

General Institution

1 AP 3540 SEXUAL AND OTHER ASSAULTS

2 References:

- 3 Education Code, Sections 67385, 67385.7, and 67386;
- 4 20 U.S. Code, Section 1092(f);
- 5 34 Code of Federal Regulations, Section 668.46(b)(11)

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

10 Any sexual assault or physical abuse, including, but not limited to, rape, domestic
11 violence, dating violence, sexual assault, or stalking, as defined by California law,
12 whether committed by an employee, student, or member of the public, occurring on
13 District property, in connection with all the academic, educational, extracurricular,
14 athletic, and other programs of the District, whether those programs take place in the
15 District’s facilities or at another location, or on an off-campus site or facility maintained
16 by the District, or on grounds or facilities maintained by a student organization, or at a
17 District-sponsored activity on non-District property is a violation of District policies and
18 regulations and is subject to all applicable punishment, including criminal procedures
19 and employee or student discipline procedures. (Also see BP 5500 titled Standards of
20 Student Conduct, AP 3435 Discrimination and Harassment Investigations, and AP 5520
21 titled Student Discipline Procedures.)

22 “Sexual assault” includes but is not limited to, rape, forced sodomy, forced oral
23 copulation, rape by a foreign object, sexual battery, or threat of sexual assault.

24 “Dating violence” means violence committed by a person who is or has been in a social
25 relationship of a romantic or intimate nature with the victim. The existence of a romantic
26 or intimate relationship will be determined based on the length of the relationship, the
27 type of relationship and the frequency of interaction between the persons involved in the
28 relationship.

29 “Domestic violence” includes felony or misdemeanor crimes of violence committed by:

- 30 • a current or former spouse of the victim;
- 31 • a person with whom the victim shares a child in common;
- 32 • a person who is cohabitating with or has cohabitated with the victim as a spouse;
- 33 • a person similarly situated to a spouse of the victim under California law; or

- 34 • any other person against an adult or youth victim who is protected from that
35 person's acts under California law.

36 "Stalking" means engaging in a course of conduct directed at a specific person that
37 would cause a reasonable person to fear for his or her safety or the safety of others, or
38 to suffer substantial emotional distress.

39 It is the responsibility of each person involved in sexual activity to ensure that he or she
40 has the affirmative consent of the other or others to engage in the sexual activity. Lack
41 of protest or resistance does not mean consent, nor does silence mean consent.
42 Affirmative consent must be ongoing throughout a sexual activity and can be revoked at
43 any time. The existence of a dating relationship between the persons involved, or the
44 fact of past sexual relations between them, should never by itself be assumed to be an
45 indicator of consent.

46 "Affirmative consent" means affirmative, conscious, and voluntary agreement to engage
47 in sexual activity.

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

52 **Reporting and Confidentiality Responsibilities of Personnel Providing Sexual-**
53 **assault Related Services to Students Reporting Having Experienced Sexual**
54 **Violence**

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

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

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

- 71 1. Keep a student's report of sexual violence confidential;

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

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

100 The Campus Police Department, after being informed (refer also to section herein, "The
101 victim's option to:"), shall provide all alleged victims of domestic violence, dating
102 violence, sexual assault or stalking with the following:

- 103 • A copy of the Board Policy and Administrative Procedure regarding domestic
104 violence, dating violence, sexual assault, or stalking;
- 105 • A list of personnel on campus who should be notified and procedures for such
106 notification, if the alleged victim consents, including the
107 President/Superintendent; Vice President of Student Services; Dean of Student
108 Services; Vice President of Human Resources or designee; and/or the Associate
109 Dean of Student Health and Wellness Services.
- 110 • Information about the importance of preserving evidence and the identification
111 and location of witnesses;
- 112 • A description of available services and the persons on campus available to
113 provide those services if requested. Services and those responsible for providing
114 or arranging them include:
 - 115 ○ transportation to a hospital, if necessary (Campus Police);

- 116 ○ counseling by a mental health professional in Student Health Services
117 or referral to a counseling center (Student Health Services, Campus
118 Police);
- 119 ○ notice to the local police, if desired (Campus Police); and
- 120 ○ a list of other available campus resources or appropriate off-campus
121 resources (Student Health Services, Campus Police).
- 122 ● The victim's option to:
 - 123 ○ notify proper law enforcement authorities, including on-campus and
124 local police;
 - 125 ○ be assisted by campus authorities in notifying law enforcement
126 authorities if the victim so chooses; and
 - 127 ○ decline to notify such authorities;
- 128 ● Information about the participation of victim advocates and other supporting
129 people;
- 130 ● The rights of victims and the institution's responsibilities regarding orders of
131 protection, no contact orders, or similar lawful orders issued by a court;
- 132 ● Information about how the district will protect the confidentiality of victims;
- 133 ● Written notification of victims about options for, and available assistance in,
134 changing academic, living, transportation, and working situations, if requested
135 and if such accommodations are reasonably available, regardless of whether the
136 victim chooses to report the crime to campus police or local law enforcement;
137 and
- 138 ● A description of each of the following procedures:
 - 139 ○ criminal prosecution;
 - 140 ○ civil prosecution (i.e., lawsuit);
 - 141 ○ District disciplinary procedures for students and employees, as
142 applicable;
 - 143 ○ modification of a student's individual class schedule; and
 - 144 ○ tutoring, if necessary.

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

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

151 All alleged victims of domestic violence, dating violence, sexual assault, or stalking on
152 District property or on an off-campus site or facility maintained by the District or on
153 grounds or facilities maintained by a student organization or at a District-sponsored
154 activity on non-District property shall be kept informed through the Campus Police
155 Department of any ongoing investigation. Information shall include the status of any
156 student or employee disciplinary proceedings or appeal; alleged victims of domestic
157 violence, dating violence, sexual assault, or stalking are required to maintain any such

158 information in confidence, unless the alleged assailant has waived rights to
159 confidentiality.

160 A complainant or witness who participates in an investigation of sexual assault,
161 domestic violence, dating violence, or stalking will not be subject to disciplinary
162 sanctions for a violation of the District's student conduct policy at or near the time of the
163 incident, unless the District determines that the violation was egregious, including but
164 not limited to, an action that places the health or safety of any other person at risk or an
165 action that involves academic dishonesty, including but not limited to, plagiarism or
166 cheating.

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

- 170 • The accused's belief in affirmative consent arose from the intoxication or
171 recklessness of the accused.
- 172 • The accused did not take reasonable steps, in the circumstances known to the
173 accused at the time, to ascertain whether the complainant affirmatively
174 consented.

175 In the evaluation of complaints in the disciplinary process, it shall not be a valid excuse
176 that the accused believed that the complainant affirmatively consented to the sexual
177 activity if the accused knew or reasonably should have known that the complainant was
178 unable to consent to the sexual activity under any of the following circumstances:

- 179 • The complainant was asleep or unconscious.
- 180 • The complainant was incapacitated due to the influence of drugs, alcohol, or
181 medication, so that the complainant could not understand the fact, nature, or
182 extent of the sexual activity.
- 183 • The complainant was unable to communicate due to a mental or physical
184 condition.

185 The District shall maintain the identity of any alleged victim, witness, or third-party
186 reporter of domestic violence, dating violence, sexual assault, or stalking on District
187 property, as defined above, in confidence unless the alleged victim, witness, or third-
188 party reporter specifically waives that right to confidentiality. All inquiries from reporters
189 or other media representatives about alleged domestic violence, dating violence, sexual
190 assaults, or stalking on District property shall be referred to the District's
191 President/Superintendent or designee, who shall work with the Chief of Campus Police
192 to ensure that all confidentiality rights are maintained.

193 Additionally, the Annual Security Report will include a statement regarding the District's
194 programs to prevent sexual assault, domestic violence, dating violence and stalking,
195 and procedures that should be followed after an incident of domestic violence, dating
196 violence, sexual assault, or stalking has been reported, including a statement of the
197 standard of evidence that will be used during and in any district proceeding arising from
198 such a report.

199 The statement must include the following:

- 200 • A description of educational programs to promote the awareness of rape,
201 acquaintance rape, other forcible and non-forcible sex offenses, domestic
202 violence, dating violence, or stalking;
- 203 • Procedures to follow if domestic violence, dating violence, a sex offense, or
204 stalking occurs, including who should be contacted, the importance of preserving
205 evidence to prove a criminal offense, and to whom the alleged offense should be
206 reported;
- 207 • Information on a student's right to notify appropriate law enforcement authorities,
208 including on-campus and local police, and a statement that campus personnel
209 will assist the student in notifying these authorities, if the student so requests,
210 and the right to decline to notify these authorities;
- 211 • Information about how the district will protect the confidentiality of victims,
212 including how publicly-available recordkeeping will be accomplished without the
213 inclusion of identifying information about the victim, to the extent permissible by
214 law;
- 215 • Information for students about existing on- and off-campus counseling, mental
216 health, victim advocacy, legal assistance or other student services for victims of
217 sex offenses;
- 218 • Written notification of victims about options for, and available assistance in,
219 changing academic, living, transportation, and working situations, if requested
220 and if such accommodations are reasonably available, regardless of whether the
221 victim chooses to report the crime to campus police or local law enforcement;
- 222 • Procedures for campus disciplinary action in cases of an alleged domestic
223 violence, dating violence, sexual assault, or stalking including a clear statement
224 that:
 - 225 ○ Such proceedings shall provide a prompt, fair, and impartial resolution;
 - 226 ○ Such proceedings shall be conducted by officials who receive annual
227 training on the issues related to domestic violence, dating violence,
228 sexual assault and stalking, and how to conduct an investigation and
229 hearing process that protects the safety of victims and promotes
230 accountability;
 - 231 ○ The accuser and the accused are entitled to the same opportunities to
232 have others present during a disciplinary proceeding; and
 - 233 ○ Both the accuser and the accused must be informed of the outcome of
234 any institutional disciplinary proceeding resulting from an alleged
235 domestic violence, dating violence, sexual assault or stalking, the
236 procedures for the accused and victim to appeal the results of the
237 disciplinary proceeding, of any changes to the results that occurs prior
238 to the time that such results become final, and when such results
239 become final. Compliance with this paragraph does not violate the
240 Family Educational Rights and Privacy Act (FERPA). For the purposes
241 of this paragraph, the outcome of a disciplinary proceeding means the
242 final determination with respect to the alleged domestic violence,
243 dating violence, sex offense, or stalking and any sanction that is
244 imposed against the accused.

- 245 • A description of the sanctions the campus may impose following a final
246 determination by a campus disciplinary proceeding regarding rape, acquaintance
247 rape, or other forcible or non-forcible sex offenses, domestic violence, dating
248 violence, or stalking.

249 **Education and Prevention Information**

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

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

262 Also see AP 3435 titled Discrimination and Harassment Investigations, BP 3540 titled
263 Sexual and Other Assaults on Campus; AP 3500 titled Campus Safety; AP 3510 titled
264 Workplace Violence; and AP 3515 titled Reporting of Crimes, AP 3520 Local Law
265 Enforcement, BP 5500 titled Standards of Student Conduct, and AP 5520 titled Student
266 Discipline Procedures

267 Offices of Primary Responsibility: Vice President, Business Services
268 Vice President, Human Resources

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