

# **CITRUS COMMUNITY COLLEGE DISTRICT STUDENT SERVICES**

## **AP 3540 SEXUAL AND OTHER ASSAULTS**

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)

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 Board Policies (BP) and Administrative Procedures (AP), and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures. (Also see BP 5500 Standards of Conduct and AP 5520 Student Discipline Procedures).

"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 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 that 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 agreements to engage in sexual activity.

These written procedures are designed to ensure victims of domestic violence, dating violence, sexual assault, or stalking receive treatment and information. (For physical assaults/violence, also see AP 3500 Campus Safety, AP 3510 Workplace Violence Prevention, 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 District’s Title IX Coordinator, who 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.

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

1. A copy of the District’s Board Policy and Administrative Procedures regarding domestic violence, dating violence, sexual assault, or stalking;
2. A list of campus personnel who should be notified of the alleged assault and procedures for such notification, if the alleged victim consents:
  - a. Vice President of Student Services;
  - b. The Department of Campus Safety (who notifies Glendora Police Department); and,
  - c. Student Health Center for counseling resources.
3. Information about the importance of preserving evidence and the identification and location of witnesses;
4. A description of available services, and the campus personnel available to provide those services if requested. Services and those responsible for providing or arranging them include:
  - a. Notification to Glendora Police Department or local law enforcement by the Department of Campus Safety. Anonymous reporting is available;
  - b. Assistance in securing emergency transportation, if needed by the Department of Campus Safety;
  - c. Immediate referral to the Student Health Center for advocacy and counseling resources or referral to a counseling center; and,
  - d. A list of other available campus and off campus resources through the Title IX Coordinator.

5. A description of the victim's option to:
  - a. Notify proper law enforcement authorities, including the Department of Campus Safety and the Glendora Police Department;
  - b. Be assisted by campus authorities such as the Title IX Coordinator and the Department of Campus Safety in notifying law enforcement authorities if the victim so chooses;
  - c. Decline to notify such authorities;
  - d. Obtain orders of protection, no contact orders, or similar lawful orders issued by a court;
  - e. Receive information about how the District will protect the confidentiality of victims; and,
  - f. Be provided available assistance with, 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.
6. A description of each of the following procedures and services:
  - a. Criminal prosecution;
  - b. Civil prosecution (i.e., lawsuit);
  - c. District disciplinary procedures for both student and employee;
  - d. Modification of class schedules; and,
  - e. Academic tutoring, if necessary.

The Title IX Coordinator, or designee, should be available to provide assistance to Campus Safety personnel regarding how to respond appropriately to reports of sexual violence.

The District will investigate all complaints alleging sexual assault under the procedures for discrimination complaints, including sexual harassment and sexual assault described in AP 7101.1 Discrimination Complaint Procedure: Students, 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 Title IX Coordinator 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.

A complainant or witness who participated 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 and 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 if 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 or witness of domestic violence, dating violence, sexual assault, or stalking on District property, as defined above, in confidence unless the alleged victim or witness 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 External Relations, which shall work with the Title IX Coordinator 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 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 the Department of Campus Safety 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;
- Information for students about existing on and off-campus counseling, mental health, victim advocacy, legal assistance or other services for victims;
- Written notification of options for victims 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 the Department of Campus Safety 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 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 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 established on-campus orientation programs, education and prevention information about domestic violence, dating violence, sexual assault, or 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.

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

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