Redwoods Community College District

SEXUAL HARASSMENT AND SEX DISCRIMINATION: TITLE IX & THE CLERY ACT

August 16, 2018

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Areas of Expertise
Collective Bargaining
Personnel
Title IX & the Clery Act
Website Accessibility

Experience
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Prior to joining SCLS, Ms. Austin practiced special education law representing public school districts at a law firm in Southern California for over 3 ½ years, where she worked extensively on matters pending before the California Office of Administrative Hearings. She developed expertise in analyzing special education documents, including IEPs, multidisciplinary assessments, and transition plans, for legal compliance. While in law school, she interned at a human rights NGO in Thailand teaching English to refugee women and Thai schoolchildren. Her capstone project for her M.P.A. degree involved a qualitative research study which identified common barriers facing community college students in Oregon as they transferred to four-year institutions.

Education
B.A. Humboldt State University, Geography magna cum laude (2007)
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School and College Legal Services (SCLS) is a joint powers authority serving school districts, county offices of education, SELPAs, and community colleges in over fifteen counties in Northern California. Our primary focus, as a preventative law firm, is helping clients avoid future costly legal problems. We are a collaborative office, working to ensure our clients receive the most legally defensible advice in the most efficient manner possible.
Sexual Harassment and Sex Discrimination: Title IX & the Clery Act

August 16, 2018

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I. Overview of Unlawful Discrimination and Harassment

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Unlawful Discrimination

What is discrimination?

When is it unlawful discrimination?

(Attachments 1 - BP and AP 3410: Nondiscrimination; Attachments 2 - BP and AP 3430: Prohibition of Harassment; Attachment 3, AP 3435: Discrimination and Harassment Complaints and Investigations)

Cal. Education Code § 66270

“No person shall be subjected to discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any characteristic listed or defined in Section 11135 of the Government Code or any other characteristic that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.”

Unlawful Harassment

What is harassment?

When is it unlawful harassment?

(Attachments 1-3)
Cal. Education Code § 66252

(a) “All students have the right to participate fully in the educational process, free from discrimination and harassment.”

(b) “California’s postsecondary educational institutions have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity.”

Sex Discrimination

What is sex discrimination?

Sex discrimination is discrimination on the basis of sex, gender, gender identity, gender expression, or sexual orientation.

(Attachments 1-3)

Sexual Harassment

What is sexual harassment?

Sexual Harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature made by someone from, or in, the work or educational setting…”

(Attachment 3, AP 3435)
Cal. Education Code §§ 66262.5, 212.5

“Sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in … the educational setting” under a number of conditions.

**Types of Sexual Harassment**

- Quid Pro Quo
- Hostile Work/Educational Environment

**Quid Pro Quo**

- “This for that”
- Occurs when a person in a position of authority makes educational benefits conditional upon an individual’s willingness to engage in or tolerate sexual conduct.
Hostile Educational Environment

Occurs when unwelcome conduct based on a person’s gender is sufficiently severe or pervasive so as to alter the conditions of a student’s learning environment, unreasonably interferes with the student’s academic performance, or creates an intimidating, hostile, or abusive learning environment.

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Cal. Education Code § 66252(c)

“Harassment on school grounds directed at an individual on the basis of personal characteristics or status creates a hostile environment and jeopardizes equal educational opportunity as guaranteed by the California Constitution and the United States Constitution.”

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Key Elements of Sexual Harassment

- Unwelcome – Illegal harassment is based on unwelcome conduct.
- Sexual – Sexual in nature or gender-based (because of sex).
- Severe or Pervasive – Conduct must be sufficiently severe or pervasive to alter the working/academic conditions of the complainant.
**Key Elements of Sexual Harassment**

- Abusive/offensive, both objectively and subjectively:
  - **Objectively**: A reasonable person, similarly situated, would find the conduct abusive/offensive.
  - **Subjectively**: The victim actually finds the conduct abusive/offensive.

- Totality of the Circumstances

**Totality of the Circumstances**

1. Type(s) of conduct;
2. How frequently it occurred;
3. Whether the conduct was hostile and patently offensive;
4. The relationship between the victim and accused;
5. Whether others joined in perpetuating the harassment; and
6. Whether the harassment was directed at more than one individual.

**Examples of Verbal Conduct**

- Unwelcome gender-specific epithets, comments or slurs
- Explicit discussions about sexual activities
- Foul or obscene language
- Graphic comments
- Jokes or stories
- Advances or propositions
- Spreading rumors of a sexual nature
Examples of Physical Conduct

- Unwelcome touching, assault, kissing, hugging, or grabbing
- Coercing intercourse or other sexual conduct
- Sexual gestures
- Any physical interference with work or school activities when directed at an individual on the basis of sex

Examples of Visual Conduct

- Wearing clothing with offensive or vulgar language
- Displaying posters or pictures of a sexual nature
- Showing other people sexually suggestive text messages or emails
- Watching pornographic or violent videos
- Drawing violent or derogatory images

Consequences of Sexual Discrimination/Harassment

- Consequences of the discrimination/harassment to the victim

- Consequences to the harasser:
  - Subject to disciplinary action, up to and including expulsion (Attachment 3, AP 3435)
  - May be held personally liable for money damages
  - May be subject to criminal penalties
Retaliation is Illegal

• Retaliation is adverse treatment toward someone because they filed a complaint or participated in an investigation:
  • Denial of academic benefits
  • Harassment/abuse
  • Spreading false rumors about someone
  • Threats
  • Making someone’s life more difficult

• Retaliation subjects you to disciplinary action up to and including suspension/expulsion.

(Attachment 4, AP 3435)

II. Title IX of the Education Amendments of 1972

Title IX

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.”

What Is Title IX?

• Title IX of the Education Amendments of 1972
• Established to combat discrimination against women in the educational system
• Two objectives:
  • Prevent use of federal resources to support discriminatory practices in education
  • Provide individuals with protection against those practices
• Title IX protects any “person” against sex discrimination – both males and females

Title IX: Who is Protected?

• Women and men
  • Including same-sex harassment
• Students and employees
• Applicants for admission or employment
• Third parties (e.g. unions)

Title IX: What Programs are Covered?

• All College’s programs and activities
• Applies to all academic, educational, extracurricular, athletic, and other programs of the district
• Applies whether those programs take place in a college facility, in a college vehicle, at a program sponsored by the college at another location, or on a college-sponsored trip
Title IX Prohibits Sex-Based Harassment

- Sexual harassment is a prohibited form of sex discrimination.
- Two types:
  - Hostile educational environment harassment
  - Quid pro quo harassment
- Title IX prohibits sexual harassment by students, employees, and third parties (such as visiting speakers and athletes).
- Title IX prohibits same-sex sexual harassment too.

Title IX Prohibits Sexual Violence

- Sexual violence = physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to the victim’s use of drugs or alcohol or intellectual or other disability.
- A district may be notified directly or indirectly of a claim of sexual violence.
- Once a district knows or reasonably should know of possible sexual violence, it must take immediate and appropriate steps to investigate.

Title IX Prohibits Gender-Based Discrimination

- Title IX prohibits gender-based discrimination, including:
  - verbal, nonverbal, or physical aggression,
  - harassment,
  - intimidation, or
  - hostility,
  - based on sex or sex stereotyping,
  - even if not sexual in nature.
Title IX Coordinator

• Title IX Coordinator’s responsibilities:
  • Oversee district response to Title IX reports and complaints;
  • Monitor outcomes of the reports and complaints;
  • Identify and address any patterns or problems revealed by reports and complaints;
  • Be involved in drafting and revising policies and regulations for Title IX compliance;
  • Identify and proactively address issues related to sex discrimination; and
  • Promote gender equity in education.

Responsible Employees

• A “responsible employee” is any employee:
  • Who has the authority to take action to redress sexual violence;
  • Who has been given the duty of reporting incidents of sexual violence/misconduct to the Title IX Coordinator or designee; or
  • Whom a student could reasonably believe has this authority or duty.
• When a “responsible employee” knows or should have known of sexual harassment/discrimination, the district must:
  • Take immediate and appropriate steps to investigate; and
  • Take prompt and effective action to stop the harassment, remedy the effects, and prevent recurrence.

Responsible Employees

When responsible employees know or should know about possible sexual harassment, sexual discrimination or sexual violence, they must report it to the Title IX Coordinator.

When in doubt, ask!

(Attachment 3, AP 3435)
Are you a Responsible Employee?

III. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act

Who was Jeanne Clery?

- Jeanne Anne Clery was a 19 year old college student who was brutally raped and murdered in her dorm room at Lehigh University (Pennsylvania) in 1986
- The perpetrator was a fellow student who burgled her room while she slept, then murdered Jeanne when she woke up during the burglary
The Clery Act

- The Clery Act promotes campus safety by requiring institutions to inform students, employees, and the community about issues related to public safety and crime.
- Institutions that receive Title IV funds must disclose accurate and complete crime statistics on an annual basis.
- The Clery Act includes various requirements beyond crime reporting that have significant policy and practice implications for districts.

(Attachments 5, BP and AP 3515: Reporting of Crimes)

Campus Security Authorities

- Districts must collect and disclose crime reports from campus security authorities (CSAs) and local law enforcement.
- The following individuals/organizations are CSAs:
  - Campus police/security department personnel;
  - Any individual with responsibility for campus security but who is not a campus police/security officer (e.g., an employee monitoring the entrance to campus);
  - Any individual or organization specified in a policy statement as someone to whom students and employees should report crimes; and
  - A district official who has significant responsibility for student and campus activities, including student housing, student discipline, campus judicial proceedings, etc.

Are you a CSA?
IV. Reporting Complaints and Crimes

Title IX vs. Clery

Title IX
- Responsible employee
- Report instances or claims of sex discrimination –
  • Sexual violence, including sexual assault
  • Sexual harassment
  • Disparate treatment based on sex in college programs or activities
- Report to Chief Human Resources Officer

Clery
- Campus security authority
- Report instances or claims of Clery Crimes
- See Attachment 6
- Report to Public Safety Department or local law enforcement

Reporting Complaints – Title IX

- Administrators, other District employees, and students shall direct all complaints of unlawful discrimination to the Director of Human Resources. (Attachment 3, AP 3435)
- When someone brings a complaint to you, inform the person of your obligation to refer that complaint to the Director of Human Resources.
  • Include all relevant detail and information, including personally identifiable information.
  • You are not responsible for investigating a complaint.
Reporting Crimes – Clery

• District employees, students, and other members of the District community who are witnesses to or victims of a crime, or who witness suspicious activity, should report the crime or suspicious activity to the Public Safety Department or local law enforcement.
• Non-emergency crimes may also be reported to campus security authorities.
• If you or an employee you supervise are attacked, assaulted, or menaced by a student, report the attack or assault to the Public Safety Department or local law enforcement.
• Crime reports are subject to disclosure as required by law.
  (Attachments 5, BP and AP 3515)

Reporting Clery Crimes as a CSA

• Every Clery report should include 4 things:
  • Type of crime
  • Location of crime
  • When it occurred
  • When it was reported to you
• Narrative (what victim or complainant told you)
• Do NOT include victim’s name or other personally identifiable information
  *Remember, your role isn’t to investigate – it’s simply to report complaints to the proper personnel*

V. Title IX Complaint and Investigation Procedures
Title IX Complaint and Investigation Procedures: Informal

- Charges of unlawful discrimination are brought to the Director of Human Resources, who will:
  - Undertake efforts to resolve the charges informally;
  - Notify the person bringing charges of the right to file a formal complaint;
  - Notify the person bringing charges of other rights; and
  - Investigate as warranted by the charges.
- This procedure must be prompt and equitable.
- The complainant will not be required to confront or work out problems with the person accused of unlawful discrimination.

(Attachment 3, AP 3435)

Title IX Complaint and Investigation Procedures: Formal

- To file a formal complaint, the complainant must file the complaint on a specific form available from the District or State Chancellor.
- The complaint will be reviewed to see if it meets requirements. If not, it will be returned to the complainant.
- If the complaint meets requirements, it will be investigated.
- The District will determine the proper resolution, and notify the complainant of the resolution and the complainant’s right to appeal.

(Attachment 3, AP 3435)

Additional Resources

- Center for Changing our Campus Culture, http://changingourcampus.org/
- California Office of the Attorney General, Campus Sexual Assault guidance and resources, https://oag.ca.gov/campus-sexual-assault
- The Clery Center, https://clerycenter.org/
- California Community Colleges Chancellor’s Office, www.cccco.edu
Questions?

Information in this presentation, including but not limited to PowerPoint handouts and presenters’ comments, is summary only and not legal advice. We advise you consult with legal counsel to determine how this information may apply to your specific facts and circumstances.

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NONDISCRIMINATION

The District is committed to equal opportunity in educational programs, employment, and all access to institutional programs and activities.

The District, and each individual who represents the District, shall provide access to its services, classes, and programs without regard to national origin, religion, age, gender, gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, or because he/she is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.

The President/Superintendent shall establish administrative procedures that ensure all members of the college community can present complaints regarding alleged violations of this policy and have their complaints heard in accordance with the Title 5 regulations and those of other agencies that administer state and federal laws regarding nondiscrimination.

No District funds shall ever be used for membership, or for any participation involving financial payment or contribution on behalf of the District or any individual employed by or associated with it, to any private organization whose membership practices are discriminatory on the basis of national origin, religion, age, gender, gender identity, gender expression, race, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, or because he/she is perceived to have one or more of the foregoing characteristics, or because of his/her association with a person or group with one or more of these actual or perceived characteristics.

Reference:

Education Code Sections 66250 et seq., 72010 et seq., and 87100 et seq.;
Title 5 Sections 53000 et seq. and 59300 et seq.;
Penal Code Section 422.55;
Government Code Sections 12926.1 and 12940 et seq.;
ACCJC Accreditation Eligibility Requirement 20 and ACCJC Accreditation Standard Catalog Requirements (formerly Accreditation Standard II.B.2.c);
Title 2 Sections 10500 et seq.

Adopted by the Board of Trustees: May 3, 2011
Revised: May 5, 2015
NONDISCRIMINATION

1.0 Education Programs

1.1 The District shall provide access to its services, classes and programs without regard to national origin, religion, age, gender, gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, or because he or she is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.

1.2 All courses, including noncredit classes, shall be conducted without regard to the gender of the student enrolled in the classes. As defined in the Penal Code, “gender” means sex, and includes a person’s gender identity and gender expression. “Gender expression: means a person’s gender-related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth.

1.3 The District shall not prohibit any student from enrolling in any class or course on the basis of gender.

1.4 Academic staff, including but not limited to counselors, instructors and administrators shall not offer program guidance to students which differs on the basis of gender.

1.5 Insofar as practicable, the District shall offer opportunities for participation in athletics equally to male and female students.

2.0 Employment

2.1 The District shall provide equal employment opportunities to all applicants and employees regardless of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

2.2 All employment decisions, including but not limited to hiring, retention, assignment, transfer, evaluation, dismissal, compensation, and advancement for
all position classifications shall be based on job-related criteria as well as be responsive to the District’s needs.

2.3 The District shall from time to time as necessary provide professional and staff development activities and training to promote understanding of diversity.

References:
Education Code Sections 66250 et seq., 200 et seq., and 72010 et seq.;
Penal Code Sections 422.55 et seq.;
Title 5 Sections 59300 et seq.;
ACCJC Accreditation Eligibility Requirement 20 and ACCJA Accreditation Standard Catalog Requirements (formerly II.B.2.c)
Education Code Sections 87100 et seq.;
Title 5 Sections 53000 et seq.;
Government Code Sections 11135 et seq. and 12940 et seq.

Approved: May 3, 2011
Revised: May 5, 2015
REDWOODS CCD BP AND AP 3430:
PROHIBITION OF HARASSMENT
PROHIBITION OF HARASSMENT

All forms of harassment are contrary to basic standards of conduct between individuals and are prohibited by state and federal law, as well as this policy, and will not be tolerated. The District is committed to providing an academic and work environment that respects the dignity of individuals and groups. The District shall be free of sexual harassment and all forms of sexual intimidation and exploitation including acts of sexual violence. It shall also be free of other unlawful harassment, including that which is based on any of the following statuses: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation of any person, or military and veteran status, or because he/she is perceived to have one or more of the foregoing characteristics.

The District seeks to foster an environment in which all employees, students, interns, and volunteers feel free to report incidents of harassment without fear of retaliation or reprisal. Therefore, the District also strictly prohibits retaliation against any individual for filing a complaint of harassment or for participating in a harassment investigation. Such conduct is illegal and constitutes a violation of this policy. All allegations of retaliation will be swiftly and thoroughly investigated. If the District determines that retaliation has occurred, it will take all reasonable steps within its power to stop such conduct. Individuals who engage in retaliatory conduct are subject to disciplinary action, up to and including termination or expulsion.

Any student, employee, intern, or volunteer who believes that he/she has been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures described in AP 3435. Supervisors are mandated to report all incidents of harassment and retaliation that come to their attention.

This policy applies to all aspects of the academic environment, including but not limited to classroom conditions, grades, academic standing, employment opportunities, scholarships, recommendations, disciplinary actions, and participation in any community college activity. In addition, this policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities and compensation.

To this end the President/Superintendent shall ensure that the institution undertakes education and training activities to counter discrimination and to prevent, minimize and/or eliminate any hostile environment that impairs access to equal education opportunity or impacts the terms and conditions of employment.

The President/Superintendent shall establish procedures that define harassment on campus. The President/Superintendent shall further establish procedures for employees, students, interns,
volunteers, and other members of the campus community that provide for the investigation and resolution of complaints regarding harassment and discrimination, and procedures for students to resolve complaints of harassment and discrimination. All participants are protected from retaliatory acts by the District, its employees, students, and agents.

This policy and related written procedures (including the procedure for making complaints) shall be widely published and publicized to administrators, faculty, staff, students, interns, and volunteers particularly when they are new to the institution. They shall be available for students, employees, interns, and volunteers in all administrative offices.

Employees who violate the policy and procedures may be subject to disciplinary action up to and including termination. Students who violate this policy and related procedures may be subject to disciplinary measures up to and including expulsion. Interns who violate this policy and related procedures may be subject to disciplinary measure up to and including termination from the internship or other unpaid work experience program.

References:
Education Code Sections 212.5, 44100, 66252, and 66281.5; Government Code Sections 12940 and 12950.1; Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e Title 2 Sections 10500 et seq.

Adopted by the Board of Trustees: June 7, 2016
PROHIBITION OF HARASSMENT

The District is committed to providing an academic and work environment free of unlawful harassment. This procedure defines sexual harassment and other forms of harassment on campus, and sets forth a procedure for the investigation and resolution of complaints of harassment by or against any staff or faculty member or student within the District.

This procedure and the related policy protects students and employees 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, a District bus, or at a class or training program sponsored by the District at another location.

The District shall provide, as part of each campus’ established on-campus orientation program, education and prevention information about harassment. The information shall include the District’s harassment policy and prevention strategies including empowerment programming for victim prevention, awareness raising campaigns, primary prevention, bystander intervention, and risk reduction. The District shall also post harassment prevention and education information on the campus internet website.

1.0 Definitions

1.1 General Harassment: Harassment based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation of any person, military and veteran status, or the perception that a person has one or more of these characteristics is illegal and violates District policy. Harassment shall be found where, in aggregate, the incidents are sufficiently pervasive, persistent, or severe that a reasonable person with the same characteristics as the victim of the harassing conduct would be adversely affected to a degree that interferes with his or her ability to participate in or to realize the intended benefits of an institutional activity, employment, or resource.

Gender-based harassment does not necessarily involve conduct that is sexual. Any hostile or offensive conduct based on gender can constitute prohibited harassment if it meets the definition above. For example, repeated derisive comments about a person’s competency to do the job, when based on that person’s gender, could constitute gender-based harassment. Harassment comes in many forms, including but not limited to the following conduct that could, depending on the circumstances, meet
the definition above, or could contribute to a set of circumstances that meets the definition:

1.1.1 Verbal: Inappropriate or offensive remarks, slurs, jokes or innuendoes based on a person’s race gender, gender identity, sexual orientation, or other protected status. This may include, but is not limited to, inappropriate comments regarding an individual’s body, physical appearance, attire, sexual prowess, marital status or sexual orientation; unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats or intimidation; or sexist, patronizing or ridiculing statements that convey derogatory attitudes based on gender, race nationality, sexual orientation or other protected status.

1.1.2 Physical: Inappropriate or offensive touching, assault, or physical interference with free movement. This may include, but is not limited to, kissing, patting, lingering or intimate touches, grabbing, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling or sexual gestures. It also includes any physical assault or intimidation directed at an individual due to that person’s gender, race, national origin, sexual orientation or other protected status. Physical sexual harassment includes acts of sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion. Sexual violence refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to the victim’s use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability.

1.1.3 Visual or Written: The display or circulation of visual or written material that degrades an individual or group based on gender, race, nationality, sexual orientation, or other protected status. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics, or electronic media transmissions.

1.1.4 Environmental: A hostile academic or work environment may exist where it is permeated by sexual innuendo; insults or abusive comments directed at an individual or group based on gender, gender identity, race, nationality, sexual orientation or other protected status; or gratuitous comments regarding gender, gender identity, race, sexual orientation, or other protected status that are not relevant to the subject matter of the class or activities on the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements in the classroom or work environment. It can also be created by an unwarranted focus on, or stereotyping of, particular racial or ethnic groups, sexual orientations, genders or other protected statuses. An environment may also be hostile toward anyone who merely witnesses unlawful harassment in his/her immediate surroundings, although the conduct is directed at others. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is
humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's learning or work.

1.2 Sexual Harassment: In addition to the above, sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature made by someone from, or in, the work or educational setting when:

1.2.1 Submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment, academic status, or progress;

1.2.2 Submission to, or rejection of, the conduct by the individual is used as a basis of employment or academic decisions affecting the individual;

1.2.3 The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile or offensive work or educational environment (as more fully described below); or

1.2.4 Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the community college.

This definition encompasses two kinds of sexual harassment:

"Quid pro quo" sexual harassment occurs when a person in a position of authority makes educational or employment benefits conditional upon an individual's willingness to engage in or tolerate unwanted sexual conduct.

"Hostile environment" sexual harassment occurs when unwelcome conduct based on a person’s gender is sufficiently severe or pervasive so as to alter the conditions of an individual's learning or work environment, unreasonably interfere with an individual's academic or work performance, or create an intimidating, hostile, or abusive learning or work environment. The victim must subjectively perceive the environment as hostile, and the harassment must be such that a reasonable person of the same gender would perceive the environment as hostile. A single or isolated incident of sexual harassment may be sufficient to create a hostile environment if it is severe, i.e. a sexual assault.

Sexually harassing conduct can occur between people of the same or different genders. The standard for determining whether conduct constitutes sexual harassment is whether a reasonable person of the same gender as the victim would perceive the conduct as harassment based on sex.

1.3 Consensual Relationships: Romantic or sexual relationships between supervisors and employees, or between administrators, faculty, or staff members and students are
discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. A conflict of interest may arise if the administrator, faculty or staff member must evaluate the student’s or employee’s work or make decisions affecting the employee or student. The relationship may create an appearance of impropriety and lead to charges of favoritism by other students or employees. A consensual sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing. In the event that such relationships do occur, the District has the authority to transfer any involved employee to eliminate or attenuate the supervisory authority of one over the other, or of a teacher over a student. Such action by the District is a proactive and preventive measure to avoid possible charges of harassment and does not constitute discipline against any affected employee.

1.4 Academic Freedom: No provision of this Administrative Procedure shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums. Freedom of speech and academic freedom are, however, not limitless and this procedure will not protect speech or expressive conduct that violates federal or California anti-discrimination laws.

References:
Education Code Sections 212.5; 44100; 66281.5;
Title IX, Education Amendments of 1972;
Title 5 Sections 59320 et seq.;
Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e

Approved: February 1985
Revised: April 7, 2015
REDWOODS CCD AP 3435:
PROCEDURES FOR COMPLAINTS OF UNLAWFUL DISCRIMINATION

ATTACHMENT 3
DISCRIMINATION AND HARASSMENT
COMPLAINTS AND INVESTIGATIONS

Introduction and Scope

These are the written procedures for filing and processing complaints of unlawful discrimination at the Redwoods Community College District. These policies and procedures incorporate the legal principles contained in nondiscrimination provisions of the California Code of Regulations, title 5, sections 59300 et seq. as well as other state and federal substantive and procedural requirements.

A copy of these written policies on unlawful discrimination will be displayed in a prominent location in the main administrative building and available on the Redwoods Community College District website along with the other Board Policies and Procedures of the District.

Unlawful Discrimination Policy

The policy of the Redwoods Community College District is to provide an educational and employment environment in which no person shall be unlawfully denied full and equal access to, the benefits of, or be unlawfully subjected to discrimination, in whole or in part, on the basis of ethnic group identification, national origin, religion, age, sex or gender, race, color, ancestry, sexual orientation, or physical or mental disability, genetic information, or on the basis of these perceived characteristics or based on association with a person or group with one or more of these actual or perceived characteristics, in any program or activity that is administered by, funded directly by, or that receives any financial assistance from the State Chancellor or Board of Governors of the California Community Colleges.

The policy of the Redwoods Community College District is to provide an educational and employment environment free from unwelcome sexual advances, requests for sexual favors, sexual favoritism, or verbal or physical conduct or communications constituting unlawful sexual harassment.

The policy of Redwoods Community College District is to comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973 in the development, procurement, maintenance, or use of electronic or information technology and respond to and resolve unlawful discrimination complaints regarding accessibility. Such complaints will be treated as complaints of discrimination on the basis of disability.
Employees or persons acting on behalf of the District who engage in unlawful discrimination or harassment as defined in this policy or by state or federal law may be subject to discipline, up to and including discharge or termination of contract. Employees shall only be subject to discipline after an impartial and fair investigation by the District into the matter pursuant to this Policy, and determination by the District that the employee(s) engaged in unlawful discrimination or harassment.

Students of the District who engage in unlawful discrimination or harassment as defined in this policy or by state or federal law may be subject to discipline, up to and including expulsion.


**Retaliation**

It is unlawful for anyone to retaliate against someone who files an unlawful discrimination complaint, who refers a matter for investigation or complaint, who participates in an investigation of a complaint, who represents or serves as an advocate for an alleged victim or alleged offender, or who otherwise furthers the principles of this unlawful discrimination policy.

**Responsible District Officer**

The Redwoods Community College District has identified the Chief Human Resources Officer (CHRO) to the State Chancellor’s Office and to the public as the single District officer responsible for receiving all unlawful discrimination complaints filed pursuant to title 5, section 59328, and for coordinating their investigation. Informal charges of unlawful discrimination should be brought to the attention of the responsible district officer, who shall oversee the informal resolution process pursuant to section 59327. The actual investigation of complaints may be assigned to other staff or to outside persons or organizations under contract with the District, not involved with or related to the matter being investigated, and otherwise without any conflict of interest, to independently and impartially conduct the investigation.

Such delegation procedures will be used whenever the officer designated to receive complaints is named in the complaint or is implicated by the allegations in the complaint.

Administrators, faculty members, other District employees, and students shall direct all complaints of unlawful discrimination to the responsible District officer.

**Informal/ Formal Complaint Procedure**

When a person brings charges of unlawful discrimination to the attention of the District’s responsible officer, that officer will:
1. Undertake efforts to informally resolve the charges;
2. Advise the complainant that he or she need not participate in informal resolution;
3. Notify the person bringing the charges of his or her right to file a formal complaint and explain the procedure for doing so;
4. Advise the complainant that he or she may file a nonemployment-based complaint with the Office for Civil Rights of the U.S. Department of Education (OCR) where such a complaint is within that agency’s jurisdiction;
5. If the complaint is employment-related, the complainant should also be advised that he or she may file a complaint with the U.S. Equal Employment Opportunity Commission (EEOC) and/or the California Department of Fair Employment and Housing (DFEH) where such a complaint is within that agency’s jurisdiction; and
6. Advise the respondent of the nature and the facts of the complaint. If the Respondent is a member of an employee organization, advise the respondent of his or her right to union representation at any meeting or interview which may lead to discipline.

Efforts at informal resolution need not include any investigation unless the responsible District officer determines that an investigation is warranted by the seriousness of the charges. Selecting an informal resolution does not extend the time limitations for filing a formal complaint. Efforts at informal resolution may continue after the filing of a formal written complaint, but after a complaint is filed an investigation is required to be conducted pursuant to title 5, section 59334, and will be completed unless the matter is informally resolved and the complainant dismisses the complaint. Any efforts at informal resolution after the filing of a written complaint will not exceed the 90-day period for rendering the administrative determination pursuant to title 5, section 59336.

In employment-related cases, if the complainant also files with the Department of Fair Employment and Housing or with the U.S. Equal Employment Opportunity Commission, a copy of that filing will be sent to the State Chancellor’s Office requesting a determination of whether a further investigation under title 5 is required. Unless the State Chancellor’s Office determines that a separate investigation is required, the District will discontinue its investigation under title 5 and the matter will be resolved through the Department of Fair Employment and Housing or the U.S. Equal Employment Opportunity Commission.

The District will allow for representation for the complainant, respondent and others where required by law, and shall notify the complainant and respondent of their rights to representation.

**Filing of Formal Written Complaint**

If a complainant decides to file a formal written unlawful discrimination complaint against the District, he or she must file the complaint on a form prescribed by the State Chancellor. A copy of this approved form is attached to this policy, elsewhere available from the District, and also at the State Chancellor’s website, as follows:


The completed form must be filed with the District representative or mailed directly to the State Chancellor’s Office of the California Community Colleges.

If a complaint of unlawful discrimination is presented in another written format, such as a letter, a
district may request that the complainant complete the form. If there is a delay in obtaining a completed form, or the complainant refuses to transfer the information or otherwise complete the form but wishes to pursue the formal complaint process, a district may attach the letter to the form and open a formal investigation. While a complaint filed in an improper form is still procedurally defective under title 5 standards, the merits of the complaint itself may still be valid and must be addressed.

Once a complaint is filed, the respondent(s) accused of engaging in prohibited discriminatory conduct should be advised of that filing and provided a copy of the complaint. This will occur as soon as possible, and at least seven (7) days prior to any interview or meeting with the respondent(s) by the District or outside persons or organizations conducting the investigation. The District shall also advise the respondent that an assessment of the accuracy of the allegations has not yet been made, that the complaint will be investigated, that he or she will be provided an opportunity to present his/her side of the matter, and that any conduct that could be viewed as retaliatory against the complainant or any witnesses must be avoided. The District shall inform the respondent of his or her right to representation in the matter.

The complainant and respondent shall each have the right to timely review any investigatory report created by the District or outside persons or organizations under contract with the District to independently and impartially conduct the investigation.

**Threshold Requirements Prior to Investigation of a Formal Written Complaint**

When a formal written complaint is filed it will be reviewed to determine if the complaint meets the following requirements:

- The complaint should be filed on a form prescribed by the State Chancellor's Office.
- If the complaint is not filed on this form, every effort should be made to have the complaint filed on this form and to obtain complainant’s signature. However, where a complainant has indicated that he or she wishes to pursue the formal complaint process, a complaint should not be rejected solely based on the failure to file the complaint on this form.
- The complaint must allege unlawful discrimination prohibited under title 5, section 59300.
- The complaint must be filed by one who alleges that he or she has personally suffered unlawful discrimination or by one who has learned of such unlawful discrimination in his or her official capacity as a faculty member or administration.
- In any complaint not involving employment, the complaint must be filed within one year of the date of the alleged unlawful discrimination or harassment or within one year of the date on which the complainant knew or should have known of the facts underlying the specific incident or incidents of the alleged unlawful discrimination.
- In any complaint alleging discrimination in employment, the complaint shall be filed within 180 days of the date the alleged unlawful discrimination occurred, except that this period will be extended by no more than 90 days following the expiration of that 180 days if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of 180 days.
**Defective Complaint**

If a complaint is found to be defective it will be immediately returned to the complainant with a complete explanation of why an investigation will not be initiated under California Code of Regulations, title 5, section 59300 et seq. The notice will inform the complainant that the complaint does not meet the requirements of section 59328, and shall specify in what requirement the complaint is defective. A copy of the notice to the complainant will also be sent to the State Chancellor's Office.

**Notice to State Chancellor**

A copy of all formal complaints filed in accordance with the title 5 regulations will be forwarded to the State Chancellor's Office immediately upon receipt, regardless of whether the complaint is brought by a student or by an employee. Similarly, when the State Chancellor's Office receives a complaint a copy will be forwarded to the District.

**Administrative Determination**

In any case not involving employment discrimination, within 90 days of receiving an unlawful discrimination complaint filed under title 5, sections 59300 et seq., the responsible District officer will complete the investigation and forward a copy of the investigative report to the State Chancellor, a copy of the report to the complainant and respondent, and written notice setting forth all the following to the complainant, respondent and the State Chancellor:

- the determination of the chief executive officer or his/her designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;
- a description of actions taken, if any, to prevent similar problems from occurring in the future;
- the proposed resolution of the complaint; and
- the complainant's right to appeal to the District governing board and the State Chancellor.

In any case involving employment discrimination, within 90 days of receiving an unlawful discrimination complaint filed under title 5, sections 59300, et seq., the responsible District officer will complete the investigation and forward a copy of the report to the complainant and respondent, and written notice setting forth all the following to the complainant and respondent:

- the determination of the chief executive officer or his/her designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;
- a description of actions taken, if any, to prevent similar problems from occurring in the future;
- the proposed resolution of the complaint; and
- the complainant's right to appeal to the District governing board and to file a complaint with the Department of Fair Employment and Housing.

In cases which did result in a determination that unlawful discrimination occurred, the District shall keep these documents on file for a period of at least three years after closing the case, and make them available to the State Chancellor upon request.
If it is determined that discrimination did occur, possible remedies to prevent similar problems from occurring in the future include all the standard District disciplinary actions for students and employees, ranging from undocumented reprimand to termination or expulsion. If formal disciplinary action is inappropriate, other possible remedies include training in the pertinent area(s) of unlawful discrimination, apology, and restricting or forbidding contact between the perpetrator and victim.

In cases which did not result in a determination that unlawful discrimination occurred, the District shall keep these documents on file for a period of three years after closing the case, and make them available to the State Chancellor upon request.

In all cases, the responsible District officer shall store the documents in a Complaint Investigation file, separate from the employee’s personnel file. In cases which did not result in a determination that unlawful discrimination occurred, the District shall not use these documents or its investigation as a basis for any adverse action, or future adverse action against the respondent or any other District employee.

The Redwoods Community College District recognizes the importance of and is therefore committed to completing investigations and resolving complaints as quickly as possible, consistent with the requirements for a thorough investigation.

**Complainant’s Appeal Rights**

Complainants have appeal rights that they may exercise if they are not satisfied with the results of the District’s administrative determination. At the time the administrative determination and summary is mailed to the complainant and respondent, the responsible District officer or his/her designee shall notify the complainant of his or her appeal rights as follows:

- **First level of appeal:** The complainant has the right to file an appeal to the District’s governing board within 15 days from the date of the administrative determination. The District’s governing board will review the original complaint, the investigative report, the administrative determination, and the appeal.
- **The District’s governing board will issue a final District decision in the matter within 45 days after receiving the appeal. Alternatively, the District’s governing board may elect to take no action within 45 days, in which case the original decision in the administrative determination will be deemed to be affirmed and shall become the final District decision in the matter. A copy of the final decision rendered by the District’s governing board will be forwarded to the complainant and to the State Chancellor's Office.**
- **Second level of appeal:** The complainant has the right to file an appeal with the California Community College Chancellor’s Office in any case not involving employment-related discrimination within 30 days from the date that the governing board issues the final District decision or permits the administrative determination to become final by taking no action within 45 days. The appeal must be accompanied by a copy of the decision of the governing board or evidence showing the date on which the complainant filed an appeal with the governing board, and a statement under penalty of perjury that no response was received from the governing board within 45 days from that date. In any case involving employment discrimination, the complainant has the right to file a complaint with the
Department of Fair Employment and Housing (DFEH) where the case is within the jurisdiction of that agency.

Complainants must submit all appeals in writing.

**Provision of Information to State Chancellor**

In any case not involving employment discrimination, within 150 days of receiving a complaint, the responsible District officer will either:

Forward the following to the State Chancellor:

- A copy of the final District decision rendered by the governing board or a statement indicating the date on which the administrative determination became final as a result of taking no action on the appeal within 45 days.
- A copy of the notice of appeal rights the District sent the complainant.
- Any other information the State Chancellor may require; or

Notify the State Chancellor that the complainant has not filed an appeal with the district governing board and that the District has closed its file.

The District will keep these documents on file for a period of at least three years after closing the case, and in any case involving employment discrimination, make them available to the State Chancellor upon request.

**Extensions**

If for reasons beyond its control, the District is unable to comply with the 90-day or 150-day deadlines specified above for submission of materials to the complainant and the State Chancellor's Office, the responsible District officer will file a written request that the State Chancellor grant an extension of the deadline. Where an extension is deemed necessary by the District, it must be requested from the State Chancellor regardless of whether or not the case involves employment discrimination. The request will be submitted no later than 10 days prior to the expiration of the deadlines established by title 5 in sections 59336 and/or 59340 and will set forth the reasons for the request and the date by which the District expects to be able to submit the required materials.

A copy of the request for an extension will be sent to the complainant, who will be advised that he or she may file written objections with the State Chancellor within 5 days of receipt.
The State Chancellor may grant the request unless delay would be prejudicial to the investigation. If an extension of the 90-day deadline is granted by the State Chancellor the 150-day deadline is automatically extended by an equal amount.

**Definitions**

Definitions applicable to nondiscrimination policies are as follows:

"Appeal" means a request by a complainant made in writing to the Redwoods Community College District governing board pursuant to title 5, section 59338, and/or to the State Chancellor’s Office pursuant to title 5, section 59339, to review the administrative determination of the District regarding a complaint of discrimination.

"Association with a person or group with these actual or perceived characteristics" includes advocacy for or identification with people who have one or more characteristics of a protected category listed under "Unlawful Discrimination Policy" and title 5, section 59300, participation in a group associated with persons having such characteristics, or use of a facility associated with use by such persons.

"Complaint" means a written and signed statement meeting the requirements of title 5, section 59328 that alleges unlawful discrimination in violation of the nondiscrimination regulations adopted by the Board of Governors of the California Community Colleges, as set forth at title 5, sections 59300 et seq.

"Days" means calendar days.

“Genetic information” means, with respect to any individual, information about any of the following: (1) The individual's genetic tests; (2) The genetic tests of family members of the individual; (3) The manifestation of a disease or disorder in family members of the individual. “Genetic information” includes any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services, by an individual or any family member of the individual.

"Mental disability" includes, but is not limited to, all of the following:

1. Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:
   a. "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
   b. A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.
   c. "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.
2. Any other mental or psychological disorder or condition not described in paragraph (1) that requires specialized supportive services.
3. Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the District.
4. Being regarded or treated by the District as having, or having had, any mental condition that makes achievement of a major life activity difficult.
5. Being regarded or treated by the District as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).
"Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.7

"Physical disability" includes, but is not limited to, all of the following:
1. Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:
   a. Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.
   b. Limits a major life activity. For purposes of this section:
      i. "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
      ii. A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.
      iii. "Major life activities" shall be broadly construed and include physical, mental, and social activities and working.
2. Any other health impairment not described in paragraph (1) that requires specialized supportive services.
3. Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the District.
4. Being regarded or treated by the District as having, or having had, any physical condition that makes achievement of a major life activity difficult.
5. Being regarded or treated by the District as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).
6. "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.8

“District” means the Redwoods Community College District or any District program or activity that is funded directly by the state or receives financial assistance from the State. This includes the District Personnel Commission and any other organization associated with the District or its college(s) that receives state funding or financial assistance through the District.
“Responsible District Officer” means the officer identified by the District to the State Chancellor's Office as the person responsible for receiving complaints filed pursuant to title 5, section 59328, and coordinating their investigation.

“Sex” includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth. “Sex” also includes, but is not limited to, a person's gender. “Gender” means sex, and includes a person's gender identity and gender expression. “Gender expression” means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

“Sexual harassment” is unlawful discrimination in the form of unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the workplace or in the educational setting, and includes but is not limited to:

1. Making unsolicited written, verbal, physical, and/or visual contacts with sexual overtones. (Examples of possible sexual harassment that appear in a written form include, but are not limited to: suggestive or obscene letters, notes, invitations. Examples of possible visual sexual harassment include, but are not limited to: leering, gestures, display of sexually aggressive objects or pictures, cartoons, or posters.)

2. Continuing to express sexual interest after being informed that the interest is unwelcomed.
3. Making reprisals, threats of reprisal, or implied threats of reprisal following a rebuff of harassing behavior. The following are examples of conduct in an academic environment that might be found to be sexual harassment: threatening to withhold, or actually withholding, grades earned or deserved; suggesting a poor performance evaluation will be prepared; or suggesting a scholarship recommendation or college application will be denied.
4. Engaging in explicit or implicit coercive sexual behavior within the work environment which is used to control, influence, or affect the employee’s career, salary, and/or work environment.
5. Engaging in explicit or implicit coercive sexual behavior within the educational environment that is used to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student.
6. Offering favors or educational or employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.
7. Awarding educational or employment benefits, such as grades or duties or shifts, recommendations, reclassifications, etc., to any student or employee with whom the decision-maker has a sexual relationship and denying such benefits to other students or employees.

"Sexual orientation" means heterosexuality, homosexuality, or bisexuality. “Unlawful discrimination” means discrimination based on a category protected under title 5, section 59300, including retaliation and sexual harassment.
Confidentiality of the Process

Investigative processes can best be conducted within a confidential climate. Therefore, the District does not reveal information about such matters except as necessary to fulfill its legal obligations.

Potential complainants are sometimes reluctant to pursue a complaint if their names will be revealed. The inability to reveal the name of a complainant or facts that are likely to reveal the identity of the complainant can severely limit the ability of the District to respond. Complainants must also recognize that persons who are accused of wrongdoing have a right to present their side of the matter, and this right may be jeopardized if the District is prohibited from revealing the name of the complainant or facts that are likely to disclose the identity of the complainant.

If a complainant insists that his or her name not be revealed, the responsible officer should take all reasonable steps to investigate and respond to the complaint consistent with the complainant’s request as long as doing so does not jeopardize the rights of other students or employees. If the respondent could not adequately respond to the complaint without that information, the District shall not take disciplinary action against the respondent.

It is also important that complainants and witnesses understand the possibility that they may be charged with allegations of defamation if they circulate the charges outside of the District’s processes. In general, persons who are participating in a District investigative or disciplinary process that is related to a charge of discrimination are protected from tort claims such as defamation. However, persons who make allegations outside of these processes or who discuss their claims with persons outside of the process may expose themselves to tort charges.

Where an investigation reveals the need for disciplinary action, the complainant may wish to have information about what disciplinary actions the District took. However, the privacy rights of the persons involved often prevent the District from providing such information. In student disciplinary actions for sexual assault/physical abuse charges, Education Code section 76234 provides that the victim shall be informed of the disciplinary action, but that the victim must keep the information confidential. Disciplinary actions taken against employees are generally considered confidential.

Notice, Training, and Education for Students and Employees

Faculty members, members of the administrative staff, and members of the support staff will be provided with a copy of the District’s written policy on unlawful discrimination at the beginning of the first quarter or semester of the college year after the policy is adopted.

District employees and students will periodically be offered training in these policies, including an explanation of the policy, how it works, and how to file a complaint. Because of their special responsibilities under the law, supervisors will undergo mandatory training within six months of assuming a supervisory position and annually thereafter.

A copy of the District’s written policy on unlawful discrimination, as it pertains to students, will be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable.
Academic Freedom

The Redwoods Community College District Governing Board reaffirms its commitment to academic freedom, but recognizes that academic freedom, nor BP 4030, allows any form of unlawful discrimination. It is recognized that an essential function of education is a probing of opinions and an exploration of ideas that may cause some students discomfort. It is further recognized that academic freedom insures the faculty’s right to teach and the student’s right to learn. Finally, nothing in these policies and procedures shall be interpreted to prohibit bona fide academic requirements for a specific community college program, course or activity.

Adopted by Board of Trustees: 6/83
Previously Updated: 7/86, 3/87, 11/91, 12/91, 2/03
Amended: June, 2016
REDWOODS CCD BP 3540: SEXUAL ASSAULT AND SEXUAL MISCONDUCT AND AP 3540: SEXUAL AND OTHER ASSAULTS ON CAMPUS
SEXUAL ASSAULT AND SEXUAL MISCONDUCT

The Redwoods Community College District is committed to maintaining an educational community where all individuals who participate in District programs and activities can work and learn together in an atmosphere free of unlawful gender discrimination, including sexual misconduct in any of its forms.

Unlawful gender discrimination, including sexual misconduct, whether committed by an employee, student or member of the public that occurs on District property or in connection with a District program or activity, is a violation of District policies and procedures. The District will respond promptly and effectively to reports of unlawful gender discrimination including sexual misconduct. A person who engages in such conduct is subject to all applicable punishment within the jurisdiction of the District, including employee or student discipline procedures. Employees may be disciplined up to and including termination from District employment and students may be disciplined up to and including expulsion from the District. Such conduct may also lead to civil and/or criminal prosecution.

Students and employees who may be victims of gender discrimination, including sexual misconduct, shall be treated with dignity and provided support and assistance.

The President/Superintendent shall establish administrative procedures that ensure that students and employees who are victims of sexual misconduct receive appropriate information and assistance. The administrative procedures shall ensure that educational information about preventing sexual misconduct is provided and publicized as required by law. The goal of such procedures shall include the elimination of barriers for victims to report sexual misconduct.

The procedures shall address sexual misconduct, including sexual assault, domestic violence, dating violence, and stalking as those terms are described herein and in federal and state law, and the procedures shall meet the criteria contained in Education Code Sections 67385, 67385.7, and 67386, and 34 Code of Federal Regulations Section 668.46.

The procedures shall be reviewed on a regular basis to ensure that they appropriately address the goals of the District regarding sexual misconduct issues.

References:
Education Code Sections 67382, 67385, and 67386;
Title 20 U.S. Code Section 1092(f);
Title 34 Code of Federal Regulations Section 668.46(b)(11)

Adopted by the Board of Trustees: February 3, 2015
SEXUAL AND OTHER ASSAULTS ON CAMPUS

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 AP 5500 Standards of Student Conduct.)

The District will investigate all complaints alleging sexual assault under the procedures for sexual harassment investigations described in AP 3435, regardless of whether a complaint is filed with local law enforcement.

1.0 Title IX Coordinator

Title IX of the Education Amendments of 1972 prohibits gender discrimination, including sexual violence. The District’s Title IX Coordinator is its Director of Human Resources, who is responsible for managing the District’s Title IX compliance program, including coordinating the investigation of allegations of gender discrimination and addressing problems revealed by such allegations or investigations.

Allegations of gender discrimination or sexual misconduct may be filed with the District’s Title IX Coordinator. The Title IX Coordinator can be contacted by telephone at (707) 476-4140, or by mail at:

Attn: Director of Human Resources/Title IX Coordinator
Office of Human Resources
College of the Redwoods
7351 Tompkins Hill Rd
Eureka, CA 95501-9300

Student allegations of gender discrimination may also be filed with:

The U.S. Department of Education, Office for Civil Rights (OCR), www2.ed.gov/ocr, or
The Chancellor of the California Community Colleges, www.cccco.edu
Employee allegations of gender discrimination may also be filed with the Equal Employment Opportunities Commission (www.eeoc.gov) or with the California Department of Fair Employment and Housing (www.dfeh.ca.gov).

The Director of Human Resources is also the District officer responsible for receiving discrimination complaints filed pursuant to Title 5 of the California Code of Regulations, sections 59300 et seq.

2.0 Educational Programs to Promote the Awareness of Sexual Misconduct, Including Dating Violence, Domestic Violence, Sexual Assaults and Stalking

The Title IX Coordinator shall:

2.1 Provide, as part of each campus’ established on-campus orientation program, education and prevention information about domestic violence, dating violence, sexual assault, and stalking. The information 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.

2.2 Post sexual violence prevention and education information on the campus internet website regarding domestic violence, dating violence, sexual assault and stalking.

Reference: 34 CFR 668.46(a), 34 CFR 668.46(b)(11)(i), 34 CFR 668.46(j); Education Code section 67386.7(a)(2)

3.0 Information Regarding Crimes of Sexual Assault

All alleged victims of domestic violence, dating violence, sexual assault, or stalking on District property shall be kept informed, through the Office of Human Resources, 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.

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 shall include the following:
3.1 A description of educational programs to promote the awareness of rape, acquaintance rape, other forcible and non-forcible sex offenses, domestic violence, dating violence, or stalking;

3.2 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;

3.3 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, if the student so requests;

3.4 Information for students about existing on- and off-campus counseling, mental health, or other student services for victims of sex offenses;

3.5 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;

3.6 Procedures for campus disciplinary action in cases of an alleged domestic violence, dating violence, sex offense, or stalking including a clear statement that:

3.6.1 The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and

3.6.2 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.

3.7 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.

Reference: 34 CFR 668.46(b)(11)(ii)

4.0 Confidentiality

In an effort to encourage access to support services after an unwanted sexual experience, 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, in
confidence 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 domestic violence, dating violence, sexual assaults, or stalking on District property shall be referred to the District’s Office of the President, which shall work with the Office of Human Resources to assure that all confidentiality rights are maintained.

Reference: 34 CFR 668.46(b)(11)(iii); Education Code section 67386(b)(1)

5.0 Crisis Resources

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 Office of Human Resources, which shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until the Title IX Coordinator is authorized to release such information.

Reference: 34 CFR 668.46(b)(11)(iv) and Education Code 67386(c)

6.0 Victim Assistance

If reasonably available, the District may change a victim’s academic, learning, or employment situation in response to sexual misconduct.

Reference: 34 CFR 668.46(b)(11)(v)

7.0 Disciplinary Options

7.1 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 egregious, including but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic honesty.

In the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent that the accused believed that the complainant consented to the sexual activity under either of the following circumstances:

7.1.1 The accused’s belief in affirmative consent arose from the intoxication or recklessness of the accused.

7.1.2 The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented.
7.2 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:

7.2.1 The complainant was asleep or unconscious.

7.2.2 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.

7.2.3 The complainant was unable to communicate due to a mental or physical condition.

The standard used to determine whether the elements of a complaint against an accused have been demonstrated is the preponderance of the evidence.

Reference: 34 CFR 668.46(b)(11)(vi)

8.0 Rights and Options for Victims

The Title IX Coordinator shall provide all alleged victims of domestic violence, dating violence, sexual assault or stalking with the following:

8.1 A copy of the District's policy and procedure regarding domestic violence, dating violence, sexual assault or stalking;

8.2 A list of personnel on campus who should be notified and procedures for such notification, if the alleged victim consents, including but not limited to:

8.2.1 The Title IX Coordinator or designee,

8.2.2 Personnel designated as confidential employees in the Office of Human Resources,

8.2.3 The President/Superintendent or personnel designated as confidential employees in the Office of the President,

8.2.4 Security personnel,

8.2.5 District-designated medical providers, and

8.2.6 The Vice President of Instruction & Student Development;
8.3 Information about the importance of preserving evidence and the identification and location of witnesses;

8.4 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:

8.4.1 Transportation to a hospital, if necessary; (Security Office)

8.4.2 Referral to a counseling center; (Office of Human Resources)

8.4.3 Notice to the police, if desired; (Security Office)

8.4.4 A list of other available campus resources or appropriate off-campus resources. (Office of Human Resources)

8.5 A description of each of the following procedures:

8.5.1 Criminal prosecution;

8.5.2 Civil prosecution (i.e., lawsuit);

8.5.3 District disciplinary procedures, both student and employee;

8.5.4 Modification of class schedules; and

8.5.5 Tutoring, if necessary.

The Title IX Coordinator or designee may provide assistance to District personnel regarding how to respond appropriately to reports of sexual violence.

Reference: 34 CFR 668.46(b)(11)(vii), 34 CFR 668.46(b)(v)

9.0 Affirmative Consent

Consent is an affirmative, unambiguous, conscious and voluntary decision by each participant to engage in mutually agreed-upon sexual activity. Consent is voluntary. It must be given without coercion, force, threats, or intimidation. Consent means positive cooperation in the act or expression of intent to engage in the act pursuant to an exercise of free will. Consent is revocable. Consent to some form of sexual activity does not imply consent to other forms of sexual activity. Consent to sexual activity on one occasion is not consent to engage in sexual activity on another occasion. A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be mutual consent to engage in sexual activity. Consent must be ongoing throughout a sexual encounter and can be revoked at any time. Once consent is withdrawn, the sexual activity must stop immediately. Consent cannot be given when a
person is incapacitated. A person cannot consent if he or she is unconscious or coming in and out of consciousness. A person cannot consent if he or she is under the threat of violence, bodily injury or other forms of coercion. A person cannot consent if his/her understanding of the act is affected by a physical or mental impairment.

In the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent by a complainant that the accused believed that the complainant consented to sexual activity under either of the following circumstances: (1) the accused’s belief in affirmative consent arose from the intoxication or recklessness of the complainant or (2) the accused did not take reasonable steps, in the circumstances known to the accused at the time of the alleged incident, to ascertain whether the complainant affirmatively consented.

Similarly, it shall not be a valid excuse that the accused believed the complainant affirmatively consented to sexual activity if the accused knew or should have known that the complainant could not give affirmative consent because the complainant was (1) asleep or unconscious, (2) was incapacitated due to the influence or drugs, alcohol, or medication or that the complainant could not understand the fact, nature, or extent of the sexual activity, or (3) was unable to communicate due to a mental or physical condition.

Reference: Education Code section 67386

10.0 Definitions

10.1 Dating violence: violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

Reference: 34 CFR 668.46(a)

10.2 Domestic violence: a felony or misdemeanor crime of violence committed by a spouse or former spouse or intimate or domestic partner, cohabitant or former cohabitant of the victim, or someone with whom the accused shares a child, has an existing dating or engagement relationship, or has had a former dating or engagement relationship, or abuse perpetrated against any persons described in Family Code, section 6211.

Reference: 34 CFR 668.46(a); Family Code, section 6211

10.3 Sexual assault: sexual activity without the consent of the other person or when the other person is unable to consent to the activity. The activity may include physical force, violence, threats, intimidation, ignoring the objections of the other person, causing the other person’s intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person’s incapacitation (including voluntary intoxication). Sexual assault includes, but is not limited to fondling, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, incest, statutory rape, or threat of sexual assault. Sexual assault includes any of the crimes set
forth in Penal Code sections 261, 261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286, 288, 288a, 288.5, 289, or 311.4.

Reference: 34 CFR 668.46(a); Education Code section 67385(d); Labor Code section 230.1

10.4 Sexual misconduct: Sexual misconduct includes discrimination based on gender, sexual harassment, dating violence, domestic violence, sexual assault, stalking, sexual violence, sexual coercion, and hate crimes based on gender.

10.5 Stalking: a course of conduct in which a person repeatedly engages in actions directed at a specific person that places that person in reasonable fear of his or her safety or the safety of others or causes substantial emotional distress. A course of conduct means two or more acts, including, but not limited to acts in which the stalker directly, indirectly, or through third parties by any method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about a victim, or interferes with the property of the victim. Stalking includes the conduct described in Penal Code, section 646.9.

Reference: 34 CFR 668.46(a); Penal Code section 646.9

References:
Education Code Sections 67382, 67385, and 67386;
20 U.S. Code Section 1092(f);
34 Code of Federal Regulations Section 668.46(b)(11)

Approved: April 7, 2015
REDWOODS CCD BP AND AP 3515: REPORTING OF CRIMES
REPORTING OF CRIMES

The President/Superintendent shall ensure that, as required by law, reports are prepared of all occurrences reported to the Public Safety Department of, and arrests for, crimes committed on campus that involve violence, hate violence, theft or destruction of property, illegal drugs, or alcohol intoxication. The President/Superintendent shall further ensure that required reports of non-criminal acts of hate violence are prepared. Such reports shall be made available as required by law.

It is the policy of the District to encourage the reporting of crimes and suspicious activity to the Public Safety Department or local law enforcement. Campus security/police reports and investigations are subject to disclosure as required by law. Victims of and witnesses to a crime may make a confidential report.

The President/Superintendent shall ensure that an annual security report is prepared that meets all of the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

The President/Superintendent shall ensure that District Employees are notified of their responsibilities and that relevant training is available to them.

Reference: Education Code section 67380; Penal Code section 841.5; Government Code section 6254(f); Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act

Approved by the Board of Trustees: February 3, 2015
REPORTING OF CRIMES

1.0 Introduction

District employees and students, and other members of the District community such as volunteers or campus visitors, who are witnesses to or victims of a crime or who witness suspicious activity should immediately report the crime or suspicious activity to the Public Safety Department or local law enforcement. In case of an emergency, call 9-1-1. A person may report any criminal activity or other emergency or suspicious activity to the Public Safety Department at any time by dialing extension 4111 from any campus courtesy or office phone, or by dialing (707) 476-4111 from any pay phone or off-campus phone, or through the RAVE Guardian mobile app. A person may also visit the Public Safety office on the Eureka Campus on the lower level of the Redwoods Business Complex-A (Old Administration Building). Confidential reports of crime can be made to the Public Safety Department by calling the tip line at (707) 476-4555 or emailing CRTip@redwoods.edu. For purposes of crime reports to law enforcement, the Humboldt County Sheriff’s Office has primary jurisdiction over the College of the Redwoods Eureka Campus and the Klamath-Trinity Instructional Site. The Eureka Police Department has primary jurisdiction over the Eureka Downtown Campus. The Del Norte County Sheriff’s Department has jurisdiction over the Del Norte Campus. The Fort Bragg Police Department has primary jurisdiction over the Mendocino Coast Campus. Except as specifically noted, nothing in this procedure requires a victim to report a crime if he or she declines to do so. Nothing in this procedure prevents reporting of a crime by another person when the victim is unable to report the crime.

In the event an employee is assaulted, attacked or menaced by a student, in addition to reporting the action as described above, the employee shall notify his/her supervisor as soon as practical after the incident. The supervisor of any employee who is attacked, assaulted or menaced shall assist the employee to promptly report the attack or assault to the Public Safety Department or local law enforcement. The supervisor himself/herself shall make the report if the employee is unable or unwilling to do so. Reporting a complaint to local law enforcement will not relieve the District of its obligation to investigate all complaints of harassment.

The Public Safety Department will notify students and employees complaining of sexual violence of their right to file a sex discrimination complaint with the District or other agencies with jurisdiction over unlawful discrimination (such as the United States Department of Education Office for Civil Rights, the United States Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, and the Chancellor’s Office of the California Community Colleges) in addition to filing a criminal complaint. The
Public Safety Department shall also report incidents of sexual violence, domestic violence, dating violence, sexual assault, or stalking to local law enforcement or the agency having jurisdiction for where the crime occurred if the complainant consents or is unable to report the incident. The Public Safety Department and campus security authorities (discussed below) shall assist victims of alleged crimes of sexual violence, domestic violence, dating violence, sexual assault, or stalking in notifying law enforcement authorities of a crime if the victim so chooses.

2.0 Annual Security Report

The District shall annually collect and distribute crime statistics to comply with the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act. The District shall publish an Annual Security Report every year by October 1 that contains statistics regarding crimes committed on each campus and at affiliated locations for the previous three years. The Annual Security Report shall also include policies pertaining to campus security, alcohol and drug use, crime prevention, the reporting of crimes, sexual assault, victims’ assistance program, student discipline, campus resources and other matters. The District shall make the report available to all current students and employees. Each year, an email notification is made to all enrolled students, faculty, and staff that provides the website link to access the Annual Security Report. The Annual Security Report can be located on the District’s website at www.redwoods.edu/safety. A hardcopy of the report is available from the Public Safety Department upon request. A partial version of this report is located in the College catalog. The District will provide prospective students with a copy of the Annual Security Report upon request. Prospective employees may obtain a copy from Human Resources in SS 207 or by calling (707) 476-4140, and the website address will be included in all District employment applications. The District will submit these crime statistics to the U.S. Department of Education as required.

Campus crime, arrest and referral statistics include those reported to the Public Safety Department, designated campus officials (as identified below) and local law enforcement agencies. California law requires prompt, mandatory reporting to the local law enforcement agency by health care practitioners (such as those at Student Health Center) when they provide medical services to a person they know or reasonably suspect is suffering from wounds inflicted by a firearm or resulting from assaultive or abusive conduct. Counseling Center staff will inform their clients of the procedures to report crime to the Public Safety Department on a voluntary or confidential basis, should they feel it is in the best interest of the client. A procedure is in place to anonymously capture crime statistics disclosed confidentially during such a session. All college staff with significant responsibility for student and campus activities, including the campus safety authorities listed below, shall report crimes about which they receive information to the Public Safety Department.

The Annual Security Report shall include statistics concerning the occurrence of the following offenses, which may also be the subject of timely warnings (see Board Policy 3506):

- Criminal homicide – murder and non-negligent manslaughter;
- Criminal homicide – negligent manslaughter;
- Sex offenses – forcible and non-forcible sex offenses;
• Domestic violence, dating violence and stalking incidents that were reported to campus security authorities or local law enforcement;
• Robbery;
• Aggravated assault;
• Burglary;
• Motor vehicle theft;
• Arson;
• Arrests or persons referred for campus disciplinary action for liquor law violations, drug law violations, and illegal weapons possession; and
• The crimes listed above or larceny-theft, simple assault, intimidation, destruction/damage/vandalism of property, or any other crime involving bodily injury, that manifest evidence that the victim was intentionally selected because of the victim’s actual or perceived race, gender, religion, national origin, sexual orientation, gender identity, ethnicity, or disability (this data shall be reported according to category of prejudice).

The District shall annually review and update the list of offenses which should be included in the Annual Security Report.

3.0 To Report a Crime

In case of an emergency, call 9-1-1. A person may report any criminal activity or other emergency or suspicious activity to the Public Safety Department at any time by dialing extension 4111 from any campus courtesy or office phone, or by dialing (707) 476-4111 from any pay phone or off-campus phone, or through the RAVE Guardian mobile app. A person may also visit the Public Safety office on the Eureka Campus on the lower level of the Redwoods Business Complex-A (Old Administration Building). For non-emergencies, contact the Public Safety Department by phone at (707) 476-4112 or in person at the Public Safety Department office at 7351 Tompkins Hill Road, Eureka. Confidential reports of crime can be made to the Public Safety Department by calling the tip line at (707) 476-4555 or emailing CRTip@redwoods.edu. For purposes of crime reports to law enforcement, the Humboldt County Sheriff’s Office has primary jurisdiction over the College of the Redwoods Eureka Campus and the Klamath-Trinity Instructional Site. The Eureka Police Department has primary jurisdiction over the Eureka Downtown Campus. The Del Norte County Sheriff’s Department has jurisdiction over the Del Norte Campus. The Fort Bragg Police Department has primary jurisdiction over the Mendocino Coast Campus.

Any suspicious activity or person seen in the parking lots, loitering around vehicles, inside buildings or around the residential halls should be reported to the Public Safety Department or local law enforcement. In addition you may report a non-emergency crime to the following positions that are identified as campus security authorities:

• Campus Safety:
  o Director of Public Safety, (707) 476-4331
  o Any Public Safety Officer, (707) 476-4112
• Associated Students of College of the Redwoods Advisor, (707) 476-4540

• Athletic Department:
  o Dean of Athletics, Room PE 100I, (707) 476-4242
  o Any Athletics staff member

• College of the Redwoods Deans/Directors:
  o Dean, Career Technical Education (CTE), (707) 476-4341
  o Dean, Athletics, Physical Education, Health Occupations, Addiction Studies, Child Development Center, Early Childhood Education, Administration of Justice, (707) 476-4242
  o Dean, Mathematics, Sciences, Behavioral & Social Sciences, (707) 476-4211
  o Dean, Arts & Humanities, (707) 476-4559
  o Director, Del Norte Campus, (707) 465-2310
  o Director, Emergency Response Training Center (includes AJ), (707) 476-4331
  o Director, Health Occupations (Nursing, Dental), (707) 476-4236
  o Director of Human Resources, (707) 476-4144
  o Director of Residential Life, (707) 476-4398

• Vice President of Instruction and Student Development, (707) 476-4109

These campus security authorities will report the crime to the Public Safety Department. Off-campus crimes may be reported to local law enforcement. The Public Safety Department and the Humboldt County Sheriff (HCSO), the Del Norte County Sheriff (DNSO), the Mendocino County Sheriff’s Office (MCSO), the Eureka Police Department (EPD), Crescent City Police Department (CCPD) and the Fort Bragg Police Department (FBPD) cooperate during any mutual investigations, arrest, and prosecutions or disciplinary proceedings. Public Safety Department personnel attend regular meetings with local law enforcement agencies to exchange ideas and discuss any issues of concern for the District.

If a Part 1 violent crime, sexual assault, or hate crime, committed on-campus or in any noncampus building or property as defined in 34 CFR 668.46, is reported to a campus security authority by the victim for purposes of notifying the District or law enforcement, the incident shall be reported to the local law enforcement agency immediately. Such report to local law enforcement will not identify the victim unless the victim consents to being identified after being informed of his or her right to have personally identifying information withheld. Part 1 violent crime means willful homicide, forcible rape, robbery, or aggravated assault, as defined in the Uniform Crime Reporting Handbook of the Federal Bureau of Investigation.

In response to a crime report, the Public Safety Department will take appropriate action, e.g., dispatching a staff member or asking the victim or witness to visit the Public Safety Department to file an incident report. All Public Safety Department incident reports are forwarded to the Director of Public Safety for review and potential action by the Vice President of Instruction and Student Development, the Director of Human Resources, or other appropriate department. Public Safety Department investigators will investigate a report when it is deemed appropriate. Additional information obtained through the investigation will be forwarded to the Vice
President of Instruction and Student Development or other appropriate department. If assistance by local law enforcement is indicated by the nature of the circumstances, the Public Safety Department will contact the appropriate agency. If a sex offense, domestic violence, dating violence, sexual assault or stalking is alleged, Public Safety Department staff will offer the victim a wide variety of services and provide information regarding services and other important information in writing. Some available resources include:

**RAPE CRISIS**
- Humboldt County Rape Crisis Center 707-445-2881
- Del Norte Rape Crisis Center (707) 465-2851
- Mendocino County Rape Crisis Center 707-462-9196

**DOMESTIC VIOLENCE SHELTER**
- Humboldt County 707-443-6042
- Del Norte County 707-465-3013
- Mendocino County 707-961-1507

The District encourages the prompt reporting of crimes and suspicious activity to the Public Safety Department or local law enforcement. Campus security/police reports and investigations are subject to disclosure as required by law, so the Public Safety Department and local law enforcement agencies cannot hold crime reports in confidence. However, if the victim of a crime does not want to pursue action within the District system or the criminal justice system, the victim may still want to consider making a confidential report to a campus security authority identified above (rather than the Public Safety Department or local law enforcement). With the victim’s permission, the campus security authorities identified above can file a report on the details of the incident without revealing the victim’s identity. The purpose of a confidential report is to comply with the victim’s wish to keep the matter confidential, while taking steps to ensure the future safety of the victim and others. With such information, the District can keep an accurate record of the number of incidents involving students, determine where there is a pattern of crime with regard to a particular location, method, or assailant, and alert the campus community to potential danger. Reports filed in this manner are counted and disclosed in the annual crimes statistics for the institution. In addition, confidential reports of crime can be made to the Public Safety Department by calling the tip line at (707) 476-4555 or emailing CRTip@redwoods.edu.

Each year, the Director of Public Safety or designee will notify campus security authorities of their obligations. The Director of Public Safety or designee will provide necessary training for campus security authorities and will review crime reports submitted by campus security authorities.

Campus “Professional Counselors,” when acting as such, are not considered to be a campus security officers and are not required to report crimes for inclusion into the annual disclosure of crime statistics. As a matter of policy, they are encouraged, if and when they deem it appropriate, to inform persons being counseled of the procedures to report crimes on a voluntary basis for inclusion into the annual crime statistics. A “Professional Counselor” for purposes of this process is an employee of the District whose official responsibilities include providing
psychological counseling to District employees and students and who is functioning within the scope of his or her license or certification.

4.0 Crime Log

The Public Safety Department maintains a daily crime log to record all criminal incidents and alleged criminal incidents that are reported to the Public Safety Department. In the crime log, the Public Safety Department records reported crimes that occurred on campus, on public property within the campus or immediately adjacent to and accessible from the campus, or in or on non-campus buildings or property that the District owns or controls, as well as reports of crimes that occurred within the patrol jurisdiction of the Public Safety Department. The crime log includes: the date the crime was reported; the date and time the crime occurred; the nature of the crime; the general location of the crime; and the disposition of the complaint, if known. All entries, additions to entries, or changes in the disposition of a complaint will be recorded within two business days of the information being reported to the Public Safety Department, except in specific limited circumstances provided by law (e.g., the confidentiality of a victim’s identity). The crime log is available upon request at the Public Safety Department office during business hours.

5.0 Final Results of Disciplinary Proceedings

Upon request, the District may disclose the final results of a disciplinary proceeding to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense, regardless of the outcome. If the alleged victim is deceased as a result of such crime or offense, the District may disclose the final results of the disciplinary proceeding to the victim’s next of kin. The District shall disclose the final results of a disciplinary proceeding to a victim of an alleged incident of domestic violence, dating violence, sexual assault, or stalking. The District may also disclose to anyone, the final results of a disciplinary proceeding in which it concludes that a student violated District policy with respect to a crime of violence or non-forcible sex offense. The offenses that apply to this permissible disclosure are:

- Arson;
- Assault offenses;
- Burglary;
- Criminal homicide – manslaughter by negligence;
- Criminal homicide – murder and non-negligent manslaughter;
- Destruction, damage, or vandalism of property;
- Kidnapping or abduction;
- Robbery; and
- Forcible sex offenses.

The disclosure may only include the final result of the disciplinary proceeding with respect to the alleged criminal offense, and shall include only the name of the student, the violation committed, and any sanction imposed by the District on that student. The District shall not disclose the name of any other student, including a victim or witness, without his or her written consent.

Approved: January 13, 2015
The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), a consumer protection law passed in 1990, requires all colleges and universities who receive federal funding to share information about crime on campus and their efforts to improve campus safety. Additionally, the law requires institutions to inform the public of crime in or around campus. This information is made publicly accessible through the institution’s annual security report. Colleges and universities must outline specific policies and procedures within their annual security reports, including those related to disseminating timely warnings and emergency notifications, options for survivors of sexual assault, domestic violence, dating violence, and stalking, and campus crime reporting processes.

Crime statistics shared within the annual security report reflect the number of Clery defined crimes reported to have occurred within Clery defined geographic categories of an institution.

Often these statistics can be misinterpreted or misunderstood by the media and those not affiliated with higher education. Further, there are many individuals and organizations doing tremendous work collecting statistics on prevalence rates of violent crime, in particular, gender based violence, which is helpful in gaining a clearer understanding of what is happening on our campuses and what needs to be put in place to address and prevent these crimes. However, as this research is also evolving, it is impossible to capture all of the nuances of the laws that guide this work in one survey. It is our hope that this document serves to capture some of these missing links and provides a more comprehensive look at what the numbers all mean.

This document attempts to break down barriers and correct some myths about what Clery statistics do and do not capture and represent.

The first step in understanding Clery statistics is identifying what crimes must be recorded. This sidebar lists all crimes institutions must capture under the Clery Act.

Clery crimes are counted by an institution if they were reported to individuals known as “campus security authorities” and occurred within geographic locations in or around the campus defined specifically by the Clery Act. These areas are known as Clery geographic locations or simply, “Clery Geography.”

**CLERY CRIMES**

- Murder/Non-Negligent Manslaughter
- Negligent Manslaughter
- Sex Offenses (Rape, Fondling, Incest, Statutory Rape)
- Robbery
- Aggravated Assault
- Burglary
- Motor Vehicle Theft
- Arson
- Hate Crimes (Any of the crimes listed above plus Simple Assault, Larceny-Theft, Intimidation or Damage/Destruction/Vandalism of Property motivated by bias in one of the bias categories)
- Liquor Law Violations
- Drug Law Violations
- Weapons Law Violations
- Dating Violence
- Domestic Violence
- Stalking

**WHO IS A CAMPUS SECURITY AUTHORITY?**

- A campus police department or a campus security department of an institution.
- Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department.
- Any individual or organization specified in an institution’s statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.
- An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings. An official is defined as any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution.

**EXAMPLES:**

- A dean of students who oversees student housing, a student center or student extracurricular activities
- A director of athletics, a team coach or a faculty advisor to a student group
- A student resident advisor or assistant or a student who monitors access to dormitories
- A coordinator of Greek affairs
**ON CAMPUS**

Defined by the Clery Act (U.S. Department of Education, Office of Postsecondary Education, 2011, p. 12):

- Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and
- Any building or property that is within or reasonably contiguous to paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

**NONCAMPUS**

Defined by the Clery Act (U.S. Department of Education, Office of Postsecondary Education, 2011, p. 25):

- Any building or property owned or controlled by a student organization that is officially recognized by the institution; or
- Any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

**PUBLIC PROPERTY**


- Public property immediately adjacent to, within, or surrounding one's on campus geography.

In plain language: An institution's core, main campus.

In plain language: Noncampus properties are those that are not contiguous to the core campus but are used by students for the educational purposes of the institution. Noncampus does not mean "off campus"; it refers to specific properties owned or controlled by the campus or by a student organization officially recognized by the campus. Noncampus does not automatically refer to all surrounding neighborhoods of a college campus, nor does it include all properties that students happen to rent.

In plain language – The public property that immediately borders and is accessible from the campus. (For many institutions, this is the public sidewalk that borders the campus, the public street, and the public sidewalk on the other side of the street.) It also includes public property within the core campus.
Statistics compiled for the annual security report and shared with the Department of Education DO INCLUDE those reported to the "campus security authorities" described above, such as campus police or security, a coach, an advisor to a student group, or a dean of students.

These statistics DO INCLUDE incidents documented by resident assistants of students violating campus policies that are also violations of laws captured under Clery.

These statistics DO INCLUDE all reports to campus security authorities of Clery crimes that occurred within Clery geography, regardless of whether the individual reporting was a member of the campus community.

These statistics DO INCLUDE all reports to campus security authorities of Clery crimes that occurred within Clery geography, regardless of whether the person chose to move forward with the criminal justice or campus disciplinary process.

These statistics DO NOT always represent incidents shared with confidential resources on campus such as a counseling center. Pastoral and professional counselors are exempt from Clery reporting, although many institutions have procedures encouraging pastoral and professional counselors, if and when they deem it appropriate, to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis.

These statistics DO NOT include incidents that were not reported to the institution.

These statistics DO NOT reflect incidents reported that occurred in areas that are not Clery geography (such as at an off campus party at a location not owned or controlled by the institution, an incident that occurs at a local bar or club, or an incident that occurs in the hometown of a student).

**THE THINGS TO CONSIDER:**

- There are specific rights and options afforded under the Clery Act (and Title IX, a civil rights law that prohibits sex discrimination in educational programs or activities) to campus victims of sexual assault, domestic violence, dating violence, and stalking, so there are often other campus responsibilities that come into play when a report is made, even if the incident doesn’t fall within Clery’s statistical reporting requirements.

- The Clery Act is the only federal law in place that requires reporting on crime statistics at institutions of higher education; there is no requirement under Title IX to maintain statistics on these numbers of reports.

- The statistics captured by the Clery Act are necessary and useful as they provide a snapshot of what IS occurring within the properties that an institution owns/controls, which are the locations where an institution has the most authority to conduct responsible and effective prevention and response efforts.
UNDERREPORTING

- Clery statistics capture reports of campus crime, but too often crimes go unreported and therefore are not captured in Clery statistics.
- A recent study conducted by the Association of American Universities (2015) shows that when it comes to crimes of sexual assault or sexual misconduct:

  28% or less of even the most serious incidents are reported to an organization or agency

  50% or more of victims of these serious incidents say they do not report the event because they do not consider it “serious enough”

- Further, a survey conducted by the Bureau of Justice Statistics (2016) in conjunction with RTI International for the U.S. Department of Education evaluated self-report responses from over 23,000 students at 9 schools during the spring semester of the 2014-2015 academic year. Out of the 60 completed rapes that students stated they reported to campus authorities, 40 rapes were accounted for within the Clery statistics for the institutions surveyed. As the Clery Center did not conduct the survey, the organization cannot provide sufficient context for the gap in numbers reported by students to campus authorities (40) versus the numbers accounted for by institutions within their statistics (60). It is possible that some students believed that confidential sources, such as counselors, were campus authorities to whom they could formally report crimes; however, the Clery Center is not in a position to conclude that to be true, since it did not administer the survey. Regardless, these numbers demonstrate that those that are coming forward to campus authorities are having their reports documented within Clery statistics; however, an area of concern is that only 60 out of 2,380 named completed rapes in this survey were reported to campus authorities by students (p.110).
- In the AAU survey, 63.3% of students surveyed believed if they did report something of this nature they would be taken seriously by campus officials (Association of American Universities, 2015, p.22).

This research shows a need for continual education on where and how to make a report and concerted efforts towards fostering a climate of reporting.

SUGGESTIONS TO COMBAT UNDERREPORTING:

- RE-EXAMINE your messaging around what constitutes a reportable crime or incident on your campus and how a student or employee might report that information. Who are you leaving out of that instruction? Who are you focusing on and how?
- HIGHLIGHT your annual security report in as many forums as possible: don’t let it collect dust in your Public Safety office desk. Hand it out during open houses, orientations, commencement and convocation addresses, athletic events, Greek life recruitment fairs. This document contains all the information you need to share---let it work for you.
- REMIND students regularly, through your website, emails, and social media posts, how to report crimes and to whom. Repeated exposure to this message and embedding to violence prevention within your campus culture attention WILL elicit change.
The act of data collection under the Clery Act provides the only mechanism for counting and classifying reported Clery crimes. While there are limitations, it is currently the only requirement that helps institutions gauge crimes impacting their campus community and consider what crimes are NOT being reported.

This knowledge informs institutions about what they need to do differently to continue to educate on what violence looks like on campuses today, what type of prevention programming they are utilizing, as well as frequency and effectiveness, and how to report a crime if and when someone wants to.

FOR MORE INFORMATION ON CLIMATE SURVEYS

Because crime is currently underreported, many institutions are looking to climate surveys to help them understand what's not being reported and why. For more information on climate surveys, please see http://www.bjs.gov/content/pub/pdf/ccsvsftr.pdf and http://changingourcampus.org/resources/research.

REFERENCES


