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## SEXUAL AND OTHER ASSAULTS ON CAMPUS

Any sexual assault or physical abuse, including, but not limited to, rape, domestic violence, dating violence, sexual assault, or 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 Standards of Student Conduct.)

The District will investigate all complaints alleging sexual assault under the procedures for sexual harassment investigations described in AP 3435, regardless of whether a complaint is filed with local law enforcement.

### 1.0 Title IX Coordinator

Title IX of the Education Amendments of 1972 prohibits gender discrimination, including sexual violence. The District's Title IX Coordinator is its Director of Human Resources, who is responsible for managing the District's Title IX compliance program, including coordinating the investigation of allegations of gender discrimination and addressing problems revealed by such allegations or investigations.

Allegations of gender discrimination or sexual misconduct may be filed with the District's Title IX Coordinator. The Title IX Coordinator can be contacted by telephone at (707) 476-4140, or by mail at:

Attn: Director of Human Resources/Title IX Coordinator  
Office of Human Resources  
College of the Redwoods  
7351 Tompkins Hill Rd  
Eureka, CA 95501-9300

Student allegations of gender discrimination may also be filed with:

The U.S. Department of Education, Office for Civil Rights (OCR), \_  
<https://www2.ed.gov/about/offices/list/ocr/docs/howto.html?src=rt>, or

The Chancellor of the California Community Colleges,  
<http://extranet.cccco.edu/Divisions/Legal/Discrimination.aspx>,

Attention: Legal Affairs Division  
California Community Colleges,  
1102 Q Street,  
Sacramento, CA 95811-6549,

Employee allegations of gender discrimination may also be filed with the Equal Employment Opportunities Commission ([www.eeoc.gov](http://www.eeoc.gov)) or with the California Department of Fair Employment and Housing ([www.dfeh.ca.gov](http://www.dfeh.ca.gov)).

The Director of Human Resources is also the District officer responsible for receiving discrimination complaints filed pursuant to Title 5 of the California Code of Regulations, sections 59300 et seq.

2.1 Educational Programs to Promote the Awareness of Sexual Misconduct, Including Dating Violence, Domestic Violence, Sexual Assaults and Stalking

The Title IX Coordinator shall:

2.2 Provide, 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 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.

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

Reference: 34 CFR 668.46(a), 34 CFR 668.46(b)(11)(i), 34 CFR 668.46(j); Education Code section 67386.7(a)(2)

3.1 Information Regarding Crimes of Sexual Assault

All alleged victims of domestic violence, dating violence, sexual assault, or stalking on District property shall be kept informed, through the Office of Human Resources, of any ongoing investigation. Information shall include 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.

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 statement shall include the following:

- 3.2 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;
- 3.3 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;
- 3.4 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;
- 3.5 Information for students about existing on- and off-campus counseling, mental health, or other student services for victims of sex offenses;
- 3.6 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;
- 3.7 Procedures for campus disciplinary action in cases of an alleged domestic violence, dating violence, sex offense, or stalking including a clear statement that:
  - 3.7.1 The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and
  - 3.7.2 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.

- 3.8 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.

Reference: 34 CFR 668.46(b)(11)(ii)

#### 4.0 Confidentiality

In an effort to encourage access to support services after an unwanted sexual experience, the District shall maintain the identity of any alleged victim, witness, or third-party reporter of domestic violence, dating violence, sexual assault, or stalking on District property, in

confidence unless the alleged victim, witness, or third-party reporter specifically waives that right to confidentiality. All inquiries from reporters or other media representatives about alleged domestic violence, dating violence, sexual assaults, or stalking on District property shall be referred to the District's Office of the President, which shall work with the Office of Human Resources to assure that all confidentiality rights are maintained.

Reference: 34 CFR 668.46(b)(11)(iii); Education Code section 67386(b)(1)

## 5.0 Crisis Resources

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 Office of Human Resources, which shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until the Title IX Coordinator is authorized to release such information.

Reference: 34 CFR 668.46(b)(11)(iv) and Education Code 67386(c)

## 6.0 Victim Assistance

If reasonably available, the District may change a victim's academic, learning, or employment situation in response to sexual misconduct.

Reference: 34 CFR 668.46(b)(11)(v)

## 7.1 Disciplinary Options

7.2 A complainant or witness who participates in an investigation of sexual assault, domestic violence, dating violence, or stalking 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:

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

7.2.2 The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented.

7.3 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:

7.3.1 The complainant was asleep or unconscious.

7.3.2 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.

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

The standard used to determine whether the elements of a complaint against an accused have been demonstrated is the preponderance of the evidence.

Reference: 34 CFR 668.46(b)(11)(vi)

## 8.1 Rights and Options for Victims

The Title IX Coordinator shall provide all alleged victims of domestic violence, dating violence, sexual assault or stalking with the following:

8.2 A copy of the District's policy and procedure regarding domestic violence, dating violence, sexual assault or stalking;

8.3 A list of personnel on campus who should be notified and procedures for such notification, if the alleged victim consents, including but not limited to:

8.3.1 The Title IX Coordinator or designee,

8.3.2 Personnel designated as confidential employees in the Office of Human Resources,

8.3.3 The President/Superintendent or personnel designated as confidential employees in the Office of the President,

8.3.4 Security personnel,

8.3.5 District-designated medical providers, and

8.3.6 The Vice President of Instruction & Student Development;

- 8.4 Information about the importance of preserving evidence and the identification and location of witnesses;
- 8.5 A description of available services, and the persons on campus available to provide those services if requested. Services and those responsible for provided or arranging them include:
  - 8.5.1 Transportation to a hospital, if necessary; (Security Office)
  - 8.5.2 Referral to a counseling center; (Office of Human Resources)
  - 8.5.3 Notice to the police, if desired; (Security Office)
  - 8.5.4 A list of other available campus resources or appropriate off-campus resources. (Office of Human Resources)
- 8.6 A description of each of the following procedures:
  - 8.6.1 Criminal prosecution;
  - 8.6.2 Civil prosecution (i.e., lawsuit);
  - 8.6.3 District disciplinary procedures, both student and employee;
  - 8.6.4 Modification of class schedules; and
  - 8.6.5 Tutoring, if necessary.

The Title IX Coordinator or designee may provide assistance to District personnel regarding how to respond appropriately to reports of sexual violence.

Reference: 34 CFR 668.46(b)(11)(vii), 34 CFR 668.46(b)(v)

## 9.0 Affirmative Consent

Consent is an affirmative, unambiguous, conscious and voluntary decision by each participant to engage in mutually agreed-upon sexual activity. Consent is voluntary. It must be given without coercion, force, threats, or intimidation. Consent means positive cooperation in the act or expression of intent to engage in the act pursuant to an exercise of free will. Consent is revocable. Consent to some form of sexual activity does not imply consent to other forms of sexual activity. Consent to sexual activity on one occasion is not consent to engage in sexual activity on another occasion. A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be mutual consent to engage in sexual activity. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. Once consent is withdrawn, the sexual activity must stop immediately. Consent cannot be given when a

person is incapacitated. A person cannot consent if he or she is unconscious or coming in and out of consciousness. A person cannot consent if he or she is under the threat of violence, bodily injury or other forms of coercion. A person cannot consent if his/her understanding of the act is affected by a physical or mental impairment.

In the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent by a complainant that the accused believed that the complainant consented to sexual activity under either of the following circumstances: (1) the accused's belief in affirmative consent arose from the intoxication or recklessness of the complainant or (2) the accused did not take reasonable steps, in the circumstances known to the accused at the time of the alleged incident, to ascertain whether the complainant affirmatively consented.

Similarly, it shall not be a valid excuse that the accused believed the complainant affirmatively consented to sexual activity if the accused knew or should have known that the complainant could not give affirmative consent because the complainant was (1) asleep or unconscious, (2) was incapacitated due to the influence of drugs, alcohol, or medication or that the complainant could not understand the fact, nature, or extent of the sexual activity, or (3) was unable to communicate due to a mental or physical condition.

Reference: Education Code section 67386

## 10.1 Definitions

10.2 Dating violence: violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

Reference: 34 CFR 668.46(a)

10.3 Domestic violence: a felony or misdemeanor crime of violence committed by a spouse or former spouse or intimate or domestic partner, cohabitant or former cohabitant of the victim, or someone with whom the accused shares a child, has an existing dating or engagement relationship, or has had a former dating or engagement relationship, or abuse perpetrated against any persons described in Family Code, section 6211.

Reference: 34 CFR 668.46(a); Family Code, section 6211

10.4 Sexual assault: sexual activity without the consent of the other person or when the other person is unable to consent to the activity. The activity may include physical force, violence, threats, intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person's incapacitation (including voluntary intoxication). Sexual assault includes, but is not limited to fondling, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, incest, statutory rape, or threat of sexual assault. Sexual assault includes any of the crimes set

forth in Penal Code sections 261, 261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286, 288, 288a, 288.5, 289, or 311.4.

Reference: 34 CFR 668.46(a); Education Code section 67385(d); Labor Code section 230.1

- 10.5 Sexual misconduct: Sexual misconduct includes discrimination based on gender, sexual harassment, dating violence, domestic violence, sexual assault, stalking, sexual violence, sexual coercion, and hate crimes based on gender.
- 10.6 Stalking: a course of conduct in which a person repeatedly engages in actions directed at a specific person that places that person in reasonable fear of his or her safety or the safety of others or causes substantial emotional distress. A course of conduct means two or more acts, including, but not limited to acts in which the stalker directly, indirectly, or through third parties by any method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about a victim, or interferes with the property of the victim. Stalking includes the conduct described in Penal Code, section 646.9.

Reference: 34 CFR 668.46(a); Penal Code section 646.9

References:

Education Code Sections 67382, 67385, and 67386;  
20 U.S. Code Section 1092(f);  
34 Code of Federal Regulations Section 668.46(b)(11)

Approved: April 7, 2015