

SAN FRANCISCO COMMUNITY COLLEGE DISTRICT
ADMINISTRATIVE PROCEDURE MANUAL

Title: SEXUAL ASSAULT AND OTHER ASSAULTS	Number: AP 2.32
Legal Authority: Education Code Sections 212.5; 44100; 66281.5; 66250; Government Code Section 12940; Title 5 Sections 59320 et seq.; Title IX, Education Amendments of 1972, 20 U.S.C. Section 1681, et seq; Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e; Jeanne Clery Disclosure of Campus Security Policy and Campus Crimes Statistics Act, 20 U.S.C. Sections 1092(f), 34 C.F.R. Section 668.46(b)11; Pub. Law No. 89-329	Related to CCLC AP 3540

Any sexual assault or physical abuse, including, but not limited to, rape as defined by California law, or other sexual violence such as domestic violence, dating violence, or stalking, occurring on district property or via electronic means (e.g., online, social media, text, etc.), in connection with all the academic, educational, extracurricular, athletic, and other programs of the District is a violation of District policies and procedures and is subject to all applicable punishment including criminal procedures and employee or student discipline procedures. These acts are a violation whether committed by an employee, a student, or a member of the public and whether those programs take place in District facilities, at another location subject to the District’s disciplinary authority, or at an off-campus site or facility maintained by a student organization, or via electronic means (e.g., social media, cellular phones, text and email). The District will address sexual assaults regardless of whether some conduct alleged occurred outside the District’s educational programs or activities. *See also, “San Francisco Community College District Sexual Misconduct on Campus, Protocols, Procedures, Resources,” located on the Title IX Compliance webpage, <http://www.ccsf.edu/en/about-city-college/administration/legal-affairs/title-ix.html>.*

Definitions:

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

"Sexual assault" includes but is not limited to:

1. Sex Offenses – Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
2. Rape – The carnal knowledge of a person, without the consent of the victim, including

Recommended by Participatory Governance Council: October 3, 2024 Approved by Chancellor: October 10, 2024	Page 1 of 7
--	--------------------

instances where the victim is incapable of giving consent because of his/her/their temporary or permanent mental or physical incapacity. There is carnal knowledge if there is the slightest penetration of the genital or anal opening of the body of another person.

3. Statutory Rape. Sexual intercourse with a person who is under the statutory age of consent. There is no force or coercion used in Statutory Rape; the act is not an attack.
4. Sexual Assault with an Object – To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything the offender uses other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.
5. Fondling – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
6. Incest – Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

“Dating violence” means violence or the threat of 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;
- by a person with whom the victim shares a child in common;
- by a person who is cohabitating with or has cohabitated with the victim as a spouse;
- by a person similarly situated to a spouse of the victim under California law; or
- by any other person against an adult or youth victim who is protected from that person’s acts 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 their safety or the safety of others, or to suffer substantial

emotional distress.

These written procedures and protocols are designed to ensure victims of domestic violence, dating violence, sexual assault, or stalking receive treatment and information.

“Student” means a person who has gained admission to the District.

“Supportive Measures” means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening the student or the accused, nor for punitive or disciplinary reasons, and without fee or charge to:

- Restore or preserve that person’s access to the District’s education program or activity, including measures that are designed to protect the safety of the person, or;
- Provide support through a grievance procedure or informal resolution process under Title IX.

Reporting & Information to be Provided:

All students or *employees* who allege they are the victims of domestic violence, dating violence, sexual assault or stalking on District property shall be provided with information regarding options and supportive measures available to them.

Information shall be available from *Student Health Services*, which shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until *Student Health Services* is authorized to release such information.

Student Health Services shall provide all alleged victims of domestic violence, dating violence, sexual assault or stalking with the following, upon request:

- 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;
- Information about the importance of preserving evidence;
- 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:
 - transportation to a hospital, if necessary (*arrangements to be made by Student Health Services*);
 - counseling by *Student Health Services mental health professionals*, or referral to a counseling center;
 - notice to the police, if desired;

<p>Recommended by Participatory Governance Council: October 3, 2024 Approved by Chancellor: October 10, 2024</p>	<p>Page 3 of 7</p>
--	---------------------------

- a list of other available campus resources or appropriate off-campus resources, including but not limited to, the Office of Student Affairs & Wellness, the Counseling Department.
- A description of each of the following procedures:
 - criminal prosecution;
 - civil prosecution (i.e., lawsuit);
 - District *investigative and/or* disciplinary procedures, both student and employee;
 - modification of class schedules;
 - tutoring, if necessary.
 - Alternative dispute resolution;
 - Alternative housing assignments; and
 - Academic assistance alternatives.
- Information about how the District will protect the confidentiality of victims.

The *Director of Student Health Services or their designee* should be available to provide assistance to District law enforcement unit employees regarding how to respond appropriately to reports of sexual violence.

Investigations:

The District will investigate all complaints alleging sexual assault under the procedures for sexual harassment investigations described in AP 2.35 regardless of whether a complaint is filed with local law enforcement. All alleged victims of domestic violence, dating violence, sexual assault, or stalking on District property shall be kept informed, through the *Title IX Compliance Office and/or the Office of Student Affairs & Wellness* 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.

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 District’s student conduct policy at or near the time of the incident, unless the District determines that the violation was substantially severe, including a violation that placed the health or safety of another person at risk.

In evaluating complaints, it shall not be a permissible excuse that the respondent believed the victim affirmatively consented to the sexual activity because the respondent was intoxicated or

<p>Recommended by Participatory Governance Council: October 3, 2024</p>	<p>Page 4 of 7</p>
<p>Approved by Chancellor: October 10, 2024</p>	

did not take reasonable steps to ascertain whether the victim affirmatively consented. It shall further not be an excuse that the respondent believed the victim consented because the victim was asleep, incapacitated due to inebriation, or unable to communicate.

Disciplinary Proceedings:

Disciplinary proceedings against a student or employee perpetrator will be conducted through the Office of Student Affairs & Wellness or the Human Resources Office, respectively, as applicable. *Employees, students, or other persons acting on behalf of the District who engage in unlawful discrimination and/or retaliation as defined in this policy or by state or federal law may be subject to discipline, up to and including discharge, expulsion, or termination. Note: the District presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.*

Confidentiality:

The District shall endeavor to maintain the identity of any alleged victim or witness of domestic violence, dating violence, sexual assault, or stalking on District 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 District property shall be referred to the District's *Office of Governmental Affairs & Public Information*, which shall work with the *San Francisco Community College District Police Department* to ensure that all confidentiality rights are maintained.

Reporting of Possible Criminal Violation to the District Attorney:

If the finding of an investigation is that a sexual or other assault pursuant to this Administrative Procedure has occurred, the District shall submit the investigation report to the County of San Francisco Office of the District Attorney for review and action. The Compliance Officer and other District employees will work cooperatively with the City of San Francisco Police Department and the District Attorney. In addition, the District may report an incident to the San Francisco Police Department prior to completion of an investigation.

Annual Security Report:

The Annual Security Report will include a statement regarding the District's programs to prevent sex offenses and procedures that should be followed after a sex offense occurs. The statement must include the following:

- The crime statistics related to sexual assault;
- A statement of policies concerning security of and access to campus facilities;

Recommended by Participatory Governance Council: October 3, 2024 Approved by Chancellor: October 10, 2024	Page 5 of 7
--	--------------------

- A statement of policies regarding procedures for students and others to report criminal actions or other emergencies occurring on campus, including:
 - Policies for making timely warning reports to members of the campus community regarding the occurrence of sexual assaults;
 - A list of people who students and employees should report sexual assaults to
- A description of policies related to and educational programs implemented to promote the awareness of rape, acquaintance rape, 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, to whom the alleged offense should be reported, and the options about the involvement of law enforcement and campus authorities;
- A statement of policies concerning campus law enforcement that
 - Addresses the enforcement authority and jurisdiction of security personnel;
 - Addresses the working relationship of campus security personal and State and local police agencies; and
 - Encourages accurate and prompt reporting of sexual assaults to the campus police and appropriate police agencies;
- A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and the prevention of crimes;
- Information about how the District will protect the confidentiality of victims and other necessary parties, including how the District will complete publicly available recordkeeping without the inclusion of personally identifying information about the victim;
- Information for students about existing on- and off-campus counseling, mental health, or other student services for victims of sex offenses;
- Notice to students that the campus will change a victim’s academic situation after an alleged domestic violence, dating violence, sex offense, or stalking 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, sex offense, or stalking including a clear statement that:
 - The accuser and the accused are entitled to the same opportunities to have

<p>Recommended by Participatory Governance Council: October 3, 2024</p> <p>Approved by Chancellor: October 10, 2024</p>	<p>Page 6 of 7</p>
---	---------------------------

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. 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 domestic violence, dating violence, sex offense, or stalking 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, domestic violence, dating violence, or stalking.

Education and Prevention Information:

The Title IX Compliance Office shall:

- Provide, as part of each campus’ established on-campus orientation program, education, and prevention information about domestic violence, dating violence, sexual assault, or stalking. The information shall be developed in collaboration with campus-based and community-based victim advocacy organizations.
- Post sexual violence prevention and education information on the campus internet website regarding domestic violence, dating violence, sexual assault, and stalking.

The outreach programming included must include:

- The warning signs of intimate partner and dating violence;
- Campus policies and resources relating to intimate partner and dating violence;
- Off-campus resources and centers related to intimate partner and dating violence; and
- A focus on prevention and bystander intervention training as it relates to partner and dating violence.