

LOS ANGELES COMMUNITY COLLEGE DISTRICT

Procedures for Prohibited Discrimination, Unlawful Harassment, and Sexual Misconduct Complaints

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The term "Advocate" refers to someone trained by a Title IX Coordinator to assist a Reporting Party and/or Alleged Victim or a Respondent generally in a Sexual Misconduct case, with the exception of Advocates for Students, below. An Advocate's assistance can include providing moral support as well as information regarding procedural issues, throughout the pendency of an investigation, through the last internal Appeal. Each location (College and ESC) must have a minimum of two Advocates at all times, and preferably will have at least four. The Advocate is independent from College and District influences, and maintains the Confidentiality of anyone he or she aids. In Sexual Misconduct matters, the services of the Advocate are available to both parties through the time of a final internal Appeal.

This position encompasses the former "Advocate for Students" position. All Advocates shall be available to assist student parties to a non-Sexual Misconduct Complaint from the initiation of the matter through the final written Decision.

The term "Alleged Victim" refers to a person who may have been the object of a violation of this policy.

The term "Appeal" refers to a request by a Reporting Individual and/or an Alleged Victim, made in writing to the Los Angeles Community College District Board of Trustees 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.

The term "BO T a S t k a m quest b .

to allegations of Sexual Misconduct, as defined above, within the constraints of the Title IX procedures outlined herein.

The BIT may choose to meet its Sexual Misconduct responsibilities through the services of a Sexual Misconduct Awareness and Response Team ("SMART") created by the BIT, or in some other way. The responsibilities are the same as those of the Title IX procedures outlined herein.

The term "Intimate Partner" refers to a person with whom one has or had a close personal relationship that may be characterized by some or all of the following: the partners' emotional connectedness, regular contact, ongoing physical

emotional or mental illness, or specific learning disabilities, which limits a major life activity. For purposes of this section:

“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. A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.

“Major life activities” shall be broadly construed and shall include physical, mental, and social activities and working.

Any other mental or psychological disorder or condition not described in paragraph (U) (1) that requires specialized supportive services.

Having a record or history of a mental or psychological disorder or condition described in paragraph (U) (1) or (2), which is known to the District.

excluded from this definition.

Any adverse action against an individual for filing a discrimination charge, for testifying, or for participating in any way in an investigation, proceeding, or lawsuit under these laws, or for opposing employment practices that they reasonably believe to be discriminatory is retaliation and thus unlawful harassment which violates these regulations.

The term "Sexual Harassment" means unlawful discrimination in the form of unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a physical nature, made by someone from or in the workplace or the educational setting, and is a form of Sexual Misconduct, defined below. Sexual Harassment includes, but is not limited to:

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

Continuing to express sexual interest after being informed that the interest is unwelcome.

Making reprisals, threats of reprisal, or implied threats of reprisal following a rebuff of harassing behavior. For example, implying or actually withholding grades earned or deserved, preparing a poor performance evaluation, or suggesting a scholarship recommendation or college application will be denied.

salary, and/or work environment.

Engaging in explicit or implicit coercive sexual behavior within the work environment which is used to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student.

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.

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.

The term "Sexual Misconduct" refers to non-consensual sexual activity, where affirmative, clear, knowing, and voluntary Consent, as defined herein, both prior to and during the sexual activity is absent. Sexual Misconduct includes "Sexual Harassment" as that term is defined herein. Sexual Misconduct is prohibited between individuals within the LACCD community or in LACCD programs or activities. The absence or existence of any preexisting relationship between the parties involved is not determinative of whether Sexual Misconduct has occurred. Each reported allegation of Sexual Misconduct within the District will be evaluated consistent with the standards set forth below and herein.

With any object
By a person upon another person
That is without affirmative Consent and/or by force
Sexual penetration includes vaginal, oral or anal penetration by a penis, tongue, finger or object, or oral copulation by mouth or genital contact, or genital to mouth contact.
Non-Consensual Sexual Intercourse includes but is not limited to rape, forced sodomy, forced copulation, or rape by foreign object.

Sexual Misconduct offenses also include Non-Consensual Sexual Contact, defined as

Any intentional sexual touching
However slight
With any object
By another person upon another person
That is without affirmative Consent and/or by force.
Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth or other bodily orifice of another individual, or any other bodily contract in a sexual manner.
Non-Consensual Sexual Intercourse includes but is not limited to sexual battery or threat of sexual assault.

In addition to those acts specified above, Sexual Misconduct as defined under Board Rule XV also specifically includes the prohibited acts of Sexual Assault, Stalking, Dating Violence, and Domestic Violence, as defined herein.

The term "Sexual Misconduct Awareness and Response Team" or "SMART" refers to a group or team at each College and at the ESC which is organized by and operating within the auspices of the site's Behavioral

- b. Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work or academic performance.
- c. Retaliation, as defined herein, is a form of Unlawful Harassment.
- d. Unlawful Harassment can occur in a variety of circumstances, including, but not limited to, the following:
 - i. The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, a faculty member or administrator with the ability to impact the grades or academic record of a student victim, or a non- employee;
 - ii. The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct; or
 - iii. Unlawful Harassment may occur without economic or educational injury to, or the discharge or dismissal of, the victim.
- e. "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 the educational setting, as defined above.

The individuals mentioned in this section have responsibilities related to Prohibited Discrimination, Unlawful Harassment, Sexual Misconduct, and/or Title IX.

Intake responsibilities: The Director of ODEI, is

Misconduct from the time the Director of ODEI assigns them to a Compliance Officer through their conclusion, including but not limited to Complaint evaluation, intake processing, record-keeping oversight, screening for patterns, and otherwise implementing Title IX of the Education Amendments of 1972.

Training: The Title IX Coordinator is responsible for organizing training opportunities for the College Title IX Coordinators. The Title IX Coordinator shall also be responsible for training the Title IX Advocates; which responsibility may be delegated to the College Title IX Coordinators.

Responsible for Implementation:

In addition to other responsibilities as may be designated, the Title IX Coordinator shall be responsible for the implementation of the District's Sexual Misconduct policy, including reporting requirements relating to Title IX Sexual Misconduct matters. The Title IX Coordinator shall also be responsible for organizing training opportunities for administrators and other employees regarding Title IX Sexual Misconduct issues.

Responsibilities for developing Title IX policies and procedures at the District and for the Colleges, and preparing them for publication shall be with the Title IX Coordinator, with the advice and concurrence of the Director of ODEI.

Responsibility for having Memoranda of Understanding between each College and the District, on the one hand, and a nearby rape crisis center.

Responsibility for reviewing contractual arrangements between the Los Angeles Community College District and the Los Angeles County Sheriff's Department (which handles college and ESC security) to incorporate criteria otherwise included in Memoranda of Understanding for coordination of

Title IX information and responsibilities.

Responsibilities related to the Clery Act: The Title IX Coordinator shall be responsible for ensuring that every matter reported to him/her is also reported to the college or ESC Sheriff's Office for purposes of ensuring current, accurate Clery Act reports at each location. Such responsibility may be delegated to the College Title IX Coordinators.

1. College Title IX Coordinators
2. Assignment and Reporting Lines: College Title IX Coordinators are appointed to their position by the College President and report to the College President.
3. Training: The District Title IX Coordinator shall advise the College Title IX Coordinators of training opportunities and shall provide them with current information regarding Title IX updates, as well as providing on-going advice and counsel to each College Title IX Coordinator.
4. Role: The College Title IX Coordinator is the face of Title IX for that College. He or she is responsible for ensuring that Title IX information is disseminated across the campus, that Title IX training provided by the District is made available to campus personnel, and that Title IX and Sexual Misconduct programming occurs at the college.
5. With regard to Complaints, the College Title IX Coordinator may be responsible for the initial intake of the Complaint and for the first meeting with the victim and/or the Complainant. He or she is responsible for assessing the need for and implementing any academic or other accommodations necessitated by the reported Sexual Misconduct. The College Title IX Coordinator has no investigative responsibilities; he or she must ensure that the Complaint is reported to the District Title IX Coordinator and/or the Director of ODEI, as well as sharing relevant information with the College Sheriffs' Department.
6. He or she may identify the College Title IX Advocates and ensure that the College maintains a full roster of Advocates.

intermittent, but critical when needed.

Sexual Misconduct Cases. In Sexual Misconduct matters,

allegation of Sexual Misconduct, including a complaint of Sexual Assault, Dating or Domestic Violence, or Stalking, the employee should immediately report the incident if the employee receiving the report is a "Responsible Employee" as defined herein. In addition, all employees, regardless of whether they are deemed "Responsible Employees" should do the following upon receipt of a report:

Ask the Reporting Individual and/or Alleged Victim whether she/he needs medical attention and, if necessary, refer her/him for follow-up emergency care, including emergency psychological intervention if warranted;

Ensure a written resource guide is provided to the Reporting Individual and/or Alleged Victim, which includes the list of college and community resources from which she/he can receive further assistance and describes the rights and options an Alleged Victim has to have their complaint addressed by law enforcement, the District or both entities. The written resource guide for the Alleged Victim shall include all information set forth below in Section IX(1), "Sexual Misconduct Complaint Response" as well as information on the following:

Importance of preserving physical evidence related to the incident in case it is requested during any future investigation by law enforcement, the District, or another entity.

Location and identification of witnesses.

Information on the impact of alcohol and drug use during in the incident, including the potential impact of such substances on a person's capacity to affirmatively consent to sexual activity.

Information on how interviews will be conducted with the Parties, including the Alleged Victim, by the District if an investigation is conducted into the report.

Steps the District will take to preserve confidentiality to the extent possible, including how the District will evaluate any request by the Alleged Victim for confidentiality of their identity or that no investigation be conducted.

signature.

A Complaint may be filed by someone who alleges that he or she has personally suffered Prohibited Discrimination, Unlawful Harassment and/or Sexual Misconduct, or by one who has learned of potential Prohibited Discrimination, Unlawful Harassment and/or Sexual Misconduct in his or her official capacity as a faculty member or administrator.

A written Complaint may, but is not required to be, filed on the form prescribed by the State Chancellor. Each Compliance Officer and the Director of ODEI will provide a copy of the blank form upon request by any person.

If the Compliance Officer or the Director of ODEI receives a Complaint that does not comply with the provisions of this section, the Compliance Officer or the Director of ODEI shall immediately notify the Complainant of the reason that the Complaint is deemed defective and cannot be processed.

Alternative Filing: The Reporting Individual and/or Alleged victim may also submit his or her written Complaint directly to the State Chancellor's Office of the California C t r Q

A Sexual Misconduct (Title IX) Complaint must be filed within 180 Days of the date of the alleged discrimination, unless the time for filing is extended for good cause by OCR (the Enforcement Office Director, Office for Civil Rights, U.S. Department of Education). Prior to filing a Complaint with OCR against an institution, a potential Reporting Individual and/or Alleged Victim may want to use the College's or District's process to have the Complaint resolved (though this is not required). If a Reporting Individual and/or Alleged Victim uses the

Advocacy Response Team (HART). The SMART shall be designated by the name of the location as well as the SMART designation, e.g., Pierce SMART, Harbor SMART, City SMART or ESC SMART.

Resource List: The College Title IX Coordinator, a member of the SMART, (or at the ESC the Title IX Coordinator) shall maintain a current list of community agencies from which individuals can receive further assistance. These referrals shall include but not be limited to: the counseling department, faculty advisors, women's reentry centers, health centers, campus law enforcement, the ASO office, the Employee Assistance program, employee representative, the union, rape trauma centers, medical facilities, rape counseling centers, and women's centers. These are resources to which sexual assault Reporting Individuals and/or Alleged Victims, as well as Respondents and Alleged Offenders may be referred for assistance. This list shall be provided to all sexual assault misconduct parties along with information regarding their rights, Complaints, and procedures.

The College Title IX Coordinator, a member of the SMART, (or at the ESC the Title IX Coordinator) shall be identified as the college (or ESC) point of contact for matters relating to Sexual Misconduct reporting, prevention, and response.

At least one member of the Sexual Misconduct Awareness and Response Team should be designated as a First Responder. If this is not the College Title IX Coordinator, the First Responder must report all incidents to the Title IX Coordinator as soon as possible. Ideally, the First Responder is the first official contact with a person alleging to have been sexually assaulted. First Responders will ensure that Alleged Victims of Sexual Misconduct are informed of the college, District, and community resources available to assist them, including campus law enforcement (see below). First Responders should be qualified and trained to respond to people who may be in crisis, having just experienced a traumatic event. Students may serve on the College Sexual Misconduct Awareness and Response Team but should not be designated as First Responders unless they are also

employed by the college and are otherwise qualified.

Alleged Victims of Sexual Misconduct in the District (at a College or in the ESC) have an option to notify either a First Responder from the Sexual Misconduct Awareness and Response Team or District security/college law enforcement (at all locations this is the Sheriffs' Department) of the incident. If a sexual assault is first reported to an employee who is not a First Responder, a Title IX Coordinator, or college law enforcement, that employee is a Responsible Employee as defined herein and is obligated to report what he/she has been told to a Title IX Coordinator. The Responsible Employee may also provide the Alleged Victim with the option of reporting to a Title IX Coordinator or to College law enforcement.

Student Respondents

When a Respondent/Alleged Offender is a student, consistent with the Student Discipline Procedures set out in Article XI, section 91101.11 b, several levels of discipline are possible. In cases of Sexual Misconduct by a student, sanctions (disciplinary actions) shall be equivalent to the discipline issued for an employee or other non-student Respondent; e.g., if an employee is to be suspended (or terminated) from his/her job, the student would be suspended (or expelled) from school.

Complaints alleging Sexual Misconduct by a student will be investigated by a Compliance Officer. If a student Respondent is determined responsible for the acts alleged, the matter may be referred for student discipline. Any interim sanctions should follow the student discipline process in Chapter IX, Article XI of the Board Rules.

Employee Respondents

The procedures set forth herein apply to employee respondents unless otherwise explicitly stated, such as those related to Student Respondents, immediately above/F6 12 Tf1 0 0 1 125.06] TJET Tm

and/or Alleged Victim that, if she/he does not want an investigation, then he/she may speak to someone who can maintain the Reporting Individual's and/or Alleged Victim's

Confidentiality: Inform the Reporting Individual and/or Alleged Victim that law enforcement is required to inform the Title IX Coordinator at their location of the matter to evaluate the

centers;

Inform the Reporting Individual and/or Alleged Victim of possible legal and disciplinary options for the Respondent if found responsible, including any or all of the following:

criminal prosecutions,
civil action, and
relevant District disciplinary action.

Within twenty-four (24) hours of being notified of an alleged act of Sexual Misconduct, the campus/ ESC law enforcement shall notify the President/Deputy Chancellor and College Title IX Coordinator of the alleged Sexual Misconduct, including the alleged victim's name unless the individual has requested their name be redacted from the police report as permitted by law.

The President/Deputy Chancellor or his/her designee shall refer a student Reporting Individual and/or Alleged Victim to the Title IX Coordinator at the student's location for assistance if he/she experiences academic difficulties that may arise as a result of the sexual assault and its impact on the student. The Title IX Coordinator, in cooperation with the Vice Presidents of Academic Affairs and Student Services may provide any involved students interim support measures to minimize the possibility of any further negative impact of the alleged Sexual Misconduct on the students involved in the underlying incident. In addition, the President/Deputy Chancellor or his/her designee shall refer a non-student involved in an alleged incident of Sexual Misconduct to the Title IX Coordinator for that location for interim supportive assistance in their workplace.

Interim measures shall be implemented by the Title IX Coordinator at that location as required by the situation to separate the Alleged Victim and the Respondent, as appropriate. Such interim measures may include moving one party to another section of

Chancellor or anyone else under the direct supervision of the Chancellor, the report shall be submitted to the Chancellor with a copy to the Board of Trustees. If the allegations implicate the Chancellor, the report shall be made to the Deputy Chancellor, with a copy to the Board of Trustees. If the Complaint implicates a Compliance Officer or the Director for Diversity,

for Prohibited Discrimination, Unlawful harassment, and Sexual Misconduct Complaints, a copy of this written Decision shall be placed in your personnel file in a sealed envelope. You have a right to submit a response to this Decision, which will also be placed in your personnel file."

All final Written Decision letters which sustain the allegation(s) and are sent to Respondents who are students shall include the following statement:

"In accordance with paragraph 11D of the District's Procedures for Prohibited Discrimination, Unlawful harassment, and Sexual Misconduct Complaints, your transcripts shall be annotated with one of the following, as appropriate: 'Disciplinary Expulsion,' 'Disciplinary Suspension,' 'D t

be annotated with one of the following, as appropriate:
'Disciplinary Expulsion,' 'Disciplinary Suspension,' 'Disciplinary
Action being Appealed,' or 'Withdrawal Pending Conflict
Resolution'."

by law, the Board Rules, the Personnel Commission, and/or any applicable collective bargaining agreement or Memoranda of Understanding. Disciplinary action against employees shall include, without limitation, verbal warnings, letters of reprimand, Notices of Unsatisfactory Service, suspensions, demotions or dismissals.

Appeals by the Respondent in Prohibited Discrimination and Unlawful Harassment cases (not in Sexual Misconduct cases) shall be handled as described below:

Appeals of the Written Decision by the Alleged Offender shall be made by making the appropriate challenges within the course of the applicable disciplinary process.

Appeals of Sexual Misconduct cases:

In the event any party to a Sexual Misconduct case is not satisfied with the Written Decision, he or she may file a written Appeal to the Board of Trustees within fifteen (15) Days from the date the Written Decision is postmarked. The Appeal shall state with particularity the basis for the Appeal. Immediately upon receiving the Appeal, the Executive Secretary to the Board of Trustees must inform the Director of ODEI, or the Title IX Coordinator. The individual informed of the Appeal must then promptly notify the other party(ies) of the Appeal and of their right to participate in the Appeal process.

Notice to the non-appealing party (parties) shall state that an Appeal has been filed and shall offer them an opportunity to attend and present at a hearing and/or submit a written response, all within fifteen (15) working Days from the date notice was mailed. This additional Appeal will be considered along with the initial Appeal filed by the other party.

Action by the Board of Trustees:

The Chancellor shall present the written Appeal, the Written Decision, the Compliance Officer's report and the Complaint to the Board of Trustees in closed session. The Board of Trustees may review the Decision and act within forty-five (45) Days. If the forty-five (45) Days has elapsed without action by the Board of Trustees, the Written Decision shall constitute the final Decision of the District.

A Reporting Individual, and/or Alleged Victim is entitled to pursue independently civil law remedies, including but not limited to injunctions, restraining orders, or other orders. An individual who believes that he or she is the victim of unlawful discrimination may file a Complaint with the Department of Fair Employment and Housing (DFEH), and the Equal Employment Opportunity Commission (EEOC).

Non-employment related Complaints may be filed with the Office for Civil Rights, United States Department of Education (OCR). These may be pursued without regard to whether the individual chooses to utilize the District's internal Complaint procedures described herein. Anyone who believes he or she has been a victim of prohibited discrimination, unlawful harassment, or Sexual Misconduct should be