

AP 3540 Sexual Assaults on Campus

Reference:

Education Code Section 67385; 20 U.S.C. § 1092(f); 34 C.F.R. § 668.46(b)(11)

Note: This procedure is required. Local practice may be inserted. The following are the minimum requirements contained in the Education Code and in the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“the Clery Act,” 20 U.S.C. § 1092(f)). The requirements of the Clery Act are broader than those found in California’s Education Code, and apply to all institutions of higher learning that receive federal aid. Districts may insert local procedures: the following example may be used as a guide.

In addition, districts may wish to include procedures on responding to sexual assaults at District sponsored activities on non-District property.

This sample procedure addresses sexual assaults only. Board Policy 3540 addresses both sexual and physical assaults. Districts may wish to cross reference the administrative procedures related to physical assaults, including AP 3500, 3510, and 3515 [*insert local numbers*].)

Any sexual assault or physical abuse, including, but not limited to, rape, as defined by California law, whether committed by an employee, student, or member of the public, occurring on District property, 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, Standards of Student Conduct.)

“Sexual assault” includes but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault.

These written procedures and protocols are designed to ensure victims of sexual assault receive treatment and information. (For physical assaults/violence, see also AP 3500, 3510, and 3515 [*insert local numbers*].)

All students, faculty members or staff members who allege they are the victims of a sexual assault on District property shall be provided with information regarding options and assistance available to them. Information shall be available from the Human Resources Office, which shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until the Human Resources Office is authorized to release such information.

The Chief Human Resources shall provide all alleged victims of sexual assault with the following, upon request:

- A copy of the District's policy and procedure regarding sexual assault;
- A list of personnel on campus who should be notified of the assault, and procedures for such notification, if the alleged victim consents;
 - IN AN EMERGENCY, notify appropriate law enforcement authorities [on-campus dial 9-911, off-campus dial 911]
 - Superintendent/President

- Vice President for Student Services
- Security Guards under the Associate Dean of Student Affairs
- Critical Incident Management Team
- The Executive Council
- A description of available services, and the persons on campus available to provide those services if requested. Services and those responsible for providing or arranging include:
 - transportation to a hospital, if necessary;
 - counseling or referral to a counseling center;
 - notice to the police, with the consent of the victim (Ask Frank Oswalt, 3/12/08)
 - 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);
 - District disciplinary procedures, both student and employee;
 - modification of class schedules;
 - tutoring, if necessary.

All alleged victims of sexual assault on District property shall be kept informed, through the Human Resources Office of any ongoing investigation. Information shall include the status of any student or employee disciplinary proceedings or appeal; alleged victims of sexual assault are required to maintain any such information in confidence, unless the alleged assailant has waived rights to confidentiality.

The District shall maintain the identity of any alleged victim or witness of sexual assault 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 sexual assaults on District property shall be referred to President's Office, which shall work with the Public Relations Office to assure that all confidentiality rights are maintained.

Additionally, 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:

- A description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and nonforcible sex offenses;
- Procedures to follow if a sex offense 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 student's option 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, if the student so requests;
- 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 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 sex offense, including a clear statement that:
 - 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. 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 nonforcible sex offenses.

Education and Prevention Information

The Human Resources Office, the Student Affairs Office, and the Nursing Education/Health Department/DSP&S shall:

- Provide, as part of each campus' 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.
- Post sexual violence prevention and education information on the campus internet website.

Revised 02/03, 02/06, 08/06

(Travis to contact Oswalt)