



## AP 3540 Sexual and Other Assaults on Campus

### References:

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

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 academic, educational, extra-curricular, athletic, and other programs of the District, whether those programs take place in the District 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)

**“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;
- a person with whom the victim shares a child in common;
- a person who is cohabitating with or has cohabitated with the victim as a spouse;
- a person similarly situated to a spouse of the victim under California law; or
- any other person against an adult or youth victim who is protected from that person’s acts under California law.

**“Stalking”** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/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 that he/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.

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 AP 3500 Campus Safety, AP 3510 Workforce Violence, and AP 3515 Reporting of Crimes.)

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 campus Police Department, which shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until the campus Police Department is authorized to release such information by court order.

Sheriff personnel 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 policy and procedure regarding domestic violence, dating violence, sexual assault, or stalking;
- A list of personnel on campus who should be notified of the assault (see list below), and procedures for such notification, if the alleged victim consents;
- 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;
  - The Vice President of Student Services for referral to a counseling center and other on or off-campus resources, student disciplinary procedures, modification of class schedules, and tutoring, if necessary.
  - The Vice President of Human Resources for employee disciplinary procedures



- The Antelope Valley College Sheriff's Department for transportation to a hospital, if necessary, and all other law enforcement matters.
- The victim's option to:
  - notify proper law enforcement authorities, including on-campus and local police;
  - be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
  - decline to notify such authorities.
- Information about the participation of victim advocates and other supporting people;
- The rights of victims and the institution's responsibilities regarding orders of protection, no contact orders, or similar lawful orders issued by a court;
- Information about how the District will protect the confidentiality of victims; and
- Written notification of victims about options for, and available assistance in, changing academic, living, transportation, and working situations, if requested and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police 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 persons on campus who should be notified of the assault include:

- The President/Superintendent
- The Vice President of Student Services
- Sexual Assault Response Services (SARS) (661) 723-7273

The District will investigate all complaints alleging sexual assault under the procedures for sexual harassment investigations described in AP 3435 Discrimination and



Harassment Complaints and 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 Campus Sheriff's Department, or the Vice President of Student Services 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.

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, as defined above, 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 Public Information Office, which shall work with the campus Police Sheriff Department and the Vice President of Student Services Office to assure that all confidentiality rights are maintained.

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 allege lack of affirmative consent that the accused believed that the complainant consented to the sexual activity under either of the following circumstances:

- 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 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:

- 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, 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, 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 Human Resources Office 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 during 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, and 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;
- Information for students about existing on- and off-campus counseling, mental health, victim advocacy, legal assistance, or other services for victims;



- Written notification of victims about options for, and available assistance in, changing academic, living, transportation, and working situations, if requested and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus 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 occurs 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 sex offense 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 nonforcible sex offenses, domestic violence, dating violence, or stalking.

## Education and Prevention Information

The Superintendent/President or designee shall:

- Provide, as part of the campus' established on-campus orientation program, education, **and** prevention, **and outreach** 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.

(NOTE: Beginning January 1, 2020, Districts must annually review and update procedures and protocols adopted pursuant to Education Code Section 67385 in collaboration with sexual assault counselors and student, faculty, and staff representatives.

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

- The warning signs of intimate partner and dating violence.
  - Campus policies and resources relating to intimate partner and dating violence.
  - Off-campus resources and centers relating to intimate partner and dating violence.
  - A focus on prevention and bystander intervention training as it relates to intimate partner and dating violence.
- Post sexual violence prevention and education information on the campus internet website regarding domestic violence, dating violence, sexual assault, and stalking.

Also see BP 3540 Sexual and Other Assaults on Campus, BP/AP 3410 Nondiscrimination, BP/AP 3430 Prohibition of Harassment, and AP 3435 Discrimination and Harassment Complaints and Investigations.

Approved: 11/7/05

Revised: 1/8/07

Revised: 5/9/16

Revised: 4/13/20

Revised: 7/13/20