



## Administrative Procedure

### Chapter 3 – General Institution

#### AP 3433.1 - PROHIBITION OF SEX DISCRIMINATION UNDER TITLE IX

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The District is committed to providing an academic and work environment free of unlawful sex discrimination, including sex-based harassment under Title IX. This procedure defines sex discrimination and sex-based harassment.

This procedure and the related policy protects students, employees, applicants for admission or employment, and other individuals participating or attempting to participate in the District's education program or activity. This procedure is for any incidents which are reported after August 1, 2024.

#### Definitions

1. **Sex Discrimination:** Any discrimination based on sex, including, but not limited to, sex-based harassment. Sex discrimination includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.
2. **Sex-Based Harassment under Title IX:** A form of sex discrimination that includes sexual harassment and harassment based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, or gender identity. Sex-based harassment includes the following:
  - a. **Quid pro quo harassment:** A District employee, agent, or other person authorized by the District to provide an aid, benefit, or service under the District's education program or activity explicitly or impliedly condition the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
  - b. **Hostile environment harassment.** Unwelcome sex-based conduct that, based on a totality of the circumstances, is subjectively and objectively offensive and is so severe, or pervasive that it limited or denies a person's ability to participate in or benefit from the District's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
    - 1) The degree to which the conduct affected the Complainant's ability to access the District's education program or activity;
    - 2) The type, frequency, and duration of the conduct;
    - 3) The parties' ages, roles within the District's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
    - 4) The location of the conduct and the context in which the conduct occurred; and
    - 5) Other sex-based harassment in the District's education program or activity;

- c. Sexual assault, including the following:
- 1) **Sex Offenses.** Any sexual act<sup>i</sup> directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
  - 2) **Rape** (except Statutory Rape). The carnal knowledge of a person, without the consent of the victim, including 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<sup>ii</sup> 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.
- d. Dating violence<sup>iii</sup>. Violence against a person who is or has been in a social relationship of a romantic or intimate nature with the victim, and where the existence of a relationship will be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- e. Domestic Violence<sup>iii</sup>. Violence committed:
- 1) By a current or former spouse or intimate partner of the victim;
  - 2) By a person with whom the victim shares a child in common;
  - 3) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
  - 4) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of California; or
  - 5) By any other person against an adult or youth victim protected from that person's acts under the domestic or family violence laws of California.
- f. Stalking. Engaging in a course of conduct<sup>iv</sup> directed at a specific person that would cause a reasonable person to fear for his/her/their safety or the safety of others or suffer substantial emotional distress.

**References:**

Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e;  
Title IX Education Amendments of 1972  
Title 5 Sections 59320 et seq.;

**Approved:** 11/08/24

**Revised:**

*(This is a new Procedure)*

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<sup>i</sup> A sexual act is defined by federal regulations to include one or more of the following:

Rape:

- The carnal knowledge of a Complainant OR Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person,
- without their consent,
- including instances where they are incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.”
- Rape under CA penal code – is non-consensual sexual intercourse by means of threat, force or fraud (CA Pen.C – section 261)

Sodomy:

- Oral or anal sexual intercourse with a Complainant,
- forcibly, and/or
- against their will (non-consensually), or
- not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sexual Assault with an Object:

- The use of an object or instrument to penetrate,
- however slightly,
- the genital or anal opening of the body of the Complainant,
- forcibly, and/or
- against their will (non-consensually), or
- not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Fondling:

- The touching of the private body parts of the Complainant (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- forcibly, and/or
- against their will (non-consensually), or
- not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

<sup>ii</sup> California Penal Code defines “intimate body part” as “the sexual organ, anus, groin, or buttocks of any person, and the breast of a female;” and includes touching through the clothing of the victim. (See California Code, Penal Code, PEN § 243.4).

<sup>iii</sup> California defines “domestic violence” as an abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. In California, dating violence is included within the definition of domestic violence. California Penal Code section 13700 defines violence as abuse, which is to intentionally or recklessly cause or attempt to cause bodily injury, or place another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.

California Penal Code § 646.9(f) – the California Criminal Stalking statute defines course of conduct as- “For the purposes of this section, “course of conduct” means two or more acts occurring over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of “course of conduct.”