

Chapter 3 - General Institution

AP 3540 Sexual and Other Assaults on Campus

Advocacy

References:

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

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 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).

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 sexual assault on College property shall be provided with information regarding options and assistance available to them. Information shall be available from the Public Safety Department or the Student Health Center, 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.

Team

"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.

"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.

"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 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.

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

The College official managing the incident shall provide all alleged victims of domestic violence, dating violence, sexual assault, or stalking 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; ~~T~~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/or
 - Decline to notify such authorities;
 - 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 College 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.
- Following 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

Confidentiality

- Step 1 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.

Confidential personal counseling is available at 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, Student Health Services, Student Services Dean, Student Life Director and their immediate supervisor.

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.

Step 5

- The Title IX Coordinator, ~~Director~~, Student Health Services Director, and the ~~Chief Student Services Officer~~ Student Services Dean will be notified of all sexual assaults.
- 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 staff, Title IX Coordinator, Student Health Services Director, Student Services Dean, or the Student Life Director The Director, Student Health Services will assure that:

1. the victim receives information on sexual assault;
2. notify family or friends as requested by the victim; and

3. notify community/health agencies who will arrange a rape counselor to accompany the victim through hospital procedures, encounters with law enforcement agencies and future court appearances.
4. the victim understands the Student Life Complaint Process

Interim Remedies

Step 7 ~~Director, Student Health Services, Title IX Coordinator, Student Services Dean and Student Life Director~~ the Chief Student Services Officer will:

1. ~~notify appropriate College officials;~~
1. 2. ~~offer~~ Offer academic support and counseling;
3. ~~track victim's academic progress and assist when requested;~~
2. Explain disciplinary process
3. 4. Initiate appropriate disciplinary action against perpetrator
4. Refer to investigation; 5. ~~inform victim of status of disciplinary actions within 72 96 hours of initial victim report~~ without disclosing identity of perpetrator.

~~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 will notify ~~the~~ Public Safety and assure that appropriate follow-up care and services are provided as needed.

Public Information

~~The College shall maintain the identity of any alleged victim or witness of domestic violence, dating violence, sexual assault, or stalking 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.~~

Public Information Officer will:

~~Interface with media, general public, students, and staff~~

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 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

Training + Education

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

Step 9 The Title IX Coordinator Chief Human Resources Officer will:

- ~~1. Notify the Mt. SAC President's Office of the circumstances. Respect for the victim's right to confidentiality will be observed; 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.~~
- ~~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.~~

- ~~• 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. Services and those responsible for provided or arranging them include: [LIST PERSON OR OFFICE RESPONSIBLE AFTER EACH ITEM]~~
 - ~~○ Transportation to a hospital, if necessary;~~
 - ~~○ Counseling by [DESIGNATE], or referral to a counseling center;~~
 - ~~○ A list of other available campus resources or appropriate off-campus resources.~~
- ~~• A description of each of the following procedures:~~
 - ~~○ criminal prosecution;~~
 - ~~○ civil prosecution (i.e., lawsuit)~~
 - ~~○ College disciplinary procedures, both student and employee;~~
 - ~~○ modification of class schedules;~~
 - ~~○ tutoring, if necessary.~~

The [DESIGNATE POSITION] should be available to provide assistance to College law enforcement unit employees regarding how to respond appropriately to reports of sexual violence.

General Information

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.

Investigation Protocols

Coordinate with Law Enforcement

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 student 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 or involves plagiarism, cheating, or academic dishonesty.

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 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 the 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.

Who does investigation & how

Annual Security Report

Additionally, 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, 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 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 ~~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 campus police 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 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 "preponderance of the evidence" standard will be used in disciplinary proceedings;
 - 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 ~~sex offense~~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 chances changes to the results that occur 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 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 assault. 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.

Key Terms

Confidentiality

Privacy

Responsible Employee

Mandated Reporter

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