



Policy

3540 Sexual and Other Assaults on Campus

Any sexual assault or physical abuse, including, but not limited to rape as defined by California law, whether committed by an employee, student, trustee, or member of the public, that occurs on District property and/or in a District education program or activity, is a violation of District policies and procedures, and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures consistent with state and federal law. Students, faculty, and staff who may be victims of sexual and other assaults shall be treated with dignity and provided comprehensive assistance.

The Chancellor shall establish administrative procedures that ensure that students, faculty, and staff who are victims of sexual and other assaults receive appropriate information and treatment, and that educational information about preventing sexual violence is provided and publicized as required by law.

The procedures shall meet the criteria contained in Education Code Sections 67385, 67385.7, and 67386, and 34 Code of Federal Regulations Part 106 & Section 668.46.

Cross References (see also):

- YCCD Policy 3430 – Prohibition of Harassment
- YCCD Policy 3433 – Prohibition of Sexual Harassment under Title IX
- YCCD Policy 3434 – Responding to Harassment Based on Sex under Title IX
- YCCD Policy 3435 – Discrimination and Harassment Complaints and Investigations
- YCCD Policy 3-8020 – Due Process
- YCCD Policy 4030 – Academic Freedom – Faculty
- YCCD Policy 5500 – Standards of Student Conduct
- YCCD Policy 5530 – Complaint Policy
- YCCD Policy 7700 – Whistleblower Protection

References:

Education Code Sections [67382](#), [67385](#), and [67386](#); [20 U.S. Code Section 1092\(f\)](#); [34 Code of Federal Regulations Section 668.46 subdivision \(b\)\(11\)](#); California School Employees Association Chapter 420 Agreement; Leadership Team Handbook; Yosemite Faculty Association Faculty Contract

Adopted: June 10, 2015

Revision Adopted: ~~August 26, 2016~~, February 10, 2021

Last Reviewed: ~~August 26, 2016~~, February 10, 2021

Administrative Procedure

3540 Sexual and Other Assaults on Campus

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 and/or in a District education program or activity, 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. (See also AP 5500 titled Standards of Student Conduct.)

"Sexual assault," "dating violence," "domestic violence," and "stalking" are defined in Administrative Procedure 3434 – Responding to Harassment Based on Sex under Title IX.

It is the responsibility of each person involved in sexual activity to ensure that he/she/they 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 agreement to engage in sexual activity, given the context of the situation.

These written procedures and protocols are designed to ensure victims of domestic violence, dating violence, sexual assault, or stalking receive treatment and information. (For physical assaults/violence, see also AP 3500, 3510, and 3515.)

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 and/or in a District education program or activity shall be provided with information regarding options and assistance available to them. Information shall be available from the District Campus Safety, which shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until the Director of District, Campus Safety, Compliance and Emergency Preparedness is authorized to release such information.

The Director of District, Campus Safety, Compliance and Emergency Preparedness shall provide all alleged victims of domestic violence, dating violence, sexual assault, or stalking with the following:

- A copy of the District's policy and procedure regarding domestic violence, dating violence, sexual assault, or stalking;
- A list of personnel on campus who should be notified and procedures for such notification, if the alleged victim consents; notification should be made to the appropriate personnel.
- Information about the importance of preserving evidence and the identification and location of witnesses;

- 1 • A description of available services, and the persons on campus available to provide those services
2 if requested. Services and those responsible for provided or arranging them include:
 - 3 ○ transportation to a hospital, if necessary;
 - 4 ○ counseling, or referral to a counseling center;
 - 5 ○ a list of other available campus resources or appropriate off-campus resources;
- 6 • The victim's option to:
 - 7 ○ notify proper law enforcement authorities, including on-campus and local police;
 - 8 ○ be assisted by campus authorities in notifying law enforcement authorities if the victim
9 so chooses; and
 - 10 ○ decline to notify such authorities;
- 11 • Information about the participation of victim advocates and other supporting people;
- 12 • The rights of victims and the institution's responsibilities regarding orders of protection, no
13 contact orders, or similar lawful orders issued by a court;
- 14 • Information about how the district will protect the confidentiality of victims; and
- 15 • Written notification of victims about options for, and available assistance in, changing academic,
16 living, transportation, and working situations, if requested and if such accommodations are
17 reasonably available, regardless of whether the victim chooses to report the crime to campus
18 police or local law enforcement.
- 19 • A description of each of the following procedures:
 - 20 ○ criminal prosecution;
 - 21 ○ civil prosecution (i.e., lawsuit);
 - 22 ○ District disciplinary procedures, both student and employee;
 - 23 ○ modification of class schedules;
 - 24 ○ tutoring, if necessary.

25
26 The Director of District, Campus Safety, Compliance and Emergency Preparedness should be available to
27 provide assistance to law enforcement unit employees regarding how to respond appropriately to reports
28 of sexual violence.

29
30 The District will investigate all complaints alleging sexual assault under the procedures for sexual
31 harassment investigations described in AP 3434 Responding to Harassment Based on Sex under Title IX,
32 regardless of whether a complaint is filed with local law enforcement.

33
34 All alleged victims of domestic violence, dating violence, sexual assault, or stalking on District property
35 and/or in a District education program or activity shall be kept informed, through the Title IX Coordinator
36 or Human Resources, as appropriate, of any ongoing investigation. Information shall include the status of
37 any student or employee disciplinary proceedings or appeal; alleged victims of domestic violence, dating
38 violence, sexual assault, or stalking are required to maintain any such information in confidence, unless
39 the alleged assailant has waived rights to confidentiality consistent with state and federal law.

40
41 A Complainant or witness who participates in an investigation of sexual assault, domestic violence, dating
42 violence, or stalking will not be subject to disciplinary sanctions for a violation of the District's student
43 conduct policy at or near the time of the incident, unless the District determines that the violation was
44 egregious, including but not limited to, an action that places the health or safety of any other person at
45 risk or involves plagiarism, cheating, or academic honesty.

1 In the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of
2 affirmative consent that the accused believed that the Complainant consented to the sexual activity under
3 either of the following circumstances:
4

- 5 • The accused's belief in affirmative consent arose from the intoxication or recklessness of the
6 accused.
- 7
- 8 • The accused did not take reasonable steps, in the circumstances known to the accused at the
9 time, to ascertain whether the Complainant affirmatively consented.
- 10

11 In the evaluation of complaints in the disciplinary process, it shall not be a valid excuse that the accused
12 believed that the Complainant affirmatively consented to the sexual activity if the accused knew or
13 reasonably should have known that the Complainant was unable to consent to the sexual activity under
14 any of the following circumstances:
15

- 16 • The Complainant was asleep or unconscious.
- 17
- 18 • The Complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that
19 the Complainant could not understand the fact, nature, or extent of the sexual activity.
- 20
- 21 • The Complainant was unable to communicate due to a mental or physical condition.
- 22

23 The District shall maintain the identity of any alleged victim, witness, or third-party reporter of domestic
24 violence, dating violence, sexual assault, or stalking on District property, as defined above, in confidence
25 consistent with state and federal law, unless the alleged victim, witness, or third-party reporter specifically
26 waives that right to confidentiality. All inquiries from reporters or other media representatives about
27 alleged domestic violence, dating violence, sexual assaults, or stalking on District property shall be
28 referred to the District's Public Information Officer, which shall work with the Chancellor's Office to assure
29 that all confidentiality rights are maintained consistent with state and federal law.
30

31 Additionally, the Annual Security Report will include a statement regarding the District's programs to
32 prevent sexual assault, domestic violence, dating violence, and stalking and procedures that should be
33 followed after an incident of domestic violence, dating violence, sexual assault, or stalking has been
34 reported, including a statement of the standard of evidence that will be used during any in any district
35 proceeding arising from such a report. The statement must include the following:

- 36 • A description of educational programs to promote the awareness of rape, acquaintance rape,
37 other forcible and non-forcible sex offenses, domestic violence, dating violence, or stalking;
- 38 • Procedures to follow if a domestic violence, dating violence, sex offense, or stalking occurs,
39 including who should be contacted, the importance of preserving evidence to prove a criminal
40 offense, and to whom the alleged offense should be reported;
- 41 • Information on a student's right to notify appropriate law enforcement authorities, including on-
42 campus and local police, and a statement that campus personnel will assist the student in
43 notifying these authorities, if the student so requests, and the right to decline to notify these
44 authorities;
- 45 • Information about how the District will protect the confidentiality of victims;
- 46 • Information for students about existing on- and off-campus counseling, mental health, victim
47 advocacy, legal assistance, or other services for victims;

- 1 • Written notification of victims about options for, and available assistance in, changing academic,
2 living, transportation, and working situations, if requested and if such accommodations are
3 reasonably available, regardless of whether the victim chooses to report the crime to campus
4 police or local law enforcement;
- 5 • Procedures for campus disciplinary action in cases of an alleged domestic violence, dating
6 violence, sexual assault, or stalking including a clear statement that:
 - 7 ○ Such proceedings shall provide a prompt, fair, and impartial resolution;
 - 8 ○ Such proceedings shall be conducted by officials who receive annual training on the issues
9 related to domestic violence, dating violence, sexual assault, and stalking and how to
10 conduct an investigation and hearing process that protects the safety of victims and
11 promotes accountability;
 - 12 ○ The accuser and the accused are entitled to the same opportunities to have others
13 present during a disciplinary proceeding; and
 - 14 ○ Both the accuser and the accused must be informed of the outcome of any institutional
15 disciplinary proceeding resulting from an alleged domestic violence, dating violence,
16 sexual assault, or stalking, the procedures for the accused and victim to appeal the results
17 of the disciplinary proceeding, of any changes to the results that occurs prior to the time
18 that such results become final, and when such results become final. Compliance with this
19 paragraph does not violate the Family Educational Rights and Privacy Act. For the
20 purposes of this paragraph, the outcome of a disciplinary proceeding means the final
21 determination with respect to the alleged domestic violence, dating violence, sex offense,
22 or stalking and any sanction that is imposed against the accused.
- 23 • A description of the sanctions the campus may impose following a final determination by a
24 campus disciplinary proceeding regarding rape, acquaintance rape, or other forcible or non-
25 forcible sex offenses, domestic violence, dating violence, or stalking.

26 27 Education and Prevention Information

28 The Campus Title IX Coordinator shall:

- 29 • Provide, as part of each campus' established on-campus orientation program, education,
30 prevention, and outreach information about domestic violence, dating violence, sexual assault,
31 and stalking. The information shall be developed in collaboration with campus-based and
32 community-based victim advocacy organizations, and shall include the District's sexual assault
33 policy and prevention strategies including empowerment programming for victim prevention,
34 awareness raising campaigns, primary prevention, bystander intervention, and risk reduction.

35
36 The outreach programming included as part of an incoming student's orientation must include,
37 at a minimum, all of the following:

- 38 ○ The warning signs of intimate partner and dating violence.
 - 39 ○ Campus policies and resources relating to intimate partner and dating violence.
 - 40 ○ Off-campus resources and centers relating to intimate partner and dating violence.
 - 41 ○ A focus on prevention and bystander intervention training as it relates to intimate partner
42 and dating violence.
- 43
 - 44 • Post sexual violence prevention and education information on the campus internet website
45 regarding domestic violence, dating violence, sexual assault and stalking.
 - 46

47 **Cross References (see also):**

48 YCCD Policy 3435 – Discrimination and Harassment Complaints and Investigations

- 1 YCCD Policy 3433 – Prohibition of Sexual Harassment under Title IX
- 2 YCCD Policy 3434 – Responding to Harassment Based on Sex under Title IX
- 3 YCCD Policy 3-8020 – Due Process
- 4 YCCD Policy 5500 – Standards of Student Conduct
- 5 YCCD Policy 5530 – Complaint Policy
- 6 YCCD Policy 7700 – Whistleblower Protection

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8 **References:**

9 Education Code Sections [67380](#), [67385](#), [67385.7](#), and [67386](#); [20 U.S. Code Section 1092 subdivision \(f\)](#); [34](#)
10 [Code of Federal Regulations Section 668.46 subdivision \(b\)\(11\)](#); Penal Code Sections [243.4](#), [261-269](#), [314](#),
11 [11160](#), and [13700](#)

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13 **Procedure Last Revised:** ~~June 10, 2015, August 26, 2016~~, February 10, 2021

14 **Last Reviewed:** ~~August 26, 2016~~, February 10, 2021