulties that may arise because of the victimization and its impact

5. A description of each of the following procedures:
 - a. Criminal prosecution
 - b. Civil prosecution (i.e., lawsuit)
 - c. District disciplinary procedures, both student and employee
 - d. Availability of medication
 - e. Modification of class schedules
 - f. Tutoring, if necessary

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

INVESTIGATIONS

The District will investigate all complaints alleging sexual assault under the procedures for sexual harassment investigations described in AR 4000.5, regardless of whether a complaint is filed with local law enforcement. The District will decide the complaint based on a preponderance of the evidence standard (whether it is more likely than not that the alleged conduct occurred).

All alleged victims of sexual assault on District property shall be kept informed, through the Vice President of Student Services, or designee, of any ongoing investigation. Information shall include the status of any student or employee disciplinary proceedings or appeal; alleged victims of sexual assault are required to maintain any such information in confidence, unless the alleged assailant has waived rights to confidentiality.

A complainant or witness who participates in an investigation of sexual assault, domestic violence, dating violence, or stalking is protected from retaliation.

NON-VALID EXCUSES

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:

1. The accused's belief in affirmative consent arose from the intoxication or recklessness of the accused.
2. 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:

1. The complainant was asleep or unconscious.

2. 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.
3. The complainant was unable to communicate due to a mental or physical condition.

CONFIDENTIALITY

The District shall maintain the identity of any alleged victim or witness, or third-party reporter 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 sexual assaults on District property shall be referred to the District's Public Affairs office, which shall work with the Vice President of Student Services, or his or her designee, to assure that all confidentiality rights are maintained.

EDUCATION AND PREVENTION INFORMATION

The President's designee shall:

1. Provide, as part of each campus(es) established on-campus orientation program, education and prevention information about sexual assault. The information shall be developed in collaboration with campus-based and community-based victim advocacy organizations.
2. Post sexual violence prevention and education information on the campus internet website.

CLERY REPORT

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 statement must include the following:

1. 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;
2. 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.
3. Information on a student's option 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.
4. Information for students about existing on and off-campus counseling, mental health, or other student services for victims of sex offenses.
5. Notice to students that the campus will change a victim's academic situation after an alleged sex offense and of the options of those changes, if those changes are requested by the victim and are reasonably available.
6. Procedures for campus disciplinary action in cases of an alleged domestic violence, dating violence, sex offense, or stalking, including a clear statement that:

- a. The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and
 - b. 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 (FERPA). 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.
7. A description of the sanction 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.

References:

Education Code Sections 67385, 67386

Jeanne Clery Disclosure Crime Statistics Act, 20 U.S. Code Section 1092(f);

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