



## **AP 3540 Dating Violence, Domestic Violence, Sexual Assault, and Stalking**

Any sexual or physical abuse, including, but not limited to, dating violence, domestic violence, sexual assault, and 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 policies and regulations, and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures. (Also see AP 5500 titled Standards of Student Conduct)

"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 (California law includes dating violence under the definition of domestic violence).

"Domestic violence" means committing a battery (misdemeanor) or willfully inflicting corporal injury resulting in a traumatic condition (felony) by a person who:

- is a current or former spouse of the victim;
- is a person with whom the victim shares a child in common;
- is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- is the victim's fiancé(e);
- currently has or previously had a dating relationship with the victim;
- currently has or previously had an engagement relationship with the victim;
- is a person similarly situated to a spouse of the victim under California law; or
- is any other person against an adult or youth victim who is protected from that person's acts by California law.

"Sexual assault" means any non-consensual sexual act, including those acts when the victim lacks capacity to consent. "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.



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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 (California law defines “stalking” as willfully, maliciously, and repeatedly following or willfully and maliciously harassing another person, and making a credible threat with the intent to place that person in reasonable fear for his/her safety, or the safety of his/her immediate family).

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

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 a past sexual relationship between the, should never by itself be assumed to be an indicator or consent.

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

All students or employees who allege they are the victims of dating violence, domestic violence, sexual assault, and stalking on District property shall be provided with information regarding options and assistance available to them. Information shall be available from the Title IX Coordinator and/or Campus Police Department, which shall maintain the identity and other information about alleged dating violence, domestic violence, sexual assault and stalking victims as confidential unless and until the Title IX Coordinator and/or Chief of Police or designee is authorized to release such information. In some cases, the District may need to disclose some information about a victim to a third party to provide necessary accommodations or protective measures in a timely manner. Before sharing personally identifying information, the District will inform victims which information will be shared, with whom it will be shared, and why.

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



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- Facilitation of transportation to a hospital, if necessary;
- Referral to a counseling center;
- A copy of the District's policy and procedure regarding dating violence, domestic violence, sexual assault, and stalking;
- Notification to appropriate police authorities, if desired;
- 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 or arrange those services, if requested; services and those responsible for providing or arranging them;
- A list of other available campus resources or appropriate off-campus resources;
- 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 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;



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- Modification of class schedules, if applicable;
- Tutoring, if necessary.

The Chief of Police or designee shall provide training to Campus Police Officers and Campus Police Department employees regarding how to respond appropriately to reports of sexual violence.

The District will investigate all complaints alleging sexual assault under the procedures described in AP 3435 titled Discrimination and Harassment Investigations, regardless of whether a complaint is filed with local law enforcement and regardless of whether the alleged assailant was a stranger or non-stranger to the victim.

The District will develop a victim interview protocol and conduct a preliminary victim interview and a comprehensive follow-up victim interview, as appropriate. The District will contact and interview the accused and seek the identification and location of witnesses. The District will investigate allegations that alcohol or drugs were involved in the incident.

There will be a comprehensive, trauma-informed training program for campus officials involved in investigating and adjudicating dating violence, domestic violence, sexual assault, and stalking cases. Training will include but not be limited to the following topics:

- relevant evidence and how it should be used during a proceeding;
- proper techniques for questioning witnesses;
- basic procedural rules for conducting a proceeding; and
- avoiding actual and perceived conflicts of interest.

Victims have a right to have a friend, family member, sexual assault victim's advocate, or other representative present while reporting sexual assaults.

All alleged victims of dating violence, domestic violence, sexual assault, and 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 dating violence, domestic violence, sexual assault, and stalking are required to maintain any such information in confidence, unless the alleged assailant has waived rights to confidentiality.



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A complainant or witness who participates in an investigation of dating violence, domestic violence, sexual assault, and 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 dishonesty.

The standard used in determining whether the elements of the complaint against the accused have been demonstrated is the preponderance of the evidence.

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.

Except as may otherwise be required by law, the District shall maintain the identity of any alleged victim, witness, or third-party reporter of dating violence, domestic violence, sexual assault, and 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 dating violence, domestic violence, sexual assault, and stalking on District property shall be referred to the District's Public Information Officer, who shall work with the Title IX



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Coordinator and Campus Police Department to assure that all confidentiality rights are maintained. A victim's personally identifying information will not be included in any publicly available recordkeeping, including Clery Act reporting and disclosures such as the Annual Security Report and the Daily Crime Log.

Additionally, the Annual Security Report will include a statement regarding the District's programs to prevent dating violence, domestic violence, sexual assault, and stalking and procedures that should be followed after an incident of dating violence, domestic violence, sexual assault, and 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 dating violence, domestic violence, sexual assault and stalking;
- Procedures to follow if dating violence, domestic violence, sexual assault, 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;
- Information for students about existing on and off-campus counseling, mental health, victim advocacy, legal assistance, or other student 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 District disciplinary action in cases of an alleged dating violence, domestic violence, sexual assault, and stalking including a clear statement that:
  - Such proceedings shall provide a prompt, fair, and impartial resolution;



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- Such proceedings shall be conducted by officials who receive annual training on the issues related to dating violence, domestic 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 simultaneously informed in writing of the outcome of any institutional disciplinary proceeding resulting from alleged dating violence, domestic violence, sexual assault, and stalking; the procedures for the accused and victim to appeal the results of the disciplinary proceeding; 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 dating violence, domestic violence, sex offense, and stalking and any sanction that is imposed against the accused.
- A description of the sanctions the District may impose following a final determination by a District disciplinary proceeding regarding rape, acquaintance rape, or other forcible or non-forcible sex offenses, dating violence, domestic violence, sexual assault, and stalking.

**Education and Prevention Information**

The Campus Police Department and/or the Human Resources Department shall:

- Provide to students and employees, as part of the District's orientation program, education, prevention, and outreach information about dating violence, domestic 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 outreach programming included as part of an incoming student's orientation must include, at a minimum, all of the following:



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- 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 District website regarding dating violence, domestic violence, sexual assault, and stalking.

Also see BP/AP 3430 titled Prohibition of Harassment, AP 3435 titled Discrimination and Harassment Complaints and Investigations, AP 3510 titled Workplace Violence, AP 3515 titled Reporting of Crimes, and AP 5520 Student Discipline Procedures.

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

Approved: 8/20/13

Revised: 10/20/20