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**SEXUAL AND OTHER ASSAULTS ON CAMPUS**

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.

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 or in a District vehicle, 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 Administrative Regulation (AR) 5500 titled Standards of Student Conduct, Procedural Guidelines and Disciplinary Action.)

**“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.

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**“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.

It is the responsibility of each person involved in sexual activity to ensure 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.

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

**California Law Jurisdiction Crime Definitions**

All persons who believe they are crime victims should contact the College Police or their local law enforcement so that appropriate action may be taken. Federal and State law outline what would constitute a violation of law. The California Penal Code crime definitions may at times, however, differ slightly from Federal law definitions. Other sections (sexual assault, domestic violence) may have similar contrasts. As such, while the intent of this administrative regulation is to reference applicable Federal and State laws, the arrest of an individual by the College Police or local law enforcement must fall in line with the requirements of state law.

These written procedures and protocols are designed to ensure victims of domestic violence, dating violence, sexual assault or stalking receive treatment and information. (For physical assaults/violence, see also AR 3500 Campus Safety, AR 3510 Workplace Violence and AR 3515 Reporting of Crimes.)

All students, faculty members or staff members who allege they are the victims of a domestic violence, dating violence, sexual assault or stalking on District property as described above, shall be provided with information regarding options and assistance available to them. Information shall be available from the College Police Department, Human Resources Department or Health Center, which shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until the Chief Human Resources Officer is authorized to release such information.

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The College Police Department, Human Resources Department or Health Center shall provide all alleged victims of domestic violence, dating violence, sexual assault or stalking with the following, upon request:

- A copy of the District's policies and procedures regarding domestic violence, dating violence, sexual assault or stalking;
- A list of personnel on campus who should be notified, and procedures for such notification, if the alleged victim consents:
  - College Police
  - Title IX Coordinator
  - Chief Human Resources Officer
  - Dean of Student Affairs
  - Dean of Student Services
  - Program Manager of Health Services
  - Program Director of the Professional Development Center
  - Administrative Dean, Workforce Development, Continuing and Community Education of the Garfield Campus
- 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 the College Police;
  - counseling by the Health Center, or referral to a counseling center;
  - a list of other available campus resources or appropriate off-campus resources.
- The victim's option to:
  - notify the College Police and/or local police;
  - be assisted by campus authorities in notifying law enforcement authorities;
  - decline to notify such authorities;
  - receive information regarding the rights of victims, or the institution's responsibilities regarding orders of protection, "no contact" orders or similar lawful orders issued by a court;
  - receive information about how the district will protect the confidentiality of victims;
  - receive written notification about options for, and/or receive available assistance in changing academic or working situations, if requested and if

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such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to the College Police Department or local law enforcement.

- A description of each of the following procedures:
  - criminal prosecution;
  - civil prosecution (i.e., lawsuit);
  - District disciplinary procedures, both student and employee;
  - modification of class schedules;
  - tutoring, if necessary.

The Chief Human Resources Officer should be available to provide assistance to District law enforcement unit employees regarding how to respond appropriately to reports of sexual violence.

The District will investigate all complaints alleging sexual assault under the procedures for sexual harassment investigations described in AR 3435 Discrimination and Harassment Investigations, 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 property shall be kept informed, through the College Police Department of any ongoing investigation. Information shall include the status of any student or employee disciplinary proceedings or appeals. 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.

In the evaluation of student and employee complaints in any disciplinary process involving sexual assault, based on the accused's actions, it is not a valid defense that the accused believed that the complainant affirmatively consented to the sexual activity if:

- 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 student and employee complaints in the disciplinary process involving sexual assault, based on the complainant's condition or circumstance, it shall not be a valid defense that the accused believed that the complainant affirmatively consented to the sexual activity if the accused knew or reasonably should have known

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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 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, 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 Public Information Office, which shall work with the College Police Department to assure that all confidentiality rights are maintained.

Additionally, 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 domestic violence, dating violence, sexual assault or stalking has been reported, including a statement of the standard of evidence that will be used in any district proceeding arising from such a report. 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, including how publicly-available recordkeeping will be accomplished without the inclusion of identifying information about the victim, to the extent permissible by law;

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- Information for students about existing on- and off-campus counseling, mental health, victim advocacy, legal assistance or other services for victims;
- Written notification to victims about options for, and available assistance in changing academic and working situations, if requested and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to College 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 occur 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 to students, 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

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

The Human Resources Department 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.

The College Police Department shall:

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

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)
- Accreditation Standard III.B.2

Renumbered from Administrative Regulation 2710: 10/07/14

See Board Policy 3540, Administrative Regulations 3430, 3435, 3510 and 3515

Adopted: 11/7/94

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