

# ADMINISTRATIVE REGULATION 3540

SOUTH ORANGE COUNTY  
COMMUNITY COLLEGE DISTRICT

GENERAL INSTITUTION

## SEXUAL AND OTHER RELATED ASSAULTS ON CAMPUS AND IN CAMPUS PROGRAMS

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, 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, Board Policy (BP) and Administrative Regulation (AR) 3433 – *Sexual Harassment Prevention and Complaints Under Title IX*; BP/AR 5500 – *Standards of Student Conduct and Discipline Procedures*; and BP/AR – 3510 *Workplace Violence*)

### I. DEFINITIONS

- A. "Sexual assault," "dating violence," "domestic violence," and "stalking" are defined in AR 3433 – *Sexual Harassment Prevention and Complaints under Title IX*.
- B. 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 the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent.
- C. 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.

### II. DISCIPLINARY SANCTIONS EXEMPTION

The District understands that students may be reluctant to file complaints of sexual assault or other violation of this policy or regulation when alcohol and/or drugs are involved. Whenever possible, the District will respond educationally, rather than punitively, to the use of drugs and/or alcohol so as to promote the reporting of sexual assault or other violation of this regulation. However, the District reserves the right to use other remedies dependent upon the severity of the alcohol or drug use. An individual who participates as a complainant or witness in an investigation of sexual assault or other violations of this regulation will not be subject to disciplinary sanctions for a violation of the District's student conduct policy at or near the time of the reported incident, unless the District determines that the violation was egregious, including, but not limited to, an action

Adopted: 08-03-06  
Revised: 09-17-15  
Revised: 04-15-21

Revised: 09-07-23

Page 1 of 7

that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

### III. PROCEDURES AND PROTOCOLS

- A. These written regulations and protocols are designed to ensure victims of domestic violence, dating violence, stalking or sexual assault receive treatment and information. (For physical assaults/violence, see also AR 3433 *Sexual Harassment Prevention and Complaints under Title IX* and AR-3430 *Unlawful Harassment and Discrimination Prevention and Complaints*)
- B. 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 shall be provided with information regarding options and assistance available to them. Information shall be available from the Vice President for Student Services, or designee, who shall maintain the identity of other information about alleged sexual assault victims as confidential unless and until the Vice President for Student Services is authorized to release such information. The Vice President for Student Services shall identify their designees by position title in the District's procedures or protocols.
- C. The Title IX Coordinator, Title IX Officer, deputy, or designee, shall provide all alleged victims of domestic violence, dating violence, sexual assault, or stalking with the following:
  1. A copy of the District's policy and regulation, regarding domestic violence, dating violence, sexual assault, or stalking;
  2. A list of personnel on campus, by position title and name, who should be notified and procedures for such notification, if the alleged victim consents. This information must be updated from time-to-time to reflect changes in personnel.
    - a. The District's Title IX Coordinator, Karen Dubert, District Director of Employee Relations and Title IX Compliance, located in District Human Resources (third floor of Saddleback College Health Sciences Building).
    - b. The Irvine Valley College ("IVC") Title IX Officer is Dr. Martha McDonald, Vice President for Student Services, located in the Administration Building (A 100).
    - c. The Saddleback College ("SC") Title IX Officer is Dr. Jennifer LaBounty, Vice President for Student Services, located in the Administration Building (Room 126).
  3. Information about the importance of preserving evidence and the identification and location of witnesses;
  4. A description of available services, and the persons on campus available to provide those services if requested, including but not limited to the following:
    - a. Transportation to a hospital, if necessary;

- b. Availability of counseling services on campus provided by student health centers on campus, if available, or referral to the counseling center for academic support;
  - c. Notification to IVC Campus Police, SC Police Department, or local law enforcement. Anonymous reporting is available;
  - d. Immediate referral to the IVC Health and Wellness Center or SC Student Health Center for advocacy and counseling resources or referral to a counseling center for academic support;
  - e. A list of other available campus resources or appropriate off-campus resources through the Title IX Coordinator.
  - f. Off-campus resources: Waymakers of OC, Community Service Program – Sexual Assault/Rape Crisis Hotline, Sexual Assault Victim Services (SAVS), South and North Orange County, LGBTQ Center OC, Domestic Violence Assistance Program Community Service Programs, Interval House Hotline, and Laura’s House Hotline;
  - g. The victim’s option to:
    - i. Notify proper law enforcement authorities, including on-campus and local police;
    - ii. Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
    - iii. Decline to notify such authorities;
  - h. Information about the participation of victim advocates and other supporting people;
  - i. The rights of victims and the institution’s responsibilities regarding orders of protection, no contact orders, or similar lawful orders issued by a court;
  - j. Information about how the District will protect the confidentiality of victims; and
  - k. 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.
5. A description of each of the following options:
- a. Counselors and support services for victims;
  - b. Criminal prosecution;
  - c. Civil prosecution (i.e., lawsuit);
  - d. District disciplinary procedures, both student and employee;
  - e. Availability of medication;
  - f. Modification of class schedules;

- g. Tutoring, if necessary;
  - h. Alternative dispute resolution or other accountability processes; and
  - i. Academic assistance alternatives.
- D. The Title IX Coordinator, Title IX Officer, deputy, or designee should be available to provide assistance to District law enforcement unit employees regarding how to respond appropriately to reports of sexual violence.

#### IV. INVESTIGATIONS

The District will investigate all complaints alleging sexual assault under Title IX using the procedures for sexual harassment investigations described in AR 3433 *Sexual Harassment Prevention and Complaints under Title IX*, regardless of whether a complaint is filed with local law enforcement. For other forms of sexual harassment or gender-based harassment, complainants should refer to AR 3430 *Unlawful Harassment and Discrimination Prevention and Complaints*. The District will decide the complaint based on a preponderance of the evidence standard (whether it is more likely than not that the alleged conduct occurred).

All alleged victims of domestic violence, dating violence, sexual assault, or stalking on District property shall be kept informed, through the Vice President for Student Services, the Office of Human Resources, or designee, 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 consistent with state and federal law.

#### V. NON-VALID EXCUSES

- A. In the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to allege lack of affirmative consent that the accused believed that the complainant consented to the sexual activity under either of the following circumstances:
- 1. The accused's belief in affirmative consent arose from the intoxication or recklessness of the accused; or
  - 2. The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented.
- B. In the evaluation of 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:
- 1. The complainant was asleep or unconscious;
  - 2. 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; or
  - 3. The complainant was unable to communicate due to a mental or physical condition.

## VI. CONFIDENTIALITY

The District shall maintain the identity of any alleged victim, witness, or third-party reporter of domestic violence, dating violence, sexual assault, or stalking on District property, as defined above, in confidence consistent with state and federal law, unless the alleged victim, witness, or third-party reporter specifically waives that right to confidentiality. All inquiries from reporters or other media representatives about alleged sexual assaults on District property shall be referred to the District's Public Affairs and Government Relations office, which shall work with the Vice President for Student Services or the Vice Chancellor of Human Resources or designee, to ensure that all confidentiality rights are maintained.

## VII. SEXUAL ASSAULT AND DOMESTIC VIOLENCE COUNSELORS

Sexual assault and domestic violence counselors shall be independent from the office that handles Title IX matters/complaints, and shall, at a minimum, meet the qualifications defined in Sections 1035.2 and 1037.1 of the Evidence Code, respectively.

Services provided by sexual assault and domestic violence counselors, including, but not limited to, securing alternative housing assignments and academic assistance alternatives, shall not be contingent on a victim's decision to report to the college, Office of Human Resources, or law enforcement.

A sexual assault or domestic violence counselor shall obtain specific permission from the victim before disclosing the identity of the victim, or any information that could reasonably be expected to reveal the identity of the victim, to the college or any other authority, including law enforcement, unless otherwise required to do so by applicable state or federal law.

## VIII. EDUCATION AND PREVENTION INFORMATION

The President's designee shall:

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

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

1. The warning signs of intimate partner and dating violence;
  2. Campus policies and resources relating to intimate partner and dating violence;
  3. Off-campus resources and centers relating to intimate partner and dating violence;
- and

4. A focus on prevention and bystander intervention training as it relates to intimate partner and dating violence.
- B. Post sexual violence prevention and education information on the campus internet website regarding domestic violence, dating violence, sexual assault, and stalking.

#### IX. CLERY REPORT

The Annual Security Report will include a statement regarding the District's programs to prevent domestic violence, dating violence, sexual assault, 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 District proceeding arising from such a report. The statement must include the following:

- A. 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;
- B. 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;
- C. Information on a student's right to notify appropriate law enforcement authorities, including on-campus and local police, and a statement that campus personnel will assist the student in notifying these authorities;
- D. Information about how the District will protect the confidentiality of victims;
- E. Information for students about existing on and off-campus counseling, mental health, victim advocacy, legal assistance, or other services for victims;
- F. Written notification of victim's 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;
- G. Procedures for campus disciplinary action in cases of an alleged domestic violence, dating violence, sexual assault, or stalking, including a clear statement that:
  1. Such proceedings shall provide a prompt, fair, and impartial resolution; and
  2. 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;
- H. The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding;
- I. Both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding resulting from an alleged domestic violence, dating violence, sexual assault, or stalking, the procedures for the accused and victim to appeal the results

Adopted: 08-03-06  
Revised: 09-17-15  
Revised: 04-15-21

Revised: 09-07-23

Page 6 of 7

of the disciplinary proceedings, of any changes to the results that occurs 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 (FERPA). 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; and

- J. 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.

*References:*

*Education Code Sections 67385, 67385.7, 67386*

*20 U.S. Code Section 1092(f)*

*34 Code of Federal Regulations Section 668.46(b)(11)*