

## Chapter 3 - General Institution

### AP 3540 Sexual and Other Assaults on Campus

#### References:

Education Code Section 67385; **67386**, 20 U.S. Code Section 1092(f); 34 Code of Federal Regulations Part (b) (11); **Title IX, Penal Code 11165.7**

**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, Kinesiology, Athletics and Dance Dean, Student Life Director and the Student Services Dean. Any violation of this procedure should be reported to one of the team members.**

#### Definitions

1. **Affirmative Consent: Affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in sexual activity to ensure that they have 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.**
2. **Dating Violence: 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.**
3. **Domestic Violence: 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.**
4. **Mandated Reporters: Employees who must report incidences of suspected violence to children or to students who are minors.**
5. **Preponderance of the Evidence: The standard of evidence used in hearings which leads the Student Conduct Board to find that the existence of the facts is more probable than not.**
6. **Responsible Employee: 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.” Student workers are excluded from this requirement.

7. **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.
8. **Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for one’s safety or the safety of others, or to suffer substantial emotional distress.**

Any sexual assault or physical abuse, including, but not limited to, rape, **domestic violence, dating violence, or stalking,** as defined by California law, ~~of 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 5500 **20- Standards of Student Discipline Procedures** Conduct). **This includes any violations** committed by an employee, student, or member of the public, occurring on College property, **or in connection with any academic, educational, extracurricular, athletic, and other programs of the District. It also includes programs that take place at another location, or at a** facility maintained by the College, ~~or~~ **and** on grounds or facilities maintained by a student organization.

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** ~~on College property~~ shall be provided with information regarding options and assistance available to them. Information shall be available from the **Title IX Coordinator, Public Safety Department Officers , or the Student Health Services Center staff, Student Life Director, or the Student Services Dean** ~~who~~ which 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 **Title IX Coordinator will manage** the ~~all incidents~~ shall provide all alleged victims of **domestic violence, dating violence,** sexual assault, **or stalking** and ensure **victims are provided** with the following, upon request:

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

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

The option to 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's Rights

The victim has the right to be informed about the institution's responsibilities regarding orders of protection, no contact orders, or similar lawful orders issued by a court.

The victim has the right to be informed about how the College will protect the confidentiality of the victim, and of the alleged perpetrator.

The victim has the right to confidential personal counseling available in Student Health Services by a licensed mental health counselor.

The victim has the right to 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 or local law enforcement.

The following **process will be initiated** is a list of personnel on campus who should be notified of the assault and procedures for such notification, 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

Step 1 The individual initially notified about a sexual assault, **domestic violence, dating violence, or stalking** will report the assault **incident** 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 the alleged perpetrator;**

**Confidential personal counseling available in Student Health Services by a licensed mental health counselor.**

## Initial Assessment Response

### ~~Step 2~~

- 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.

### ~~Step 3~~

- Public Safety staff members will notify local law enforcement **(unless victim maintains confidentiality)**, Student Health Services **Director, Title IX Coordinator, Student Services Dean, or Student Life Director** and ~~their immediate supervisor, the Public Safety Chief.~~

### ~~Step 4~~

- ~~During Student Health Services operating hours,~~ 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.**

### ~~Step 5~~

- The **Title IX Coordinator**, ~~Director,~~ **Student Health Services Director, Student Life Director** and ~~or the Chief Student Services Officer~~ **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

### ~~Step 6~~

**Public Safety Officers, Title IX Coordinator, Student Health Services Director, Student Services Dean, or the Student Life Director** ~~The Director, Student Health Services will assure that:~~

‡ ~~The victim receives~~ **is provided with** information on sexual assault **and the complaint process;** ~~notify~~

‡ ~~Family or friends~~ **are notified** as requested by the victim; and

**Health Services will assess and make appropriate referrals to local** ~~notify community/health agencies who will arrange a rape~~ **sexual assault**

counselor to accompany the victim through hospital procedures, encounters with law enforcement agencies and future court appearances.

**Refer to an Forensic Investigator** ; 5. ~~inform victim of status of disciplinary actions within 72~~ **96** ~~hours~~ **of initial victim report** without disclosing identity of **the alleged** perpetrator.

**The victim will be referred to Student Health Services** ~~Response to in sexual assault cases reported more than 72~~ **96** ~~hours after the assault;~~ . If more than 72 **96** hours have elapsed since the sexual assault, the victim will be referred to Student Health Services.

**If the issue is reported directly to Student Health Services**, The Director, Student Health Services **they** will notify the Public Safety and assure that appropriate follow-up care and services are provided as needed.

### **Interim Remedies**

Step 7 **The College official managing the incident, i.e., the** ~~Director, Student Health Services, Title IX Coordinator, Student Services Dean and or~~ **Student Life Director** ~~the Chief Student Services Officer~~ will:

~~notify appropriate College officials;~~

**o**~~Offer~~ academic support and counseling;

**Modify class schedules, if reasonable;**

~~track victim's academic progress and assist when requested;~~

**Explain the investigative process;**

**Explain disciplinary process;**

Initiate appropriate disciplinary action against **alleged** perpetrator;

**Public Information** ~~Officer~~ will:

~~Interface with media, general public, students, and staff (specific details of the assault will be released only when essential the health and safety of the individual assaulted or that of other members of the campus community).~~

~~Response to sexual assault cases reported more than 72 hours after the assault: If more than 72 hours have elapsed since the sexual assault, the victim will be referred to Student Health Services. The Director, Student Health Services will notify the Director, Public Safety and assure that appropriate follow-up care and services are provided as needed.~~

~~The College shall maintain the identity of any alleged victim or witness of sexual assault on College 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 College property shall be referred to the College's Public Information Officer, ~~which~~ **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.**

#### **Step 8**

##### **Employees**

~~Response to sexual assault cases involving College employees as victims: The aforementioned procedures apply to employees of the College who~~ **are victims of** ~~have been sexually assaulted~~ **domestic violence, dating violence, sexual assault or stalking.** ~~with the exception of Step 12, which is changed to read as follows:~~

#### **Step 9**

The **Title IX Coordinator** Chief Human Resources Officer 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 continuous online education and awareness training through the employee portal.**

- ~~1. Notify the Mt. SAC President's Office of the circumstances. Respect for the victim's right to confidentiality will be observed;~~
- ~~2. Explain Mt. SAC disciplinary procedures;~~
- ~~3. Offer support and counseling;~~
- ~~4. Track work performance and assist when requested;~~
- ~~5. Initiate disciplinary action, as appropriate, against perpetrator.~~

### **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 ~~of~~ 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 perpetrator 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 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 or 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 believed that the complainant consented to the sexual activity under either of the following circumstances:

- The accused's belief that 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 the complaints in any 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.

## **Annual Security Report**

Additionally, ~~T~~the Annual Security Report will include a statement regarding the College's programs to prevent sex offenses **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** sex offense occurs. 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 offense 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 **law enforcement**, 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 of sex offenses;

**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 Public Safety or local law enforcement;**

~~Notice that the campus will change a victim's academic situation after an alleged sex offense and of the options for those changes, if those changes are requested by the victim and are reasonably available;~~

Procedures for campus disciplinary action in cases of an alleged **domestic violence, dating violence, sexual assault offense, 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 ~~sex offense~~ **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 ~~this~~ **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 ~~rape,~~ **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. Student information will include sexual violence prevention, affirmative consent, and safe options for bystander intervention.** 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 ~~internet~~ website **for ongoing education, awareness and training for current students, faculty and staff.**

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