

ONE MONTH

## Chapter 3 - General Institution

### Strikeouts removed

One more  
task for meeting  
later today

## AP 3540 Sexual and Other Assaults on Campus

### References:

Education Code Section 67385; 20 U.S. Code Section 1092(f); 34 Code of Federal Regulations Part (b) (11); Title IX

Mt. San Antonio College promotes a campus climate that is safe, supportive and respectful of all employees and students, where sexual violence is not tolerated and the ability to come forward is open, accepted and affirmed.

The College's Sexual Assault Response Team (SART) is composed of the Title IX Coordinator, Public Safety Chief, Health Services Director, Student Life Director and the Student Services Dean. Any violation of this procedure should be reported to one of the team members.

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### Definitions

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 sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout the 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.

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 act under California law.

Hostile Environment –incidents reported that occur on or off campus, college related or not that creates an intimidating, threatening or abusive educational environment.

Responsible Employee/Mandated Reporters -All College employees have a responsibility to report incidents of domestic violence, dating violence, sexual assault, or stalking about which they have been informed, whether such events are on or off campus. Any employee who has the authority to take action to redress sexual violence; or whom a student could reasonably believe has this authority or duty to do so, is considered a "responsible employee." In some cases of sexual violence, responsible employees may also become mandated reporters. Mandated Reporters must report incidences where there is reasonable suspicion of violence to children or to students who are minors.

Sexual Assault - includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery (e.g. fondling, groping), or threat of sexual assault.

Stalking - 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.

Any sexual assault or physical abuse, including, but not limited to, domestic violence, dating violence, or stalking, as defined by California law, whether committed by an employee, student, or member of the public, occurring on College property, in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the College's facilities or at another location, or on an off-campus site or facility maintained by the College, or on grounds or facilities maintained by a student organization, is a violation of College policies and regulations, and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures (also see AP 5520-Student Discipline Procedures).

These written procedures and protocols are designed to ensure victims of domestic violence, dating violence, sexual assault, or stalking receive treatment and information. All students or employees, who allege that they are the victims of domestic violence, dating violence, sexual assault, or stalking shall be provided with information



regarding options and assistance available to them. Information shall be available from the Title IX Coordinator, Public Safety Department, Student Health Center, Student Life Office, or the Student Services Dean who shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until College officials are authorized to release such information.

The College official managing the incident shall provide all alleged victims of **domestic violence, dating violence, sexual assault, or stalking** with the following:

1) **A copy of the College's Board Policy and Administrative Procedure regarding domestic violence, dating violence, sexual assault, or stalking.**

Options to:

2) **Notify proper law enforcement authorities, including on-campus and local police; (The College will maintain Memorandums of Understanding with local law enforcement agencies on the coordination of sexual assault cases.)**

3) **Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; or the option to decline to notify such authorities.**

### **Victim Rights**

**The rights of victims and the institution's responsibilities regarding orders of protection, no contact orders, or similar lawful orders issued by a court;**

**The rights of victims to be informed about how the College will protect the confidentiality of victims; and the alleged perpetrator.**

**The rights of victims to be given written notification 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.**

**The following process will be initiated if the alleged victim consents. The order of response will depend upon the first person notified of the incident and the specific circumstances involved. Generally, the response will proceed in this manner:**

### **Initial Intake**

The individual initially notified about a sexual assault will report the assault to the Mt. SAC Public Safety Department. Anonymous records of the report will be kept for statistical purposes by the Mt. SAC Public Safety Department. The responding Public Safety Officer will notify the victim of their rights to:

- Notify campus authorities or local law enforcement, or to decline to notify authorities;

- Obtain assistance from campus authorities to notify the local law enforcement;
- Orders of protection, no-contact orders or restraining orders;
- Maintain confidentiality for both the victim and alleged perpetrator;
- Confidential personal counseling available in Student Health Services by a licensed mental health counselor.

### Initial Assessment Response

- Public Safety staff members will make an initial assessment of the condition of the victim and scene of assault. Care will be taken to secure all clothing, potential articles of evidence, and to assure that the victim does not wash hands or any other body parts. 911 will be called if emergency treatment is needed.
- Public Safety staff members will notify local law enforcement, Student Health Services, Title IX Coordinator, **Student Services Dean, Student Life Director** and the Public Safety Chief.
- The victim will be transported by Public Safety to Student Health Services for immediate medical attention. During non-operating hours, Public Safety will contact the Los Angeles County Sheriff's Department for transport and medical attention.
- The Title IX Coordinator, Student Health Services Director, Student Life Director and the Student Services Dean will be notified of all sexual assaults in order to coordinate interim remedies and to provide support services.
- Public Safety Chief or designee will provide the President and Vice Presidents with a synopsis of the incident. Respect for the victim's right to privacy will be observed.

### Notifications and Resource Referrals

Public Safety staff, Title IX Coordinator, Student Health Services Director, Student Services Dean, or the Student Life Director will assure that:

- The victim is provided with information on sexual assault and the complaint process;
- Family or friends are notified as requested;
- Health Services will assess and make appropriate referrals to local agencies who will arrange a sexual assault counselor to accompany the victim through hospital procedures, encounters with law enforcement agencies and future court appearances.

### Interim Remedies

*Handwritten note:*  
Title IX manages the incident

Title IX Coordinator, Student Services Dean or Student Life Director will:

- Offer academic support and counseling;
- Modify class schedules, if reasonable;
- Explain disciplinary process;
- Initiate appropriate disciplinary action against alleged perpetrator;
- Refer to a Forensic Investigator within 96 hours of initial victim report without disclosing identity of the alleged perpetrator.
- The victim will be referred to Student Health Services in sexual assault cases reported more than 96 hours after the assault.
- If the issue is reported directly to Student Health Services, they will notify Public Safety and assure that appropriate follow-up care and services are provided as needed.

### Public Information

All inquiries from reporters or other media representatives about domestic violence, dating violence, sexual assaults, or stalking on College property shall be referred to the College's Public Information Officer, who shall work with College officials to assure that all confidentiality rights are maintained.

### Timely Warnings

Public Safety and the Public Information Officer will coordinate campus notifications of alleged sexual assault, domestic violence, dating violence and stalking, without identifying the names of the victim or the alleged perpetrator.

Specific details of the assault will be released only when essential to the health and safety of the individual assaulted, or that of other members of the campus community.

### Employees

The aforementioned procedures apply to employees of the College who are victims of domestic violence, dating violence, sexual assault or stalking.

The Title IX Coordinator will:

- Coordinate with all administrative offices of the College, including Public Safety, as necessary to investigate and ensure timely resolution of employee complaints. These must be done within 60 days per OCR (Office of Civil Rights) directive.
- Ensure that all employees receive training on the prevention and awareness of sexual violence and their reporting obligations. Human Resources will be responsible for maintaining ongoing online education and awareness training is available in the portal for all employees.

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### Investigation Protocols

The College will investigate all complaints alleging sexual assault under the procedures for sexual harassment investigations described in AP 3435, regardless of whether a complaint is filed with local law enforcement. Allegations of sexual assault or sexual misconduct must be investigated within 60 days per OCR directive. Note: AP 3435 reference 90 days to investigate.

All alleged victims of domestic violence, dating violence, sexual assault, or stalking on College property shall be kept informed, through the Mt. SAC Public Safety Department 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 Public Safety Department will investigate all sexual assault cases and work in coordination with the local law enforcement agencies to obtain police reports to be used in the college's investigation and adjudication process.

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 College's Standards of Conduct policy at or near the time of the incident, unless the College 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.

### Disciplinary Process

The Preponderance of the Evidence Standard shall be used to adjudicate all cases of domestic violence, dating violence, sexual assault and stalking.



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

- The alleged perpetrator's belief in that affirmative consent arose from the intoxication or recklessness of the alleged perpetrator.
- The alleged perpetrator did not take reasonable steps, in the circumstances known to the alleged perpetrator at the time, to ascertain whether the complainant affirmatively consented.

In the evaluation of the complaints in the disciplinary process, it shall not be a valid excuse that the alleged perpetrator believed that the complainant affirmatively consented to the sexual activity if the alleged perpetrator 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.

#### Annual Security Report

The Annual Security Report will include a statement regarding the College'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 College 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, sexual assault, or stalking;

Procedures to follow if a domestic violence, dating 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 victim's option to notify appropriate law enforcement authorities, including on-campus and local police, and a statement that campus

personnel will assist the victim in notifying these authorities, if the victim so requests, and the right to decline to notify these authorities;

Information about how the College 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 victims 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 investigation and 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, including the opportunity to be accompanied to any related meeting by an advisor of their choice; 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 offense. The procedures for the accused and victim to:
  - Appeal the results of the disciplinary proceeding;
  - Be notified of any changes to the results that occur prior to the time that such results become final; and when such results become final.

Compliance with the paragraph above 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, domestic violence,



dating violence, sexual assault, stalking, acquaintance rape, or other forcible or non-forcible sex offenses.

#### Education and Prevention Information

The Public Safety Department in cooperation with the Student Health Services Office shall provide, as part of the College's established on-campus orientation program, education and prevention information about sexual violence including domestic violence, dating violence, sexual assault and stalking to incoming students and new employees. The information shall be developed in collaboration with campus-based and community-based victim advocacy organizations.

Information regarding violence prevention and education information will be posted on the College's website for ongoing education, awareness and training for current students, faculty and staff.

Proposed revisions received from CCLC in September 2011

Reviewed: June 25, 2013

Reviewed: December 16, 2014

Reviewed: June 9, 2015