



Policy

3540 Sex/Gender Harassment, Discrimination and Sexual Misconduct

Members of the Yosemite Community College District community (to include Modesto Junior College and Columbia College), guests and visitors have the right to be free from all forms of sex/gender harassment, discrimination and misconduct, examples of which can include acts of sexual violence, sexual harassment, domestic violence, dating violence, and stalking. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The District has zero tolerance for sex/gender misconduct. Zero tolerance means that when an allegation of misconduct is brought to an appropriate administrator's attention, protective and other remedial measures will be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the reporting party (complainant) and community are remedied, including serious sanctions if a responding party (accused) is found to have violated related District policy. District policy has been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. This policy is intended to define community expectations and the associated procedures to establish a mechanism for determining when those expectations have been violated.

The District's sex/gender harassment, discrimination, and sexual misconduct policies are not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by academic freedom (see YCCD Policy 4030).

The District uses the preponderance of the evidence (also known as "more likely than not") as a standard of proof of whether a violation occurred. In campus resolution proceedings, legal terms like "guilt", "innocence" and "burdens of proof" are not applicable, but the District never assumes a responding party is in violation of District policy. Campus resolution proceedings are conducted to take into account the totality of all evidence available, from all relevant sources.

This policy applies to behaviors that take place on the campus, at District-sponsored events and may also apply off-campus and to actions online when the Title IX Administrator or Vice President of Student Services/Campus Coordinator determines that the off-campus conduct affects a substantial District interest. A substantial District interest is defined to include:

- A. Any action that constitutes criminal offense as defined by federal or California state law. This includes, but is not limited to, single or repeat violations of any local, state or federal law committed in the municipality where the District facility is located;
- B. Any situation where it appears that the accused individual may present a danger or threat to the health or safety of self or others;
- C. Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace or causes social disorder; or
- D. Any situation that is detrimental to the educational interests of the District.

1 Any online postings or other electronic communication by students, including cyber-bullying, cyber-
2 stalking, cyber-harassment, etc. occurring completely outside of the District’s control (e.g. not on District
3 networks, websites or between District email accounts) will only be subject to this policy when those
4 online behaviors can be shown to cause a substantial on-campus disruption. Otherwise, such
5 communications are considered speech protected by the 1st Amendment.

6
7 Off-campus discriminatory or harassing speech by employees may be regulated by the District only when
8 such speech is made in an employee’s official or work-related capacity.

9
10 Any sex/gender harassment, discrimination or sexual misconduct, whether committed by an employee,
11 student or member of the public, that occurs under the District’s obligation to act, is a violation of District
12 policies and procedures, and is subject to all applicable punishment, potentially including criminal
13 procedures and employee or student discipline procedures. Students, faculty, and staff who may be
14 victims of sex/gender harassment, discrimination or sexual misconduct shall be treated with dignity and
15 provided comprehensive assistance.

16
17 The Chancellor shall establish administrative procedures that ensure that students, faculty, and staff who
18 are victims of sex/gender harassment, discrimination or sexual misconduct receive appropriate
19 information and treatment, and that educational information about preventing sex/gender harassment,
20 discrimination and sexual misconduct is provided and publicized as required by law.

21
22 The procedures shall meet the criteria contained in Education Code Sections 67385, 67385.7, and 67386,
23 and 34 Code of Federal Regulations Part 106 & Section 668.46.

24
25 The District’s Title IX Administrator oversees compliance with all aspects of the sex/gender harassment,
26 discrimination and misconduct policy. The Administrator reports directly to the District Vice Chancellor
27 of Human Resources, and is housed at the District office. Questions about this policy should be directed
28 to the Title IX Administrator. Anyone wishing to make a report relating to discrimination or harassment
29 may do so by reporting the concern to the District Title IX Administrator or the college’s Title IX Campus
30 Coordinator:

31
32 District Title IX Administrator
33 Yosemite Community College District
34 2201 Blue Gum Ave., Modesto, CA 95358
35 (209) 575-6710
36 TitleIXCoordinator@yosemite.edu

37
38 Vice President of Student Services/Title IX Campus Coordinator
39 Modesto Junior College
40 435 College Ave., Modesto, CA 95350
41 (209) 575-6789
42 TitleIXCoordinator@yosemite.edu

43
44 Vice President of Student Services/Title IX Campus Coordinator
45 Columbia College
46 11600 Columbia College Dr., Sonora, CA 95370
47 (209) 588-5132
48 TitleIXCoordinator@yosemite.edu

1
2 Additionally, reports can be made by victims and/or third parties using the online reporting form posted
3 at www.yosemite.edu/title9, or the reporting hotline at (209) 575-6710, or via the reporting email address
4 of TitleIXCoordinator@yosemite.edu. Note that these reports may prompt a need for the institution to
5 investigate.

6
7 Individuals experiencing harassment or discrimination also always have the right to file a formal grievance
8 with government authorities:

9
10 San Francisco Office
11 Office for Civil Rights (OCR)
12 U.S. Department of Education
13 50 Beale Street, Suite 7200
14 San Francisco, CA 94105-1813
15 Telephone: 415-486-5555
16 FAX: 415-486-5570; TDD: 800-877-8339
17 Email: ocr.sanfrancisco@ed.gov
18 Web: <http://www.ed.gov/ocr>

19
20 U.S. Department of Justice Civil Rights Division
21 950 Pennsylvania Avenue, N.W.
22 Educational Opportunities Section, PHB
23 Washington, D.C. 20530
24 By e-mail to education@usdoj.gov
25 By telephone at (202) 514-4092 or 1-877-292-3804 (toll-free)
26 By facsimile at (202) 514-8337

27
28 In the event that an incident involves alleged misconduct by the Title IX Administrator, reports should be
29 made directly to the Office of the Chancellor:
30 Yosemite Community College District
31 2201 Blue Gum Ave., Modesto, CA 95358
32 (209) 575-6509

33
34 **Cross References (see also):**

35 YCCD Policy 3435 – Discrimination and Harassment Complaints and Investigations
36 YCCD Policy 4030 – Academic Freedom – Faculty

37
38 **References:**

39 Education Code Sections [67382](#), [67385](#), and [67386](#); [20 U.S. Code Section 1092\(f\)](#); [20 U.S. Code Section](#)
40 [1681](#); [34 Code of Federal Regulations Section 668.46\(b\)\(11\)](#); [34 Code of Federal Regulations Part 106](#);
41 California School Employees Association Chapter 420 Agreement; Leadership Team Handbook; Yosemite
42 Faculty Association Faculty Contract

44 **Adopted:** June 10, 2015

45 **Revision Adopted:** August 26, 2016

46 **Last Reviewed:** August 26, 2016

Administrative Procedure**3540 Sex/Gender Harassment, Discrimination and Sexual Misconduct**

The Yosemite Community College District (to include Modesto Junior College and Columbia College) does not permit discrimination or harassment in its programs and activities on the basis of sex, gender identity, gender expression, sexual orientation, pregnancy status or any other characteristic protected by District policy or state, local, or federal law. Anyone who believes they have been subjected to discrimination or harassment in violation of District policy should follow the procedure outlined in this document to report these concerns.

This procedure involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the sex/gender harassment, discrimination and sexual misconduct policy has been violated. If so, the District will initiate an investigation that is thorough, reliable, impartial, prompt and fair. This investigation determines whether the District's policy has been violated. If so, the District will promptly implement an effective remedy designed to end the discrimination or harassment, prevent its recurrence and address its effects.

The expectations of our community regarding sexual misconduct can be summarized as follows: In order for individuals to engage in sexual activity of any type with each other, there must be affirmative, conscious, and voluntary consent prior to and during sexual activity. Consent is sexual permission. Consent can be given by word or action, but non-verbal consent is not as clear as talking about what you want sexually and what you don't. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Previous consent does not imply consent to sexual activity in the future. Silence or passivity, without actions demonstrating permission, cannot be assumed to show consent. Consent, once given, can be withdrawn at any time. There must be a clear indication that consent is being withdrawn.

Additionally, there is a difference between seduction and coercion. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into sex. Coercion happens when someone is pressured unreasonably for sex.

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of this policy, or of the faculty/staff handbooks. The District does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the District. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student, supervisor-supervisee) are generally discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the

1 timely attention of their supervisor, and will likely result in the necessity to remove the employee from
2 the supervisory or evaluative responsibilities, or shift the student out of being supervised or evaluated by
3 someone with whom they have established a consensual relationship. While no relationships are
4 prohibited by this policy, failure to self-report such relationships to a supervisor as required can result in
5 disciplinary action for an employee.

6
7 Because alcohol or other drug use can place the capacity to consent in question, sober sex is less likely to
8 raise such questions. When alcohol or other drugs are being used, a person will be considered unable to
9 give valid consent if they cannot fully understand the details of a sexual interaction (who, what, when,
10 where, why, or how) because they lack the capacity to reasonably understand the situation. Individuals
11 who consent to sex must be able to understand what they are doing. Under district policy, “No” always
12 means “No,” and “Yes” may not always mean “Yes.” Anything but a clear, knowing and voluntary consent
13 to any sexual activity is equivalent to a “no.”

14
15 Sexual misconduct offenses include, but are not limited to:

- 16 • Sexual harassment. See Section I.
- 17 • Non-consensual sexual contact (or attempts to commit same). See Section II.
- 18 • Non-consensual sexual intercourse (or attempts to commit same). See Section III.
- 19 • Sexual exploitation. See Section IV.

20
21 I. Sexual harassment is:

- 22 A. unwelcome,
- 23 B. sexual, sex-based, or gender-based verbal, written, online and/or physical conduct.

24
25 Anyone experiencing sexual harassment in any District program is encouraged to report it immediately to
26 the Title IX Administrator, Title IX Campus Coordinator, or a Deputy Coordinator. Remedies, education, or
27 training will be provided in response.

28
29 Sexual harassment may be disciplined when it takes the form of quid pro quo harassment, retaliatory
30 harassment, or creates a hostile environment.

31
32 A hostile environment is created when sexual harassment is:

- 33 A. sufficiently severe, or
- 34 B. persistent or pervasive, and
- 35 C. objectively offensive that it unreasonably interferes with, denies or limits someone’s ability to
36 participate in or benefit from the District’s educational, employment, social accessor residential
37 programs.

38
39 Quid Pro Quo harassment is:

- 40 A. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of
41 a sexual nature,
- 42 B. by a person having power or authority over another constitutes sexual harassment when,
- 43 C. submission to such sexual conduct is made either explicitly or implicitly a term or condition of
44 rating or evaluating an individual’s educational or employment progress, development, or
45 performance.
- 46 D. This includes when submission to such conduct would be a condition for access to receiving the
47 benefits of any educational or employment program.

1 Examples include: an attempt to coerce an unwilling person into a sexual relationship; to repeatedly
2 subject a person to egregious, unwelcome sexual attention; to punish a refusal to comply with a sexual
3 based request; to condition a benefit on submitting to sexual advances; sexual violence; intimate partner
4 violence, stalking; gender-based bullying.

5
6 Retaliation harassment is:

- 7 A. Any adverse action taken against a person participating in a protected activity because of their
8 participation in that protected activity. Retaliation against an individual for an allegation, for
9 supporting a reporting party or for assisting in providing information relevant to an allegation of
10 sex/gender harassment, discrimination or misconduct is a serious violation of District policy and
11 may be treated as another instance of harassment or discrimination. The District is prepared to
12 take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

13
14 II. Non-consensual sexual contact is:

- 15 A. any intentional sexual touching,
16 B. however slight,
17 C. with any object,
18 D. by a person upon another person,
19 E. that is without consent or by force.

20
21 Sexual contact includes:

- 22 A. Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of
23 these body parts, or making another touch you or themselves with or on any of these body parts;
24 or
25 B. Any other intentional bodily contact in a sexual manner.

26
27 III. Non-consensual sexual intercourse is:

- 28 A. any sexual intercourse
29 B. however slight,
30 C. with any object,
31 D. by a person upon another person,
32 E. that is without consent or by force.

33
34 Intercourse includes:

- 35 A. vaginal or anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to
36 genital contact), no matter how slight the penetration or contact.

37
38 IV. Sexual exploitation:

39 Occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own
40 advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that
41 behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual
42 exploitation include, but are not limited to:

- 43 A. Invasion of sexual privacy;
44 B. Prostituting another person;
45 C. Non-consensual digital, video or audio recording of nudity or sexual activity;
46 D. Unauthorized sharing or distribution of digital, video or audio recording of nudity or sexual
47 activity;
48 E. Engaging in voyeurism;

- 1 F. Going beyond the boundaries of consent (such as letting your friend hide in the closet to watch
- 2 you having consensual sex);
- 3 G. Knowingly exposing someone to or transmitting an STI, STD, or HIV to another person;
- 4 H. Intentionally or recklessly exposing one’s genitals in non-consensual circumstances; inducing
- 5 another to expose their genitals;
- 6 I. Sexually-based stalking or bullying may also be forms of sexual exploitation

7
8 V. Additional applicable definitions:

9 A. Consent:

- 10 1. Consent is
 - 11 a) clear, and
 - 12 b) knowing, and
 - 13 c) affirmative, conscious and voluntary,
 - 14 d) words or actions,
 - 15 e) that give permission for specific sexual activity.
- 16 2. Consent is active, not passive.
- 17 3. Silence, in and of itself, cannot be interpreted as consent.
- 18 4. Consent can be given by words or actions, as long as those words or actions create mutually
- 19 understandable permission regarding willingness to engage in (and the conditions of) sexual
- 20 activity.
- 21 5. Consent to any one form of sexual activity cannot automatically imply consent to any other
- 22 forms of sexual activity.
- 23 6. Previous relationships or prior consent cannot imply consent to future sexual acts.
- 24 7. Consent can be withdrawn once given, as long as that withdrawal is clearly communicated.
- 25 8. In order to give consent, one must be of legal age.
- 26 9. Sexual activity with someone you know to be or should know to be incapacitated constitutes
- 27 a violation of District policy.
 - 28 a) Incapacitation can occur mentally or physically, from developmental disability, by alcohol
 - 29 or other drug use, or blackout.
 - 30 b) The question of what the responding party should have known is objectively based on
 - 31 what a reasonable person in the place of the responding party, sober and exercising good
 - 32 judgment, would have known about the condition of the reporting party.
 - 33 c) Incapacitation is a state where someone cannot make rational, reasonable decisions
 - 34 because they lack the capacity to give knowing consent (e.g., to understand the “who,
 - 35 what, when, where, why or how” of their sexual interaction).
 - 36 d) This policy also covers a person whose incapacity results from mental disability, sleep,
 - 37 unconsciousness, involuntary physical restraint, or from the taking of rape drugs.

38
39 B. Force:

- 40 1. Force is the use of physical violence or imposing on someone physically to gain sexual access.
- 41 Force also includes threats, intimidation (implied threats) and coercion that overcomes free
- 42 will or resistance or that produces consent (“Have sex with me or I’ll hit you. Okay, don’t hit
- 43 me, I’ll do what you want.”).
- 44 a) Coercion is unreasonable pressure for sexual activity. When someone makes clear to you
- 45 that they do not want sex, that they want to stop, or that they do not want to go past a
- 46 certain point of sexual interaction, continued pressure beyond that point can be coercive.
- 47 b) NOTE: There is no requirement for a party to resist the sexual advance or request, but
- 48 resistance is a clear demonstration of non-consent. The presence of force is not

1 demonstrated by the absence of resistance. Sexual activity that is forced is by definition
2 non-consensual, but non-consensual sexual activity is not by definition forced.
3

4 Use of alcohol or other drugs will never function to excuse any behavior that violates District policy. This
5 procedure and corresponding policy are applicable regardless of the sexual orientation and/or gender
6 identity of individuals engaging in sexual activity.
7

8 VI. Other misconduct offenses that will fall under Title IX when sex or gender based:

- 9 A. Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens
10 or endangers the health or safety of any person;
11 B. Discrimination, defined as actions that deprive other members of the community of educational
12 or employment access, benefits or opportunities on the basis of sex or gender;
13 C. Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in
14 another;
15 D. Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any
16 person within the District community, when related to the admission, initiation, joining, or any
17 other group-affiliation activity;
18 E. Bullying, defined as
19 1. Repeated or severe,
20 2. aggressive behavior,
21 3. likely to intimidate or intentionally hurt, control or diminish another person, physically or
22 mentally,
23 4. that is not speech or conduct otherwise protected by the 1st Amendment;
24 F. Intimate Partner Violence (to include domestic violence and dating violence), defined as violence
25 or abuse between those currently, or previously, in an intimate relationship to each other, or who
26 have previously or are currently cohabitating;
27 G. Stalking
28 1. Stalking 1:
29 a) A course of conduct,
30 b) directed at a specific person,
31 c) on the basis of actual or perceived membership in a protected class,
32 d) that is unwelcome, AND
33 e) would cause a reasonable person to feel fear.
34 2. Stalking 2:
35 a) Repetitive and menacing,
36 b) pursuit, following, harassing or interfering with the peace and/or safety of another.
37 H. Any other District policies may fall within this section when a violation is motivated by the actual
38 or perceived membership of the reporting party's sex or gender.
39

40 VII. All District employees (faculty, staff, and administrators) are considered responsible employees and
41 are expected to immediately report actual or suspected discrimination or harassment to appropriate
42 officials, though there are some limited exceptions. In order to make informed choices, it is important
43 to be aware of confidentiality and reporting requirements when consulting campus resources. On
44 campus, some resources may maintain confidentiality, meaning they are not required to report actual
45 or suspected discrimination or harassment to appropriate District officials, thereby offering options
46 and advice without any obligation to inform an outside agency or individual unless a victim has
47 requested information to be shared. Other resources exist for a victim to report crimes and policy

1 violations and these resources will take action when an incident is reported to them. The following
2 describes the two reporting options for the District:
3

4 A. Confidential Reporting:

5 If a reporting party would like the details of an incident to be kept confidential, the reporting party
6 may speak with:

- 7 1. On-campus licensed professional counselors and staff
- 8 2. On-campus health service providers and staff (Note that health services employees are
9 mandated by California law to report to local law enforcement if they treat any physical
10 condition that is the result of abusive or assaultive behavior, this includes any type of sexual
11 assault. Therefore, they may keep the information confidential from the campus community
12 but cannot guarantee complete confidentiality.)
- 13 3. On-campus individuals designated by the District to provide confidential counseling
- 14 4. Off-campus:
 - 15 a) Licensed professional counselors
 - 16 b) Local rape crisis counselors
 - 17 c) Domestic violence resources
 - 18 d) Local or state assistance agencies
 - 19 e) Clergy/Chaplains

20
21 All of the above employees will maintain confidentiality except as previously noted and in extreme
22 cases of immediate threat or danger, or abuse of a minor. Campus mental health counselors or
23 the Employee Assistance Program are available to help free of charge and can be seen on an
24 emergency basis during normal business hours. These employees are encouraged to submit
25 timely, anonymous, aggregate statistical information for Clery Act purposes unless they believe it
26 would be harmful to a specific client, or patient.
27

28 B. Formal Reporting Options:

29 All District employees have a duty to report, unless they fall under the “Confidential Reporting”
30 section above. Reporting parties may want to consider carefully whether they share personally
31 identifiable details with non-confidential employees, as those details must be shared by the
32 employee with the Title IX Administrator or Campus Coordinators. Employees must share all
33 details of the reports they receive. Generally, climate surveys, classroom writing assignments,
34 human subjects research, or events such as Take Back the Night marches or speak-outs do not
35 provide notice that must be reported to the Administrator by employees. Remedial actions may
36 result without formal District action.
37

38 If a victim does not wish for their name to be shared, does not wish for an investigation to take
39 place, or does not want a formal resolution to be pursued, the victim may make such a request to
40 the Title IX Administrator or Campus Coordinators, who will evaluate that request in light of the
41 duty to ensure the safety of the campus and comply with federal law. In cases indicating pattern,
42 predation, threat, weapons or violence, the District will likely be unable to honor a request for
43 confidentiality. In cases where the victim requests confidentiality and the circumstances allow
44 the District to honor that request, the District will offer interim supports and remedies to the
45 victim and the community, but will not otherwise pursue formal action. A reporting party has the
46 right, and can expect, to have reports taken seriously by the District when formally reported, and
47 to have those incidents investigated and properly resolved through these procedures.
48

1 Formal reporting still affords privacy to the reporter, and only a small group of officials who need
2 to know will be told, including but not limited to: the Division of Student Services, Campus Safety,
3 and Behavioral Intervention Teams. Information will be shared as necessary with investigators,
4 witnesses and the responding party. The circle of people with this knowledge will be kept as tight
5 as possible to preserve a reporting party's rights and privacy.
6

7 However, California law requires campus security authorities to immediately, or as soon as
8 practicably possible, disclose to local law enforcement any report of a Part 1 violent crime, hate
9 crime, or sexual assault, whether committed on or off campus. This includes reports victims make
10 directly to campus security authorities as well as reports victims make to other campus employees
11 that are then conveyed to campus security authorities.
12

13 While the reporting disclosure of the act of violence itself is mandated, a victim's identity may not
14 be disclosed to local law enforcement unless the victim consents to being identified after being
15 informed of his or her right to have identifying information withheld. If a victim does not consent
16 to disclosing his or her identity, the responding party's identity may not be disclosed either.
17

18 Regardless of whether a victim consents to the disclosure of his or her identifying information,
19 under state and federal law, a victim has: (1) the right to a Sexual Assault Forensic Medical
20 Examination at no cost to the victim/patient and (2) the right to participate or not participate with
21 the local law enforcement agency or the criminal justice system, either prior to the examination,
22 or at any other time. Additionally, a victim may agree to engage with local law enforcement and
23 participate in the investigation and prosecution using a pseudonym (i.e. Jane or John Doe) instead
24 of his or her true name.
25

26 Certain campus officials – those deemed Campus Security Authorities - have a duty to report
27 sexual assault, domestic violence, dating violence and stalking for federal statistical reporting
28 purposes (Clery Act). All personally identifiable information is kept confidential, but statistical
29 information must be passed along to local law enforcement regarding the type of incident and its
30 general location (on or off-campus, in the surrounding area, but no addresses are given) for
31 publication in the Annual Security Report. This report helps to provide the community with a clear
32 picture of the extent and nature of campus crime, to ensure greater community safety. Mandated
33 federal reporters include: student/conduct affairs, campus safety, local police, coaches, athletic
34 directors, student activities staff, human resources staff, advisors to student organizations and
35 any other official with significant responsibility for student and campus activities. The information
36 to be shared includes the date, the location of the incident (using Clery location categories) and
37 the Clery crime category. This reporting protects the identity of the victim and may be done
38 anonymously.
39

40 Victims of sexual misconduct should also be aware that District administrators must issue
41 immediate timely warnings for incidents reported to them that are confirmed to pose a
42 substantial threat of bodily harm or danger to members of the campus community. The District
43 will ensure that a victim's name and other identifying information is not disclosed, while still
44 providing enough information for community members to make safety decisions in light of the
45 danger.
46

47 VIII. Investigation and Resolution Process:

1 Details regarding the investigative process and procedures used in sex/gender harassment, discrimination
2 and sexual misconduct inquiries can be found in AP 3435.

3
4 IX. Interim Remedies/Actions:

5 The Title IX Administrator, or Campus Coordinator (or designee) may provide interim remedies intended
6 to address the short-term effects of harassment, discrimination or retaliation, i.e., to redress harm to the
7 alleged victim and the community and to prevent further violations. The District will keep interim
8 remedies and actions as private as possible. These remedies may include, but are not limited to:

- 9 A. Referral to counseling and health services
- 10 B. Referral to the Employee Assistance Program
- 11 C. Education to the community
- 12 D. Altering the housing situation of the responding party (resident student (or the alleged victim, if
13 desired))
- 14 E. Altering work arrangements for employees
- 15 F. Providing campus escorts
- 16 G. Providing transportation accommodations
- 17 H. Implementing contact limitations between the parties
- 18 I. Offering adjustments to academic deadlines, course schedules, etc.

19
20 The District may interim suspend a student, employee or organization pending the completion of the
21 investigation and resolution, particularly when in the judgment of the Title IX Administrator or Campus
22 Coordinator, the safety or well-being of any member(s) of the campus community may be jeopardized by
23 the presence on-campus of the responding party whose behavior is in question.

24
25 The District will maintain as confidential any accommodations or protective measures, provided
26 confidentiality does not impair the institution's ability to provide the accommodations or protective
27 measures.

28
29 Sanctions may be imposed upon any member of the community found to have violated the Sex/Gender
30 Harassment, Discrimination and Misconduct Policy. Disciplinary actions against faculty, staff, and
31 students will conform to all relevant statutes, regulations, personnel policies and procedures, including
32 the provisions of any applicable collective bargaining agreement.

33
34 Additional provisions:

35 1. Attempted violations

36 In most circumstances, the District will treat attempts to commit any of the violations listed
37 in the Sex/Gender Harassment, Discrimination and Sexual Misconduct policy as if those
38 attempts had been completed.

39
40 2. False Reports

41 The District will not tolerate intentional false reporting of incidents. It is a violation of the
42 Standards of Student Conduct to make an intentionally false report of any policy violation,
43 and it may also violate state criminal statutes and civil defamation laws.

44
45 3. Amnesty for Victims and Witnesses

46 The District community encourages the reporting of misconduct and crimes by victims and
47 witnesses. Sometimes, victims or witnesses are hesitant to report to District officials or
48 participate in resolution processes because they fear that they themselves may be accused of

1 policy violations, such as underage drinking at the time of the incident. It is in the best
2 interests of this community that as many victims as possible choose to report to District
3 officials, and that witnesses come forward to share what they know. To encourage reporting,
4 the District pursues a policy of offering victims of misconduct and witnesses amnesty from
5 minor policy violations related to the incident.
6

7 Sometimes, students are hesitant to offer assistance to others for fear that they may get
8 themselves in trouble (for example, as student who has been drinking underage might
9 hesitate to help take a sexual misconduct victim to the Campus Safety). The District pursues
10 a policy of amnesty for students who offer help to others in need. While policy violations
11 cannot be overlooked, the District will provide educational options, rather than punishment,
12 to those who offer their assistance to others in need.
13

14 4. Parental Notification

15 The District reserves the right to notify parents/guardians of dependent students regarding
16 any health or safety risk, change in student status or conduct situation, particularly alcohol
17 and other drug violations. The District may also notify parents/guardians of non-dependent
18 students who are under age 21 of alcohol or drug policy violations. Where a student is non-
19 dependent, the District will contact parents/guardians to inform them of situations in which
20 there is a significant and articulable health or safety risk. The District also reserves the right
21 to designate which District officials have a need to know about individual conduct reports
22 pursuant to the Family Educational Rights and Privacy Act.
23

- 24 X. District students and employees are responsible for knowing the information, policies and procedures
25 outlined in this document.
26

27 The District reserves the right to make changes to this document as necessary and once those changes
28 are posted online, they are in effect. Students and employees are encouraged to check online
29 www.yosemite.edu/Trustees/boardpolicy.htm for the updated versions of all policies and procedures. If
30 government regulations change in a way that impacts this document, this document will be construed to
31 comply with government regulations in their most recent form. Reports of misconduct made after the
32 fact may raise issues of policy and procedure application, if policies and procedures have changed. Unless
33 the parties accept current policies, all reports are governed by the policies that were in place at the time
34 the alleged misconduct occurred. Procedures applicable are those that are in place at the time of
35 resolution.
36

37 **References:**

38 Education Code Sections [67380](#), [67385](#), [67385.7](#), and [67386](#); [20 U.S. Code Section 1092\(f\)](#); [34 Code of](#)
39 [Federal Regulations Section 668.46\(b\)\(11\)](#); Penal Code Sections [243.4](#), [261-269](#), [314](#), [11160](#), and [13700](#)
40

41 **Procedure Last Revised:** ~~June 10, 2015~~, August 26, 2016

42 **Last Reviewed:** August 26, 2016