

General Institution

**AP 3540 SEXUAL AND OTHER ASSAULTS ON CAMPUS AND IN
CAMPUS PROGRAMS**

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)

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 at a District-sponsored activity on non-District property is a violation of District policies and regulations and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures. (Also see AP 3433 Prohibition of Sexual Harassment under Title IX, AP 3434 Responding to Harassment Based on Sex under Title IX, AP 3435 Discrimination and Harassment Investigations, BP 5500 titled Standards of Student Conduct, and AP 5520 titled Student Discipline Procedures.)

“Sexual assault,” “dating violence,” “domestic violence,” and “stalking” are defined in AP 3434 Responding to Harassment Based on Sex under Title IX.

It is the responsibility of each person involved in sexual activity to ensure that he/she/they 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.

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

39 **Reporting and Confidentiality Responsibilities of Personnel Providing Sexual-**
40 **assault Related Services to Students Reporting Having Experienced Sexual**
41 **Violence**

42 The college is committed to protecting the safety of people on campus, responding to
43 students in crisis or potential crisis, and preventing sexual misconduct.

44 These categories of District employees, deemed confidential resource employees, are
45 not required to report, without the student's consent, incidents of sexual violence
46 experienced and reported by a student: mental health counselors, pastoral counselors
47 (as defined in official federal Title IX and/or Clery Act documents), social workers,
48 psychologists assigned to provide mental health services, health center employees, or
49 any person with a professional license requiring confidentiality, or any person who is
50 supervised by such a person. Additionally, individuals who work or volunteer in on-
51 campus sexual assault centers, victim advocacy offices, women's centers, men's centers,
52 or health centers including front desk staff and students in such locations, are not
53 responsible for reporting to the District incidents of sexual violence reported to them by
54 students.

55 If a student reports an incident of sexual misconduct to an employee or individual deemed
56 a confidential resource employee identified above, the employee or individual shall:

- 57 1. Keep a student's report of sexual violence confidential;
- 58 2. Inform the student of campus resources for counseling, medical, and academic
59 support;
- 60 3. Inform the student of their right to file a separate Title IX complaint with the
61 College's Title IX Coordinator; and of their right to file a separate complaint of
62 sexual violence with Campus Police; and that they are available to assist the
63 student in filing such complaints;
- 64 4. Explain that Title IX includes protections against retaliation, and that District
65 officials will not only take steps to prevent retaliation but also take strong
66 responsive action if it occurs;
- 67 5. Inform the student of the option to make a confidential report to ensure the safety
68 of the student and others. With the student's permission, the employee or
69 individual can report the nature, date, time, general location, and assailant
70 description to the College without identifying the reporting student to allow the
71 College to issue timely warnings such as text and email alerts to the campus
72 community; and
- 73 6. Note and later provide to the Title IX Coordinator general information for the
74 College's reported aggregated data: the nature, date, time, and general location of
75 the incident. Non-professional counselors and advocates should consult with
76 students regarding what information needs to be withheld to protect their identity.

77 All students, faculty members, or staff members who allege they are the victims of
78 domestic violence, dating violence, sexual assault, or stalking on District property, on an
79 off-campus site, facility maintained by the District, on grounds or facilities maintained by
80 a student organization, or at a District-sponsored activity on non-District property shall be
81 provided with information regarding options and assistance available to them. Information
82 shall be available from the Campus Police Department, which shall maintain the identity
83 and other information about alleged sexual assault victims as confidential unless and until
84 the Chief of Campus Police or designee is authorized to release such information.

85 The Campus Police Department, after being informed (refer also to section herein, “The
86 victim’s option to:”), shall provide all alleged victims of domestic violence, dating violence,
87 sexual assault, or stalking with the following:

- 88 • A copy of the Board Policy and Administrative Procedure regarding domestic
89 violence, dating violence, sexual assault, or stalking;
- 90 • A list of personnel on campus who should be notified and procedures for such
91 notification, if the alleged victim consents, including the President/Superintendent;
92 Vice President of Student Services; Dean of Student Services; Vice President of
93 Human Resources or designee; and/or the Associate Dean of Student Health and
94 Wellness Services.
- 95 • Information about the importance of preserving evidence and the identification and
96 location of witnesses;
- 97 • A description of available services and the persons on campus available to provide
98 those services if requested. Services and those responsible for providing or
99 arranging them include:
 - 100 ○ transportation to a hospital, if necessary (Campus Police);
 - 101 ○ counseling by a mental health professional in Student Health Services
102 or referral to a counseling center (Student Health Services, Campus
103 Police);
 - 104 ○ notice to the local police, if desired (Campus Police); and
 - 105 ○ a list of other available campus resources or appropriate off-campus
106 resources (Student Health Services, Campus Police).
- 107 • The victim’s option to:
 - 108 ○ notify proper law enforcement authorities, including on-campus and
109 local police;
 - 110 ○ be assisted by campus authorities in notifying law enforcement
111 authorities if the victim so chooses; and
 - 112 ○ decline to notify such authorities;
- 113 • Information about the participation of victim advocates and other supporting
114 people;
- 115 • The rights of victims and the institution’s responsibilities regarding orders of
116 protection, no contact orders, or similar lawful orders issued by a court;
- 117 • Information about how the district will protect the confidentiality of victims;
- 118 • Written notification of victims about options for, and available assistance in,
119 changing academic, living, transportation, and working situations, if requested and

120 if such accommodations are reasonably available, regardless of whether the victim
121 chooses to report the crime to campus police or local law enforcement; and

- 122 • A description of each of the following options:
 - 123 ○ Counselors and support services for victims;
 - 124 ○ criminal prosecution;
 - 125 ○ civil prosecution (i.e., lawsuit);
 - 126 ○ District disciplinary procedures for students and employees, as
127 applicable;
 - 128 ○ modification of a student's individual class schedule;
 - 129 ○ tutoring, if necessary.
 - 130 ○ alternative dispute resolution or other accountability processes;
 - 131 ○ alternative housing assignments; and
 - 132 ○ academic assistance alternatives.

133 The Vice President of Human Resources or designee should be available to provide
134 assistance to District law enforcement unit employees regarding how to respond
135 appropriately to reports of sexual violence.

136 The District will investigate all complaints alleging sexual assault under the procedures
137 for sexual harassment investigations described in AP 3434 titled Responding to
138 Harassment Based on Sex under Title IX, regardless of whether a complaint is filed with
139 local law enforcement.

140 All alleged victims of domestic violence, dating violence, sexual assault, or stalking on
141 District property or on an off-campus site or facility maintained by the District or on
142 grounds or facilities maintained by a student organization or at a District-sponsored
143 activity on non-District property shall be kept informed through the Campus Police
144 Department of any ongoing investigation. Information shall include the status of any
145 student or employee disciplinary proceedings or appeal; alleged victims of domestic
146 violence, dating violence, sexual assault, or stalking are required to maintain any such
147 information in confidence, unless the alleged assailant has waived rights to confidentiality
148 consistent with state and federal law.

149 A Complainant or witness who participates in an investigation of sexual assault, domestic
150 violence, dating violence, or stalking will not be subject to disciplinary sanctions for a
151 violation of the District's student conduct policy at or near the time of the incident, unless
152 the District determines that the violation was egregious, including but not limited to, an
153 action that places the health or safety of any other person at risk or an action that involves
154 academic dishonesty, including but not limited to, plagiarism or cheating.

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

- 158 • The accused's belief in affirmative consent arose from the intoxication or
159 recklessness of the accused.

- 160 • The accused did not take reasonable steps, in the circumstances known to the
161 accused at the time, to ascertain whether the Complainant affirmatively consented.

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

- 166 • The Complainant was asleep or unconscious.
167 • The Complainant was incapacitated due to the influence of drugs, alcohol, or
168 medication, so that the Complainant could not understand the fact, nature, or
169 extent of the sexual activity.
170 • The Complainant was unable to communicate due to a mental or physical
171 condition.

172 The District shall maintain the identity of any alleged victim, witness, or third-party reporter
173 of domestic violence, dating violence, sexual assault, or stalking on District property, as
174 defined above, in confidence consistent with state and federal law, unless the alleged
175 victim, witness, or third-party reporter specifically waives that right to confidentiality. All
176 inquiries from reporters or other media representatives about alleged domestic violence,
177 dating violence, sexual assaults, or stalking on District property shall be referred to the
178 District's President/Superintendent or designee, who shall work with the Chief of Campus
179 Police to ensure that all confidentiality rights are maintained consistent with state and
180 federal law.

181 Additionally, the Annual Security Report will include a statement regarding the District's
182 programs to prevent sexual assault, domestic violence, dating violence, and stalking, and
183 procedures that should be followed after an incident of domestic violence, dating violence,
184 sexual assault, or stalking has been reported, including a statement of the standard of
185 evidence that will be used during and in any district proceeding arising from such a report.
186 The statement must include the following:

- 187 • A description of educational programs to promote the awareness of rape,
188 acquaintance rape, other forcible and non-forcible sex offenses, domestic
189 violence, dating violence, or stalking;
190 • Procedures to follow if domestic violence, dating violence, a sex offense, or
191 stalking occurs, including who should be contacted, the importance of preserving
192 evidence to prove a criminal offense, and to whom the alleged offense should be
193 reported;
194 • Information on a student's right to notify appropriate law enforcement authorities,
195 including on-campus and local police, and a statement that campus personnel will
196 assist the student in notifying these authorities, if the student so requests, and the
197 right to decline to notify these authorities;
198 • Information about how the district will protect the confidentiality of victims, including
199 how publicly-available recordkeeping will be accomplished without the inclusion of
200 identifying information about the victim, to the extent permissible by law;

- 201 • Information for students about existing on- and off-campus counseling, mental
202 health, victim advocacy, legal assistance, or other student services for victims of
203 sex offenses;
- 204 • Written notification of victims about options for, and available assistance in,
205 changing academic, living, transportation, and working situations, if requested and
206 if such accommodations are reasonably available, regardless of whether the victim
207 chooses to report the crime to campus police or local law enforcement;
- 208 • Procedures for campus disciplinary action in cases of an alleged domestic
209 violence, dating violence, sexual assault, or stalking including a clear statement
210 that:
 - 211 ○ Such proceedings shall provide a prompt, fair, and impartial resolution;
 - 212 ○ Such proceedings shall be conducted by officials who receive annual
213 training on the issues related to domestic violence, dating violence,
214 sexual assault, and stalking, and how to conduct an investigation and
215 hearing process that protects the safety of victims and promotes
216 accountability;
 - 217 ○ The accuser and the accused are entitled to the same opportunities to
218 have others present during a disciplinary proceeding; and
 - 219 ○ Both the accuser and the accused must be informed of the outcome of
220 any institutional disciplinary proceeding resulting from an alleged
221 domestic violence, dating violence, sexual assault, or stalking, the
222 procedures for the accused and victim to appeal the results of the
223 disciplinary proceeding, of any changes to the results that occurs prior
224 to the time that such results become final, and when such results
225 become final. Compliance with this paragraph does not violate the
226 Family Educational Rights and Privacy Act (FERPA). For the purposes
227 of this paragraph, the outcome of a disciplinary proceeding means the
228 final determination with respect to the alleged domestic violence, dating
229 violence, sex offense, or stalking and any sanction that is imposed
230 against the accused.
- 231 • A description of the sanctions the campus may impose following a final
232 determination by a campus disciplinary proceeding regarding rape, acquaintance
233 rape, or other forcible or non-forcible sex offenses, domestic violence, dating
234 violence, or stalking.

235 **Sexual Assault and Domestic Violence Counselors**

236 Sexual assault and domestic violence counselors shall be independent from the Title IX
237 office, and shall, at a minimum, meet the qualifications defined in Sections 1035.2 and
238 1037.1 of the Evidence Code, respectively.

239 Services provided by sexual assault and domestic violence counselors, including, but not
240 limited to, securing alternative housing assignments and academic assistance
241 alternatives, shall not be contingent on a victim's decision to report to the Title IX office
242 or law enforcement.

243 A sexual assault or domestic violence counselor shall obtain specific permission from the
244 victim before disclosing the identity of the victim, or any information that could reasonably
245 be expected to reveal the identity of the victim, to the university or any other authority,
246 including law enforcement, unless otherwise required to do so by applicable state or
247 federal law.

248 **Education and Prevention Information**

249 The Campus Police Department, in coordination with the Counseling Services Division,
250 shall:

- 251 • Provide, as part of on-campus orientation programs, education, prevention, and
252 outreach information about domestic violence, dating violence, sexual assault, and
253 stalking. The information shall be developed in collaboration with campus-based
254 and community-based victim advocacy organizations, and shall include the
255 District's sexual assault policy and prevention strategies including empowerment
256 programming for victim prevention, awareness raising campaigns, primary
257 prevention, bystander intervention, and risk reduction.

258 The outreach programming included as part of an incoming student's orientation
259 must include, at minimum, all of the following:

- 260 ○ The warning signs of intimate partner and dating violence.
- 261 ○ Campus policies and resources relating to intimate partner and dating
262 violence.
- 263 ○ Off-campus resources and centers relating to intimate partner and
264 dating violence.
- 265 ○ A focus on prevention and bystander intervention training as it relates to
266 intimate partner and dating violence.
- 267 • Post sexual violence prevention and education information on the campus internet
268 website regarding domestic violence, dating violence, sexual assault, and stalking.

269 Office of Primary Responsibility: Vice President, Business Services
270 Vice President, Human Resources

271 See also:

272 AP 3435 Discrimination and Harassment Investigations

273 AP 3500 Campus Safety

274 AP 3510 Workplace Violence

275 AP 3515 Reporting of Crimes

276 AP 3520 Local Law Enforcement

277 BP 3540 Sexual and Other Assaults on Campus

278 BP 5500 Standards of Student Conduct

279 AP 5520 Student Discipline Procedures

Date Approved: November 26, 2007

Dates Revised: October 1, 2012; November 18, 2013; September 22, 2014;
December 1, 2014; November 30, 2015; April 23, 2018;
November 4, 2024

Date Reviewed: January 16, 2019