



Clery Act Audit Task Force  
Annual Progress Update  
Cañada College 2020-032

DUE: May 27, 2022  
SUBMITTED: May 27, 2022

***Recommendation 8: To ensure that all security policies are included in its annual security report, Cañada should, by November 2021, establish procedures requiring its staff to review all security policies for compliance with the Clery Act requirements, identify missing or inadequate policies, correct them, and ensure that they are disclosed to the public in compliance with federal law.***

**60-day Response (Recommendation 8)**

The Cañada College Vice President of Student Services and Vice President of Administrative Services, together with the San Mateo County Community College District Chief of Public Safety and Vice Chancellor/Chief of Staff, have brought together a Task Force of college leaders to address the recommendations embedded in this Clery Act Audit report. Members of the Task Force include representatives from key areas of the college that overlap with the various recommendations from the report, including Title IX, Student Life, Counseling, Health Center, and other college areas. The Task Force has met in both one-on-one check-ins and meetings with the lead facilitators to establish a timeline of research and progress reports before submitting an in-depth update by November 2021. More details regarding implementation updates for each recommendation will be submitted by the six month update timeline.

**6-month Response (Recommendation 8)**

Relevant policies and procedures related to campus safety are being reviewed by members of the Task Force, including the Cañada College Vice President of Student Services, Vice President of Administrative Services, College Public Safety Captain, Vice Chancellor/Chief of Staff, and San Mateo County Community College District Chief of Public Safety, and Vice Chancellor/Chief of Staff. The Task Force has also expanded to include the College Medical Director, Dean of Counseling, Dean of Enrollment Services & Support Programs, and Student Life & Leadership Manager. The 2021 Report includes updated security policies and procedures. The Task Force is in the process of finalizing additional updates related to missing programs, events, resources, and outdated policies (e.g., SMCCCD Sexual Harassment Administrative Procedures 3434). Requisite policy updates will be reviewed in alignment with the San Mateo County Community College District (SMCCCD) process for formal policy review and updates in the prescribed timeline noted below.

November 2021 – College website temporary updates to compliance roles and responsibilities  
December 2021 – College review of local appointments and updates, in alignment with SMCCCD  
February 2022 – District Participatory Governance Council (DPGC) first review of draft updates  
February 2022 – DPGC gathers college constituency feedback  
March 2022 – DPGC second review and recommendations to draft policy updates  
March or April 2022 – Board of Trustees review and possible action for draft policy updates  
April or May 2022 – Cañada College landing page updated based on Board action

Additional text regarding the College's ongoing efforts to provide annual and recurring programming and resources for the college will be incorporated into the updated 2021 Annual Security Report by Spring 2022. Draft language for these ongoing educational resources is included below.

***Not Anymore & Sexual Assault Awareness Week – Annual Event, Programs, and Training***

Since 2015, in collaboration with the larger San Mateo County Community College District, the Associated Students of Cañada College (ASCC) have partnered with campus leaders to develop and implement various annual activities and resources to address sexual misconduct, harassment, assault and Title IX mandates. Not Anymore is an interactive online program designed for community colleges students to prevent sexual assault, dating, and domestic violence, and stalking. Bystander Intervention videos and presentations are viewed as a part of every new student's orientation and additional resources are shared from the Sexual Misconduct, Harassment, Assault, and Title IX webpages, in addition to the annual Sexual Assault Awareness Week programming in the Spring semester. All student employees are required to complete harassment training and mandatory reporter training through the Keenan Safe Colleges Online Modules.

Over the years, Cañada College has hosted the following special programs and workshops:

- One Love Workshop: Based on the National One Love Foundation Workshop. Presenters helped to define the gray area between love and control so participants could identify relationship abuse when it happens and before it escalates. #THATSNOTLOVE The first 50 participants received a free #OneLove shirt.
- Alcohol Awareness Speaker: Participants heard the personal story of a survivor and learned about hope for families and friends of alcoholics from Al-Anon.
- Human Trafficking Awareness Panel: Discussion including voices from representatives of the Bay Area Anti-Trafficking Coalition, the SMC Human Trafficking Program Coord, the Social Justice & Victim Rights Attorney, and Human Trafficking survivors.
- Demystifying Social Media and Sexual Awareness Workshop: Information shared as a partnership between ASCC and San Mateo County Community College District Director of Policy, Training, and Compliance Mwanaisha Sims.
- Annual Virtual Consent and Reporting Workshop: Information shared as a partnership between ASCC and San Mateo County Community College District Director of Policy, Training, and Compliance Mwanaisha Sims.

***Annual Cañada College Health Fair***

This annual event is hosted by Cañada College's Health Center and is an opportunity to offer on-site counseling, support and guidance to students who are dealing with any type of addiction in partnership with local community organizations. Each of these partnerships with organizations are also linked on the Health Center webpage.

Some of the programs that have provided information and resources during the Health Fair include:

- Drug Treatment Programs
- Marijuana Anonymous
- Crystal Meth Anonymous
- Narcotics anonymous
- Free at Last Programs and Services
- Additional Drug/Alcohol Treatment Centers

**Annual Response (Recommendation 8)**

Relevant policies and procedures related to campus safety have been reviewed by members of the Task Force, including the Cañada College Vice President of Student Services, Vice President of Administrative Services, College Public Safety Captain, San Mateo County Community College District Chief of Public Safety and Vice Chancellor/Chief of Staff. The 2021 Report includes updated security policies and procedures. All requisite updates related to missing programs, events, resources, and outdated policies (e.g., SMCCCD Sexual Harassment Administrative Procedures 3434) have been updated and uploaded to our college website. Requisite policy updates were reviewed in alignment with the San Mateo County Community College District (SMCCCD) process for formal policy review and updates. All text from the 6-month update is also located in the Annual Security Report for the college that is also uploaded on the website.

**Recommendation 13:** *To ensure that it is fully compliant with state law, Cañada should, by November 2021, develop all required policies related to campus safety.*

**60-day Response (Recommendation 13)**

The Cañada College Vice President of Student Services and Vice President of Administrative Services, together with the San Mateo County Community College District Chief of Public Safety and Vice Chancellor/Chief of Staff, have brought together a Task Force of college leaders to address the recommendations embedded in this Clery Act Audit report. Members of the Task Force include representatives from key areas of the college that overlap with the various recommendations from the report, including Title IX, Student Life, Counseling, Health Center, and other college areas. The Task Force has met in both one-on-one check-ins and meetings with the lead facilitators to establish a timeline of research and progress reports before submitting an in-depth update by November 2021. More details regarding implementation updates for each recommendation will be submitted by the six month update timeline.

**6-month Response (Recommendation 13)**

Relevant policies and procedures related to campus safety are being reviewed by members of the Task Force, including the Cañada College Vice President of Student Services, Vice President of Administrative Services, College Public Safety Captain, Vice Chancellor/Chief of Staff, and San Mateo County Community College District Chief of Public Safety, and Vice Chancellor/Chief of Staff. The Task Force has also expanded to include the College Medical Director, Dean of Counseling, Dean of Enrollment Services & Support Programs, and Student Life & Leadership Manager. The 2021 Report includes updated security policies and procedures. The Task Force is in the process of finalizing additional updates related to missing programs, events, resources, and outdated policies (e.g., SMCCCD Sexual Harassment Administrative Procedures 3434). Requisite policy updates will be reviewed in alignment with the San Mateo County Community College District (SMCCCD) process for formal policy review and updates in the prescribed timeline noted below.

November 2021 – College website temporary updates to compliance roles and responsibilities  
 December 2021 – College review of local appointments and updates, in alignment with SMCCCD  
 February 2022 – District Participatory Governance Council (DPGC) first review of draft updates  
 February 2022 – DPGC gathers college constituency feedback  
 March 2022 – DPGC second review and recommendations to draft policy updates  
 March or April 2022 – Board of Trustees review and possible action for draft policy updates  
 April or May 2022 – Cañada College landing page updated based on Board action

Additional text regarding the College’s ongoing efforts to provide annual and recurring programming and resources for the college will be incorporated into the updated 2021 Annual Security Report by Spring 2022. Draft language for these ongoing educational resources is included below.

***Not Anymore & Sexual Assault Awareness Week – Annual Event, Programs, and Training***

Since 2015, in collaboration with the larger San Mateo County Community College District, the Associated Students of Cañada College (ASCC) have partnered with campus leaders to develop and implement various annual activities and resources to address sexual misconduct, harassment, assault and Title IX mandates. Not Anymore is an interactive online program designed for community colleges students to prevent sexual assault, dating, and domestic violence, and stalking. Bystander Intervention videos and presentations are viewed as a part of every new student’s orientation and additional resources are shared from the Sexual Misconduct, Harassment, Assault, and Title IX webpages, in addition to the annual Sexual Assault Awareness Week programming in the Spring semester. All student employees are required to complete harassment training and mandatory reporter training through the Keenan Safe Colleges Online Modules.

Over the years, Cañada College has hosted the following special programs and workshops:

- One Love Workshop: Based on the National One Love Foundation Workshop. Presenters helped to define the gray area between love and control so participants could identify relationship abuse when it happens and before it escalates. #THATSNOTLOVE The first 50 participants received a free #OneLove shirt.
- Alcohol Awareness Speaker: Participants heard the personal story of a survivor and learned about hope for families and friends of alcoholics from Al-Anon.
- Human Trafficking Awareness Panel: Discussion including voices from representatives of the Bay Area Anti-Trafficking Coalition, the SMC Human Trafficking Program Coord, the Social Justice & Victim Rights Attorney, and Human Trafficking survivors.
- Demystifying Social Media and Sexual Awareness Workshop: Information shared as a partnership between ASCC and San Mateo County Community College District Director of Policy, Training, and Compliance Mwanaisha Sims.
- Annual Virtual Consent and Reporting Workshop: Information shared as a partnership between ASCC and San Mateo County Community College District Director of Policy, Training, and Compliance Mwanaisha Sims.

### ***Annual Cañada College Health Fair***

This annual event is hosted by Cañada College's Health Center and is an opportunity to offer on-site counseling, support and guidance to students who are dealing with any type of addiction in partnership with local community organizations. Each of these partnerships with organizations are also linked on the Health Center webpage.

Some of the programs that have provided information and resources during the Health Fair include:

- Drug Treatment Programs
- Marijuana Anonymous
- Crystal Meth Anonymous
- Narcotics anonymous
- Free at Last Programs and Services
- Additional Drug/Alcohol Treatment Centers

### **Annual Response (Recommendation 13)**

Relevant policies and procedures related to campus safety have been reviewed by members of the Task Force, including the Cañada College Vice President of Student Services, Vice President of Administrative Services, College Public Safety Captain, San Mateo County Community College District Chief of Public Safety and Vice Chancellor/Chief of Staff. The 2021 Report includes updated security policies and procedures. All requisite updates related to missing programs, events, resources, and outdated policies (e.g., SMCCCD Sexual Harassment Administrative Procedures 3434) have been updated and uploaded to our college website. Requisite policy updates were reviewed in alignment with the San Mateo County Community College District (SMCCCD) process for formal policy review and updates. All text from the 6-month update is also located in the Annual Security Report for the college that is also uploaded on the website.

**Recommendation 16:** *To ensure adequate public safety coverage for its campus, Cañada should ensure that it has the required written agreements in place with local law enforcement for all applicable areas of its campus.*

**60-day Response (Recommendation 16)**

The Cañada College Vice President of Student Services and Vice President of Administrative Services, together with the San Mateo County Community College District Chief of Public Safety and Vice Chancellor/Chief of Staff, have brought together a Task Force of college leaders to address the recommendations embedded in this Clery Act Audit report. Members of the Task Force include representatives from key areas of the college that overlap with the various recommendations from the report, including Title IX, Student Life, Counseling, Health Center, and other college areas. The Task Force has met in both one-on-one check-ins and meetings with the lead facilitators to establish a timeline of research and progress reports before submitting an in-depth update by November 2021. More details regarding implementation updates for each recommendation will be submitted by the six month update timeline.

**6-month Response (Recommendation 16)**

Relevant policies and procedures related to campus safety are being reviewed by members of the Task Force, including the Cañada College Vice President of Student Services, Vice President of Administrative Services, College Public Safety Captain, Vice Chancellor/Chief of Staff, and San Mateo County Community College District Chief of Public Safety, and Vice Chancellor/Chief of Staff. The Task Force has also expanded to include the College Medical Director, Dean of Counseling, Dean of Enrollment Services & Support Programs, and Student Life & Leadership Manager.

Renewal Memoranda of Understanding documents are in final stages of review and approval with both San Mateo County Sheriff's Office and the Redwood City Police Department. Final and full approval for these renewal MOUs is expected by December 2021.

**Annual Response (Recommendation 16)**

Updated Memoranda of Understanding documents have been reviewed, approved and signed by both San Mateo County Sheriff's Office and the Redwood City Police Department. Final and full approval for these renewal MOUs are attached.

Submitted by Vice President of Student Services Dr. Manuel Alejandro Pérez  
On behalf of Cañada College Clery Act Audit Task Force

**ADMINISTRATIVE PROCEDURE NO. 3434**

**San Mateo County Community College District**

**Subject:** AP 3434 Responding to Harassment Based on Sex under Title IX  
**Adoption Date:** New 7/20; Revised 10/20, 4/21, 10/21, 4/22  
**References:** 20 U.S. Code Sections 1681 et seq.; 34 Code of Federal Regulations Parts 106.1 et seq.; Education Code Sections 67380 et seq.

---

**I. INTRODUCTION**

The District encourages members of the District community to report sexual harassment. This procedure only applies to conduct defined as sexual harassment under Title IX and applicable federal regulations and that meets Title IX jurisdictional requirements. The District will respond to sexual harassment and sexual misconduct that falls outside that definition and outside the jurisdiction of the Title IX federal regulations using California law and applicable District policies and procedures. In implementing these procedures discussed below, the District will also provide supportive measures, training, and resources in compliance with California law, unless they are preempted by the Title IX regulations.

**II. TITLE IX COORDINATOR**

Questions concerning Title IX may be referred to the District Title IX Coordinator whose contact information is below.

**The District's Title IX Coordinator:**

**Mwanaisha Sims**  
3401 CSM Drive  
San Mateo, CA 94402  
(650) 358-6808  
[simsm@smccd.edu](mailto:simsm@smccd.edu)

The Title IX Coordinator may designate a Deputy Title IX Coordinator at the District's respective campuses to assist with coordinating the District's responsibilities under Title IX and this administrative procedure. All Deputy Title IX Coordinators report to the Title IX Coordinator in their capacity as a Deputy Title IX Coordinators. The designated Deputy Title IX Coordinators are:

**The College Deputy Title IX Coordinators are:**

Max Hartman  
Cañada College  
BLDG 09-135  
4200 Farm Hill Blvd  
Redwood City, CA 94061  
[hartmanmax@smccd.edu](mailto:hartmanmax@smccd.edu) | (650) 306-3132

Dr. Newin Orante  
Skyline College  
BLDG 04-4316  
3300 College Drive  
San Bruno, CA 94066  
[oranten@smccd.edu](mailto:oranten@smccd.edu) | (650) 738-4333

Dr. Arielle Smith (Acting)  
(Lizette Bricker)  
College of San Mateo  
BLDG 10-360  
1700 West Hillsdale Blvd  
San Mateo, CA 94402  
[smitha@smccd.edu](mailto:smitha@smccd.edu) | (650)574-6640

**Deputy Title IX Coordinator of Athletics**

Matt Lee  
Cañada College  
BLDG 01-152  
4200 Farm Hill Blvd  
Redwood City, CA 94061  
[leemathew@smccd.edu](mailto:leemathew@smccd.edu) | (650) 306-3341

Dino Nomicos  
Skyline College  
BLDG 03-3130  
3300 College Drive  
San Bruno, CA 94066  
[nomicos@smccd.edu](mailto:nomicos@smccd.edu) | (650) 738-4197

Andreas Wolf  
College of San Mateo  
BLDG 05-341  
1700 West Hillsdale Blvd.  
San Mateo, CA 94402  
[wolf@smccd.edu](mailto:wolf@smccd.edu) | (650) 574-6462

The Title IX Coordinator is required to respond to reports of sexual harassment or misconduct. The Title IX Coordinator will handle information received with the utmost discretion and will share information with others on a need-to-know basis. For example, the Title IX Coordinator may need to address public safety concerns on campus, comply with state and federal legal requirements, or share information to implement supportive measures.

A report of sexual harassment to the Title IX Coordinator does not necessarily lead to a full investigation, as discussed more fully below. However, the Title IX Coordinator will make an assessment to determine if there is a safety risk to the campus. If the Title IX Coordinator finds there is a continued risk, the Title IX Coordinator will file the formal complaint without the Complainant's consent or cooperation.

References in this procedure to the "Title IX Coordinator" are intended to include the Title IX Coordinator or Deputy Title IX Coordinators who are handling a particular case.

### III. JURISDICTION

#### **Title IX Harassment Complaints, Investigations, and Hearings**

These Title IX sexual harassment procedures and the related policy protect students, employees, applicants for employment, and applicants for admission.

#### **Jurisdictional Requirements – Application of Procedures**

These procedures apply if the conduct meets the following three jurisdictional requirements:

- The conduct took place in the United States;
- The conduct took place in a District education program or activity. This includes locations, events, or circumstances over which the District exercised substantial control over both the Respondent and the context in which the harassment occurred, including on-campus and off-campus property and buildings the District owns or controls or student organizations officially recognized by the District.
- The conduct meets the definition of Title IX “sexual harassment.”

### IV. DEFINITIONS

**Advisor:** Throughout the grievance process, both the Complainant and Respondent have a right to an Advisor of their choice. If a Party does not have an Advisor at the time of the hearing, the District must provide the Party an Advisor of the District’s choice, free of charge. The District may establish restrictions regarding the extent to which the Advisor may participate in the proceedings as long as the restrictions apply equally to both Parties.

While the regulations only require the District to provide an Advisor to conduct cross-examination, the District will provide an Advisor for the entire hearing, if the Party does not identify his/her/their own private Advisor.

**Complainant:** A Complainant is an individual who alleges he/she/they is the victim of conduct that could constitute sexual harassment, as defined herein.

**Consent:** Consent means affirmative, conscious, and voluntary agreement to engage in sexual activity. Both Parties must give affirmative consent to sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he/she/they has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest, lack of resistance, or silence does not indicate consent. Affirmative consent must be ongoing throughout a sexual activity and one can revoke his/her/their consent at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, is not an indicator of consent. In California, a minor (meaning a person under the age of 18) cannot consent to sexual activity.

The Respondent’s belief that the Complainant consented will not provide a valid defense unless the belief was actual and reasonable, based on the facts and circumstances the Respondent knew, or reasonably should have known, at the time of the incident. A Respondent’s belief is not a valid defense where:

- The Respondent’s belief arose from the Respondent’s own intoxication or recklessness;
- The Respondent did not take reasonable steps to ascertain whether the Complainant affirmatively consented; or
- The Respondent knew or a reasonable person should have known that the Complainant was unable to consent because the Complainant was incapacitated, in that the Complainant was:

- asleep or unconscious;
- unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication; or
- unable to communicate due to a mental or physical condition.

**Decision-Maker:** The individual or group of people designated to oversee the live hearing and make a determination of responsibility. The Decision-Maker cannot be the Title IX Coordinator or the investigator.

**Formal Complaint:** A written complaint signed by the Complainant or Title IX Coordinator alleging sexual harassment and requesting an investigation. If the Title IX Coordinator signs the formal complaint, he/she/they will not become a Party to the complaint. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the District.

**Parties:** As used in this procedure, this means the Complainant and Respondent.

**Preponderance of the Evidence:** The standard of proof used throughout the grievance procedure. A *preponderance of the evidence* means that the evidence on one side outweighs, preponderates over, or is more than, the evidence on the other side. This is a qualitative, not quantitative, standard. Thus, the Decision-Maker(s) will decide whether alleged facts are more likely than not to be true.

**Respondent:** A Respondent is an individual reported to be the perpetrator of conduct that could constitute sexual harassment, as defined herein.

**Sexual Harassment under Title IX:** Conduct that satisfies one or more of the following:

- Quid Pro Quo Sexual Harassment- A District employee conditions the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct);
- Hostile Environment Sexual Harassment- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity;
- Sexual assault, dating violence, domestic violence, or stalking, as defined herein::
  - **Sexual assault means** any sexual act (forcible or non-forcible) directed against another person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent. Sexual acts including the following:
    - **Rape** (except Statutory Rape). The carnal knowledge of a person, without **the consent of the Complainant, including instances where the Complainant is incapable** of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. There is carnal knowledge if there is the slightest penetration of the genital or anal opening of the body of another person.
    - **Sodomy**. Oral or anal sexual intercourse with another person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
    - **Sexual Assault with an Object**. To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. An "object"

- or "instrument" is anything the offender uses other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.
- **Fondling.** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the Complainant, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
  - **Incest.** Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - **Statutory Rape.** Non-Forcible sexual intercourse with a person who is under the statutory age of consent. There is no force or coercion used in Statutory Rape; the act is not an attack.
- **Dating violence.** Violence against a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of a relationship will be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Dating violence does not include acts covered under the definition of domestic violence.
  - **Domestic Violence.** Violence committed:
    - By a current or former spouse or intimate partner of the Complainant;
    - By a person with whom the Complainant shares a child in common;
    - By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
    - By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of California; or
    - By any other person against an adult or youth Complainant protected from that person's acts under the domestic or family violence laws of California.
  - **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her/their safety or the safety of others or suffer substantial emotional distress. For the purposes of this definition: (a) A course of conduct is two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property; (b) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant; and (c) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

## V. REPORTING OPTIONS

Any individual may report sexual harassment to the District's Title IX Coordinator.

The District strongly encourages prompt reporting of sexual harassment. Prompt reporting allows for the collection and preservation of evidence, including physical evidence, digital media, and witness statements. A delay may limit the District's ability to effectively investigate and respond.

Because individuals may be deterred from reporting incidents of sexual harassment if alcohol, drugs, or other violations of District or campus rules were involved, the District will inform individuals that the primary concern is for student and employee safety. Accordingly, to foster participation in the grievance procedures, an individual who participates as a complainant or witness 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 alleged 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 dishonesty.

Reporting sexual harassment to the Title IX Coordinator does not automatically initiate an investigation under these procedures. A report allows the District to provide a wide variety of support and resources to impacted individuals and to prevent the reoccurrence of the conduct. A Complainant or the Title IX Coordinator filing a formal complaint will initiate an investigation.

If there are parallel criminal and Title IX investigations, the District will cooperate with the external law enforcement agency and will coordinate to ensure that the Title IX process does not hinder legal process or proceedings.

The District will document reports of sexual harassment in compliance with the Clery Act, a federal law requiring data collection of crime within the campus geography. Under the Clery Act, the District does not document personal information; the District reports the type of conduct, and the time, date, and location. (Also see BP/AP 3540 Sexual and Other Assaults on Campus)

Complainants may also file nonemployment-based complaints with the Officer for Civil Rights (OCR) and employment based complaints with the U.S. Equal Employment Opportunity Commission (EEOC) and/or the Department of Fair Employment and Housing (DFEH) where such complaints are within the jurisdiction of those agencies.

#### **District Employees and Officials with Authority**

District Officials with Authority are not confidential resources and are required to report allegations of sexual harassment to the Title IX Coordinator promptly. All other employees are encouraged to report allegations to the Title IX Coordinator but are not required to do so.

The District has designated the following employees as Officials with Authority:

- The chancellor;
- The Presidents of each College;
- All vice chancellors and vice presidents;
- Deans, department heads and supervisors who have the authority to hire, discharge, discipline or effectively recommend such actions.

Officials with Authority are required to report all relevant information they know about sexual harassment including the name of the Respondent, the Complainant, any other witnesses, and the date, time, and location of the alleged incident.

## **VI. INTAKE AND PROCESSING OF REPORT**

### **A. Receipt of Report**

After receiving a report of sexual harassment, even if a formal complaint is not filed, the Title IX Coordinator shall contact the Complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, and explain to the Complainant the process for filing a formal complaint. The Title IX Coordinator will also notify the Respondent of the complaint and offer to meet with the Respondent to review and discuss the complaint. The Title IX Officer will discuss supportive measures with the Parties.

**B. Timeframe for Reporting**

To promote timely and effective review, the District strongly encourages individuals to report sexual harassment as soon possible because a delay in reporting may affect the ability to collect relevant evidence and may affect remedies the District can offer.

**C. Supportive Measures**

Supportive measures are non-disciplinary, non-punitive individualized services offered free of charge to the Complainant or the Respondent regardless of whether a formal complaint has been filed. The District will provide such measures to Complainant and Respondent as appropriate and as reasonably available to restore or preserve equal access to the District's education program or activities without unreasonably burdening the other party. These measures are designed to protect the safety of all Parties, or protect the District's educational environment, or deter sexual harassment. The District will provide supportive measures on a confidential basis and will not disclose that the District is providing supportive measures except to those with a need to know to enable the District to provide the service. Supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absences, increased security and monitoring of certain areas of the campus, and other similar measures.

**D. Removal of Respondent Pending Final Determination**

Upon receiving a report regarding sexual harassment, the Title IX Coordinator will make an immediate assessment concerning the health and safety of the Complainant and campus community as a whole. The District has the right to order emergency removal of a Respondent, or if the Respondent is an employee, place the employee on administrative leave.

**i. Emergency Removal**

The District may remove a non-employee Respondent from the District's education program or activity on an emergency basis after it conducts an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.

The District may not use emergency removal to address a Respondent's threat of obstructing the sexual harassment investigation or destroying relevant evidence. Emergency removal is only available to address health or safety risks against individuals arising out of sexual harassment allegations, not to address other forms of misconduct that a Respondent might commit pending the processing of a complaint.

The Title IX Coordinator or designee will conduct the individualized safety and risk analysis and determine whether emergency removal is appropriate.

If the Title IX Coordinator or designee determines emergency removal is appropriate, he/she/they will provide the person the District is removing from campus on an emergency basis with a notice and opportunity to attend a meeting and challenge the basis of his/her/their removal. The Vice President of Student Services or designee will hear any challenge to the removal, and determine whether the emergency removal from campus order is warranted after considering information provided by the Respondent challenging the emergency removal.

**ii. Administrative Leave**

The District may place a non-student employee Respondent on administrative leave during the pendency of the grievance process described herein. The District will conform to any relevant policies, procedures, collective bargaining agreements, or state law when placing an employee on administrative leave.

## **VII. FORMAL COMPLAINT GRIEVANCE PROCESS**

### **A. Notice to Parties**

Upon receipt of a formal complaint, the Title IX Coordinator will provide the following Notice of Investigation and Allegations in writing, to the Parties:

- Notice of the District's Title IX grievance process;
- Notice of the allegations of alleged sexual harassment with sufficient details known at the time and with sufficient time to prepare a response before any initial interview;
- The specific policies implicated;
- Statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- A statement of the potential sanctions/responsive actions that could result;
- Notice that the Parties may have an Advisor of their choice, who may be, but is not required to be, an attorney. The District may provide suggestions for ways to identify an Advisor;
- Detail on how the party may request disability accommodations during the grievance process;
- Notice that the Parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a Party or other source;
- The name(s) of the Investigator(s), if known, along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have;
- Inform the Parties of any provision in the District's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process; and
- An instruction to preserve any evidence that is directly related to the allegations. .

If, in the course of an investigation, the District decides to investigate allegations about the Complainant or Respondent that are not included in the notice provided above, the Title IX Coordinator will provide notice in writing of the additional allegations to the Parties.

### **B. Dismissal of Formal Complaint**

The District must investigate the allegations in a formal complaint. However, the District must dismiss the formal complaint and will not process the complaint under these procedures if any of the following three circumstances exist:

- If the conduct alleged in the formal complaint would not constitute Title IX sexual harassment as defined in this procedure, even if proven;
- If the conduct alleged did not occur in an educational program or activity controlled by the District;
- If the conduct alleged did not occur against a person in the United States.

The District has discretion to dismiss a formal complaint or any allegation under the following circumstances:

- If at any time during the investigation or hearing: a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;
- If the Respondent is no longer enrolled or employed by the District; or
- If there are specific circumstances that prevent the District from gathering evidence sufficient to reach a determination regarding responsibility as to the formal complaint or allegations therein.

Upon dismissal, the Title IX Coordinator shall promptly, and simultaneously to the Parties, send written notice of the dismissal and the reasons for the dismissal. The Title IX Coordinator shall also notify the Parties of their right to appeal the dismissal.

The District may commence proceedings under other policies and procedures after dismissing a formal complaint.

**C. Consolidation of Formal Complaints**

The District may, but is not required to, consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of sexual harassment arise out of the same facts or circumstances.

**D. Equitable Treatment of the Parties**

The District's determination of responsibility is a neutral, fact-finding process. The District will treat Complainants and Respondents equitably. The procedures will apply equally to both Parties. The District will follow the grievance process described herein before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a Respondent.

**E. Statement of Presumption of Non-Responsibility**

The investigation is a neutral, fact-finding process. The District presumes all reports are in good faith. Further, the District presumes the Respondent is not responsible for the alleged conduct. The District makes its determination regarding responsibility at the conclusion of the grievance process.

**F. Bias or Conflict of Interest**

The District's Title IX Coordinator, investigator, Decision-Maker, or any person designated by the District to facilitate an informal resolution process, will not have potential actual bias or conflict of interest in the investigatory, hearing, sanctioning, or appeal process or bias for or against Complainants or Respondents generally, or an individual Complainant or Respondent. *Actual bias* is an articulated prejudice in favor of or against one Party or position; it is not generalized concern about the personal or professional backgrounds, positions, beliefs, or interests of the Decision-Makers in the process. The District will ensure that the Title IX Coordinator, Deputy Title IX Coordinators, investigators, Decision-Makers, and facilitators receive training on:

- The definition of sexual harassment in this procedure;
- The scope of the District's education program or activity;
- How to conduct an investigation;
- The grievance process including conducting hearings, appeals, and informal resolution processes; and
- How to serve impartially, including avoiding: prejudgment of the facts at issue; conflicts of interest; and bias.

**G. Timeline for Completion**

The District will undertake its grievance process promptly and as swiftly as possible. The District will complete the investigation and its determination regarding responsibility or the informal resolution process within **180 calendar days** calendar days from the date of the Notice of Investigation and Allegations is issued to the Parties.

When appropriate, the Title IX Coordinator may determine that good cause exists to extend the **180 calendar day** period to conduct a fair and complete investigation, to accommodate an investigation by law

enforcement, to accommodate the unavailability of witnesses or delays by the Parties, to account for District breaks or vacations, or due to the complexity of the investigation. The District will provide notice of this extension to the Complainant and Respondent in writing and include the reason for the delay and anticipated timing of completion.

A Party may request an extension from the Title IX Coordinator in writing by explaining the reason for the delay and the length of the requested continuance. The Title IX Coordinator will notify the Parties and document the decision to grant or deny a request for extension or delay as part of the case recordkeeping.

#### **H. Role of Advisor**

The Parties may each have an Advisor of their choice and a support person present with them for all meetings, interviews, and hearings within the grievance process. The role of the Advisor is to provide support and assistance in understanding and navigating the grievance process.

The Advisor may not testify in or obstruct an interview or disrupt the process. The Title IX Coordinator has the right to determine what constitutes appropriate behavior of an Advisor and take reasonable steps to ensure compliance with this procedure.

A Party does not have a right to self-representation at the hearing; an Advisor must conduct any cross-examination. The District must provide an Advisor of its choice, free of charge to any Party without an Advisor in order to conduct cross-examination. If an Advisor fails to appear at the hearing, the District will provide an Advisor to appear on behalf of the non-appearing Advisor. To limit the number of individuals with confidential information about the issues, each Party may identify one Advisor.

#### **I. Confidentiality Agreements**

To protect the privacy of those involved, the Parties and Advisors are required to sign a confidentiality agreement prior to attending an interview or otherwise participating in the District's grievance process. The confidentiality agreement restricts dissemination of any of the evidence subject to inspection and review or use of this evidence for any purpose unrelated to the Title IX grievance process. The confidentiality agreement will not restrict the ability of either Party to discuss the allegations under investigation.

#### **J. Use of Privileged Information**

The District's formal complaint procedure does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege (e.g., attorney-client privilege, doctor-patient privilege, spousal privilege, etc.), unless the person holding the privilege provides voluntary, written consent to waive the privilege.

#### **K. Investigations**

The Title IX Coordinator is responsible for overseeing investigations to ensure timely resolution and compliance with Title IX and this procedure.

Both Parties have the right to have an Advisor present at every meeting described in this section. The parties shall have an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. The Parties shall not be restricted from discussing the allegations under investigation or to gather and present relevant evidence.

##### **i. Trained Investigators**

The District will investigate Title IX formal complaints fairly and objectively. Individuals serving as investigators under this procedure will have adequate training on what constitutes sexual harassment and how the District's grievance procedures operate. The District will also ensure that investigators receive

training on issues of relevance to create an investigative report that fairly summarizes relevant evidence and complies with this procedure.

**ii. Burden of Gathering Evidence**

The District, not the Parties, has the responsibility to gather information and interview witnesses. As part of the District's burden of gathering evidence, the District's investigator will create an investigative report that fairly summarizes relevant evidence, whether it is inculpatory or exculpatory. The investigator shall not make findings or determinations of law or fact.

**iii. Notice of Investigative Interview**

The District will provide written notice of the date, time, location, participants, and purpose of all investigative interviews to a Party whose participation is invited or expected, with sufficient time for the Party to prepare to participate.

**iv. Evidence Review**

Both Parties have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a Party or other source.

Before concluding the investigation, the Title IX Coordinator or Investigator will send the Parties and their Advisors, if any, a Draft Report of Evidence containing evidence directly related to the allegations, in electronic format or a hard copy. Any evidence the District does not intend to rely on in reaching a determination regarding responsibility must also be provided to each party, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. The Parties will have at least 10 calendar days to inspect, review, and submit a written response to the evidence. The investigator must consider this written response prior to completing the investigative report.

**v. Investigative Report**

The results of the investigation of a formal complaint will be set forth in a written report that will include at least all of the following information:

- A description of the circumstances giving rise to the formal complaint;
- A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
- A summary of the testimony of each witness the investigator interviewed;
- An analysis of relevant evidence collected during the investigation, including a list of relevant documents;
- A table of contents if the report exceeds 10 pages; and
- Any other information deemed appropriate by the District.

The investigator will not make a determination regarding responsibility.

The investigator may redact information not directly related to the allegations or privileged information. However, the investigator will keep a log of information he/she/they do not produce to the Parties. The investigator will provide this log only to the Title IX Coordinator. The Title IX Coordinator will not disclose the log to the Parties but will maintain the log in the Title IX Coordinator's file, in the event it later becomes relevant.

At least 10 days prior to a hearing, the District will send to each Party and their Advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

## **VIII. HEARING**

After completing an investigation and prior to completing a determination regarding responsibility, the District will hold a live hearing to provide the Complainant and Respondent an opportunity to respond to the evidence gathered before a Decision-Making panel or designated Decision-Maker. The Parties may choose whether to participate in the hearing or answer some or all cross-examination questions. The District may decide not to go forward with a hearing if the Parties both knowingly and voluntarily waive the right to a hearing as a result of the informal resolution process.

### **A. Notice**

If the District proceeds to a hearing, the District will provide all Parties written notice of the date, time, location, participants, and purpose of the hearing with sufficient time for the Party to prepare to participate. The Notice will include an invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.

### **B. Hearing Format**

The District may provide a live hearing with all Parties physically present in the same geographic location or, at the District's discretion if either Party requests, the District may provide any or all Parties, witnesses, and other participants the ability to appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other in real time.

The District will make the information reviewed during the Evidence Review available at the hearing for reference and consultation. The District will not restrict the ability of either Party to discuss the allegations under investigation or to gather and present relevant evidence.

All live hearings will be closed to the public and witnesses will be present only during their testimony. For live hearings that use technology, the Decision-Maker(s) shall ensure that appropriate protects are in place to maintain confidentiality.

The District will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the Parties for inspection and review.

### **C. Decision-Maker**

The Decision-Maker(s) will be free from conflict of interest or bias, including bias for or against Complainants or Respondents. In cases where the Complainant or Respondent objects to a Decision-Maker based on a conflict of interest, the Complainant or Respondent may request the Title IX Coordinator select a different Decision-Maker. The Complainant or Respondent must make this request to the Title IX Coordinator in writing at least five business days prior to the hearing. The Title IX Coordinator will consider such requests but is not obligated to grant the requests.

The Decision-Maker(s) may ask the Parties and the witnesses questions during the hearing. The Decision-Maker(s) must objectively evaluate all relevant evidence both inculpatory and exculpatory and must independently reach a determination regarding responsibility without giving deference to the investigative report. The Decision-Maker(s) must receive training on issues of relevance, how to apply the rape-shield protections for Complainants, and any technology to be used at the hearing.

#### **D. Witnesses and Questioning**

The District will provide the Complainant and Respondent an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Witnesses, like Parties, are not required to participate in the live hearing process.

Only relevant evidence will be admissible during the hearing. Relevant evidence means evidence, including evidence relevant to the credibility of a Party or witness, having any tendency in reason to prove or disprove any disputed fact material to the allegations under investigation.

The District shall permit each Party's Advisor to ask the other Party and any witness relevant questions, including questions challenging credibility. The Party's Advisor must conduct cross-examination directly, orally, and in real time. A Party may never personally conduct cross-examination.

Before a Complainant, Respondent, or witness answers a question, the Decision-Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Decision-Maker need not provide a lengthy or complicated explanation in support of a relevance determination.

If a Party or witness disagrees with a relevance determination, that individual has the choice of either (1) abiding by the Decision Maker's determination and answering the question or (2) refusing to answer the question.

The Decision-Maker(s) may consider statements made by the parties and witnesses during the investigation, as well as statements contained in other relevant evidence, regardless of whether the parties or witnesses submit to cross-examination at the live hearing. The Decision-Maker(s) cannot draw an inference about the determination of responsibility based solely on a Party's or witness's absence from the live hearing or refusal to submit to cross-examination or to answer any question.

The Decision-Makers may also ask any Party or witness questions. If a Party or witness refuses to respond to a Decision-Maker's questions, the Decision-Maker is not precluded from relying on that Party or witness' statements.

#### **IX. DETERMINATIONS OF RESPONSIBILITY**

When the Decision-Maker(s) makes a determination of responsibility or non-responsibility, the Decision-Maker will deliver to the Title IX Coordinator a written determination regarding responsibility, no later than **30 calendar days** after the date that the hearing ends.

When making a determination regarding responsibility, a Decision-Maker will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence. A Decision-Maker may not make credibility determinations based on an individual's status as a Complainant, Respondent, or witness. In evaluating the evidence, the Decision-Makers will use the preponderance of the evidence standard. Thus, after considering all the evidence it has gathered, the Decision-Maker will decide whether it is more likely than not that sexual harassment, as defined herein, occurred.

The written determination will include:

- Identification of the allegations potentially constituting Title IX sexual harassment as defined in these procedures;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including who conducted the investigation and gave notifications to the Parties. The determination will also state when, where, and the date the investigator(s) interviewed the Parties

and witnesses, conducted site visits, the methods used to gather other evidence. The procedural section should also discuss the dates and how the Parties were provided the opportunity to review and inspect evidence and the date of any hearings held and who attended the hearing;

- Findings of fact supporting the determination. In making these findings, the Decision-Maker(s) will focus on analyzing the findings of fact that support the determination of responsibility or non-responsibility;
- Conclusions regarding the application of the District's code of conduct, policies and procedures to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- A statement of, and rationale for, any disciplinary sanctions the District imposes on the Respondent;
- A statement of whether the District will provide the Complainant with remedies designed to restore or preserve equal access to the District's education program or activity;
- The District need not disclose to the Respondent remedies that do not affect him/her/them as part of the written determination. The District can inform the Respondent that it will provide remedies to the Complainant. However, the District will inform the Complainant of the sanctions against the Respondent;
- The District's procedures and permissible bases for the Complainant and Respondent to appeal.

The District's Title IX Coordinator will provide the written determination to the Parties simultaneously within three (3) business days of receipt. The determination regarding responsibility becomes final either on the date that the District provides the Parties with the written determination of the result of the appeal, if the Parties file an appeal, or if the Parties do not file an appeal, the date on which an appeal would no longer be timely.

#### **X. DISCIPLINARY SANCTIONS AND REMEDIES**

The District must have completed the grievance procedures (investigation, hearing, and any appeal, if applicable) before imposing disciplinary sanctions or any other actions that are not supportive measures against a Respondent. If the Decision-Maker(s) determine(s) the Respondent was responsible for conduct that constitutes sexual harassment, the District will take disciplinary action against the Respondent and any other remedial action it determines to be appropriate. The action will be prompt, effective, and commensurate with the severity of the offense.

Remedies for the Complainant may include, but are not limited to:

- Providing an escort to ensure that the Complainant can move safely between classes and activities;
- Ensuring that the Complainant and Respondent do not attend the same classes or work in the same work area;
- Providing counseling services or a referral to counseling services;
- Providing medical services or a referral to medical services;
- Providing academic support services, such as tutoring;
- Arranging for a Complainant, if a student, to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and
- Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant's discipline.

In cases involving student Respondents, the hearing process detailed herein shall serve as the due process hearing outlined in Administrative Procedure 7.69.1. Possible disciplinary sanctions for student

Respondents include written or verbal reprimand, required training or counseling, non-academic probation, suspension, and expulsion. Employee Respondents shall be afforded due process as required by any applicable collective bargaining agreements, Education Code, and policies and procedures. Possible disciplinary sanctions for employee Respondents include written or verbal reprimand, required training or counseling, reduction in pay, demotion, suspension, or discharge.

## **XI. APPEAL OF DISMISSAL OF A FORMAL COMPLAINT OR OF THE DETERMINATION OF RESPONSIBILITY**

A Complainant or Respondent may appeal the District's determination regarding responsibility or the dismissal of a formal complaint or any allegations therein. A Complainant or Respondent must submit a written appeal within **10 calendar days** from the date of the notice of determination regarding responsibility or from the date of the District's notice of dismissal of a formal complaint or any allegations.

### **A. Grounds for Appeal**

The **Appeal Officer** for an appeal will be a trained decision-maker who has not been involved in any aspect of the process as Title IX Coordinator, Advisor, Investigator or Decision-Maker. In filing an appeal of the District's determination regarding responsibility or the District's dismissal of a formal complaint, the Party must state the grounds for appeal and a statement of facts supporting those grounds. The grounds for appeal are as follows:

- A procedural irregularity affected the outcome;
- New evidence exists that was not reasonably available at the time the District's determination regarding responsibility or dismissal was made, and this new evidence could affect the outcome; or
- The District's Title IX Coordinator, Investigator, or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome.

### **B. Appeal Procedure**

If the Complainant or Respondent submit an appeal to the Title IX Coordinator, the Title IX Coordinator will:

- Notify the other Party in writing within **5 business days** of receiving a Party's appeal;
- Allow the non-appealing Party at least **10 calendar days** from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome;

The Appeal Officer will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within **30 business days** after the Appeal Officer receives the non-appealing party's response to the appeal or the last day for the non-appealing party to provide a response. The District's **Title IX Coordinator** will provide the written decision simultaneously to both Parties.

The Appeal Officer may extend or otherwise modify the deadlines provided above. Either Party may seek an extension by submitting a written request to the Appeal Officer explaining the need for the extension and the proposed length of the extension. The Appeal Officer will respond to the request within 48 hours in writing and will inform the Parties simultaneously whether the extension is granted.

## **XII. INFORMAL RESOLUTION**

If the District's Title IX Coordinator determines that a formal complaint is appropriate for informal resolution, he/she/they may provide the Parties with the opportunity to participate in an informal resolution

process, including, but not limited to, mediation, at any time prior to reaching a determination regarding responsibility.

The District's Title IX Coordinator will provide the Complainant and Respondent written disclosure of the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the Parties from resuming a formal complaint arising from the same allegations, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

The District's Title IX Coordinator must obtain the Parties' voluntary, written consent to the informal resolution process. If the Parties reach an agreement, the District does not have to complete a full investigation and adjudication of a report of sexual harassment. At any time prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

The informal resolution process is not available to resolve allegations that an employee sexually harassed a student.

### **XIII. RETALIATION PROHIBITED**

The District prohibits any intimidation, threats, coercion, or discrimination against any individual who made a report or complaint of sexual harassment, testified, assisted, or participated or refused to participate in any manner in a Title IX investigation, proceeding, or hearing. Individuals who experience retaliation may file a complaint using the formal complaint process described above. The exercise of rights protected under the First Amendment does not constitute retaliation.

### **XIV. DISSEMINATION OF POLICY AND PROCEDURES**

The District will provide its policy and procedures related to Title IX on its website and in each handbook or catalog provided to applicants for admission and employment, students, employees, and all unions or professional organizations holding collective bargaining with the District.

When hired, employees are required to sign acknowledging that they have received the policy and procedures. The District will place the signed acknowledgment of receipt in each employee's personnel file.

### **XV. TRAINING**

The District will provide a comprehensive trauma-informed training program to Title IX Coordinators, investigators, District appointed Advisors, Decision-Makers, and any individual who facilitates an informal resolution process, on the definition of sexual harassment herein, the scope of the District's education program or activities, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Any materials used to train the District's Title IX Coordinator, investigators, Decision-Makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

### **XVI. FILE RETENTION**

The District will retain on file for a period of at least seven years after closing the case copies of:

- The original report or complaint;
- Any actions taken in response to the complaint, including supportive measures;

- The investigative report including all evidence gathered and any responses from the Parties;
- The District's determination regarding responsibility;
- Audio or audiovisual recording or transcript from a hearing;
- Records of any disciplinary sanctions imposed on the Respondent;
- Records of any remedies provided to the Complainant;
- Any appeal and the result;
- Any informal resolution and the result; and
- All materials used to train Title IX Coordinators, investigators, Decision-Makers, and any person who facilitates an informal resolution process. The District will make these training materials publicly available on its website.

The District will make these documents available to the U.S. Department of Education Office for Civil Rights upon request.

#### **XVII. COMPLAINT REPORTING**

The **Chancellor** shall provide the Board of Trustees, upon request, a report of complaints filed pursuant to AP 3434. This report must disaggregate the complaints by complaint type (Student Complainant and Student Respondent, Student Complainant and Employee Respondent, Employee Complainant and Student Respondent, Employee Respondent and Employee Respondent, etc.). This report must also disaggregate the complaints by the Complainant's race, age, gender, religion, or any other characteristic identified by the Board.

**MEMORANDUM OF UNDERSTANDING FOR INFORMATION SHARING BETWEEN  
SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT AND  
REDWOOD CITY POLICE DEPARTMENT**

**I. PARTIES**

This Memorandum of Understanding (MOU) is between the San Mateo County Community College District for its Cañada College, Department of Public Safety (referred to herein as the “District” or “DPS”), and the Redwood City Police Department (“RCPD”). District and RCPD are referred to in this Agreement individually as “Party” and collectively as “Parties.”

The Parties agree to each identify a central point of contact for the other with respect to this MOU as follows:

- A. District: Brian Tupper, Director of Public Safety; and/or Albert Elzey , Cañada College Captain of Public Safety
- B. RCPD Administrative Lieutenant

Unless otherwise agreed to, all information-sharing between the Parties described in this MOU will flow between these points of contact. The Parties agree to share a contact list with their point of contact for implementation of this MOU, and to notify the Parties of any changes to their points of contact as soon as practicable.

**II. PURPOSE**

The purpose of this MOU is to meet the statutory requirements established by AB 1433 (Gatto, 2014), specified in the California Education Code (Ed. Code, § 67383, subd. (a) and Ed. Code, §67381), and requiring covered institutions to adopt and implement written policies and procedures to ensure that reports of National Incident Based Reporting System (NIBRS) formerly known as Part 1 violent crimes, hate crimes, or sexual assaults are immediately, or as soon as practicably possible, disclosed to local law enforcement.

It is further the purpose of this MOU to promote collaboration between the Parties to enhance the reporting, investigation, and appropriate response to sexual assault and other covered crimes.

Finally, it is the purpose of this MOU to promote compliance with the numerous state and federal laws that provide specific requirements related to these issues, as outlined in California Education Code sections 67380, 67381 (the Kristin Smart Campus Safety Act of 1998) and 67383; SB 967 (de León, 2014), specified in California Education Code section 67386; the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”); and Title IX of the Higher Education Amendments of 1972 (“Title IX”); as well as the California Penal Code and applicable state laws related to health and confidentiality/privacy.

**III. STATEMENT OF PRINCIPLES**

The Parties agree to the following set of principles:

A. Improving Communication, Coordination, and Collaboration: The Parties agree to enhance communication, coordination, and collaboration to remedy sexual assault and violence and hate crimes, and protect the victim’s confidential information.

B. Championing Campus and Community Safety: The Parties agree to receive training as required to assist in the recognition that any allegation regarding sexual misconduct requires sensitive treatment and also directly impacts the real and perceived safety of all members of a campus

community.

C. Upholding Civil Rights, Civil Liberties, and Victims' Rights: The Parties agree to comply with state and federal laws in a manner that protects individuals' civil rights and liberties, while prosecuting crimes and championing justice for survivors. The Parties explicitly recognize the distinctions between criminal law and civil law in the handling of sexual assault and violence that arise under both state and federal statutory frameworks.

D. Centering the Victim's Needs in Responses to Sexual Assault: The Parties agree to institute specialized, trauma-informed responses developed in consultation with campus and community-based victim advocates and delineated in this agreement and Redwood City Police Department Policy § 601 – Sexual Assault Investigations.

E. Ensuring Accountability & Auditing: In an effort to promote greater transparency, the Parties have, or will implement a means to monitor, record, and accurately maintain all reports of National Incident Based Reporting System (NIBRS) formerly known as Part 1 violent crimes, hate crimes, and sexual assaults, their outcomes, and processes, while maintaining confidentiality where the law provides.

F. Specialized Training and Knowledge: The Parties agree that sexual assault and hate crimes require specialized, trauma-informed training for the Parties and other potential first responders.

G. Respecting the Unique Needs of Undocumented Individuals: Parties should strive to promote policies and practices that address the unique needs of undocumented individuals, including implementing culturally and linguistically appropriate campus and law enforcement services.

#### IV. DEFINITIONS

A. Affirmative Consent: Affirmative, conscious, and voluntary agreement to engage in sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent. (Ed. Code, § 67386, subd. (a)(1).)

B. Campus Security Authorities (CSAs): A CSA is defined as: (1) an institution's campus police or campus security department, (2) an individual who has responsibility for campus security, (3) an individual specified in an institution's statement of campus security policy to receive reports of criminal offenses, or (4) an institution's official who has significant responsibility for student and campus activities (e.g., student housing, discipline). (34 C.F.R. § 668.46(a); see also Ed. Code, § 67383, subd. (a) (incorporating the federal law definition of CSAs).)

C. Clergy Member and Pastoral Counselor: For state evidentiary code purposes, a clergy member "means a priest, minister, religious practitioner, or similar functionary of a church or of a religious denomination or religious organization." Evid. Code, § 1030. Communications made in confidence with a clergy member may be privileged under the "clergy-penitent privilege" described in Evidence Code sections 1032-1034. A person who meets this statutory definition may also meet the definition of a pastoral counselor for purposes of Title IX and Clery Act, which dictate various campus officials' obligations to report sexual assault to campus authorities. A pastoral counselor is defined as a person who is associated with a religious order or denomination, is recognized by that religious order or denominations as someone who provides confidential counseling, and is functioning within the scope of that recognition. 34 C.F.R. §§ 668.46(a). In this context, a pastor or priest who is functioning as an athletic director or as a student advocate would not be exempt from the reporting obligations under Clery and Title IX. (See U.S. Dept. of Education, Handbook for Campus Safety and Security Reporting (February 2011) pp. 77–78; U.S. Dept. of Education, Questions and Answers on Title IX and Sexual

Violence (April 2014) pp. 22–23 n. 26.)

D. Concurrent Jurisdiction: Statutory jurisdiction for performance of peace officer functions. For example, if campus property is located within a municipality, the city police department has concurrent jurisdiction with the campus police department.

E. Confidential Resources: Confidential resources are counselors, advocates, and other staff such as ombudspersons, explicitly designated as such by the campus. Confidential resources may not meet the definitions of professional or pastoral counselor, but nonetheless provide assistance to victims of sexual assault and may not be protected by legal privilege. They may work or volunteer in on-campus sexual assault centers, victim advocacy offices, women's centers, or health centers (including front desk staff and students). Conversations with confidential resources do not trigger a Campus Title IX investigation. (See U.S. Dept. of Education, Questions and Answers on Title IX and Sexual Violence (April 2014) E-3.)

F. First Responder: The law enforcement agency that will respond to 911 calls and other emergency calls and notify the law enforcement agency with operational responsibility. The First Responder may make the initial report for further investigation when the circumstances do not require the immediate involvement of the law enforcement agency with operational responsibility. When appropriate, the First Responder will be responsible for documenting the agency's involvement in conducting investigations or enforcing the law.

G. Hate Crime: A criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim: (1) Disability; (2) Gender; (3) Nationality; (4) Race or ethnicity; (5) Religion; (6) Sexual orientation; (7) Association with a person or group with one or more of these actual or perceived characteristics. (Penal Code, §§ 422.55, 422.6.)

H. Holder of the Privilege: The holder of the Sexual Assault Counselor or Psychotherapist privilege is: (a) The victim/patient when such person has no guardian or conservator; (b) A guardian or conservator of the victim/patient when the victim/patient has a guardian or conservator; or (c) The personal representative of the victim/patient if the victim/patient is dead. (Evid. Code §§ 1013, 1035.6.) The holder of the Clergy-Penitent Privilege can be either the penitent or the clergy member. (Evid. Code, §§ 1033, 1034.) Only the holder of the privilege can give voluntary, informed, and time-limited consent to the disclosure of privileged communications.

I. Implicit Bias: An implicit bias is a positive or negative mental attitude towards a person, thing, or group that a person holds at an unconscious level. In contrast, an explicit bias is an attitude that a person is consciously aware of having.

J. Medical Evidentiary Examination: To "perform a medical evidentiary examination" means to evaluate, collect, preserve, and document evidence, interpret findings, and document examination results. (Penal Code, § 13823.93, subd. (a)(2).)

K. National Incident Based Reporting System (NIBRS) formerly known as Part 1 violent crimes: As defined by the Federal Bureau of Investigation's Uniform Crime Reporting Program, offenses including "criminal homicide, forcible rape, aggravated assault, [and] robbery." (U.S. Dept. of Justice, Federal Bureau of Investigation, Uniform Crime Reporting Handbook (2004) pp. 150, 152.)

L. Operational Responsibility: A term referring to the law enforcement agency with responsibility for preventing crime; preserving peace and order; enforcing laws and ordinances; receiving citizens' arrests; evaluating persons who may be subject to Welfare and Institutions Code section 5150; investigating and collecting evidence; investigating reportable traffic accidents; reporting and accounting criminal offenses; and providing such other police services as the statutes and standard operating procedures of the respective departments may require.

M. Pastoral Counselor: See definition of Clergy Member.

N. Privilege: A victim of a sexual assault has a privilege to refuse to disclose a confidential communication between the victim and a Sexual Assault Counselor, Psychotherapist, or Clergy Member. For communications with a Sexual Assault Counselor, Psychotherapist or Clergy Member, the privilege may be claimed by any of the following: (a) The holder of the privilege; (b) A person who is authorized to claim the privilege by the holder of the privilege; or (c) The person who was the Sexual Assault Counselor or Psychotherapist at the time of the confidential communication. (Evid. Code, §§ 1014, 1035.8, 1036.) A privilege applies to prevent disclosure of confidential information not only in state judicial proceedings, but in “all proceedings of any nature in which testimony can be compelled by law.” (Evid. Code, § 910 & Comment.) This includes “any action, hearing, investigation, inquest, or inquiry” conducted by administrative agencies, hearing officers, arbitrators, legislative bodies, or “any other person authorized by law.” (Id. at § 901.)

O. Psychotherapist and Professional Counselor: For state evidentiary code purposes, a psychotherapist generally means a licensed psychologist, psychiatrist, clinical social worker, professional clinical counselor, psychiatric-mental health nurse, family or marriage therapist, or a credentialed school psychologist. (Evid. Code, § 1010, subds. (a)–(e), (n) (providing specific definitions).) It also may include a trainee, psychological assistant or intern, associate clinical social worker, family therapist intern, or clinical counselor intern or trainee, provided that they are supervised by certain licensed practitioners. (Evid. Code, § 1010, subds. (f), (g), (o), (p).) Communications made in confidence with a Psychotherapist may be privileged under Evidence Code section 1014. A person who meets this statutory definition may also meet the definition of a Professional Counselor for purposes of Title IX and Clery Act, which dictate various campus officials’ obligations to report sexual assault to campus authorities. A Professional Counselor is defined as a person whose official responsibilities include providing mental health counseling to members of the institution’s community and who is functioning within the scope of their license or certification. (34 C.F.R. § 668.46(a).) This definition applies even to Professional Counselors who are not employees of the institution, but are under contract to provide counseling at the institution. This also includes an individual who is not yet licensed or certified as a counselor, but is acting in that role under the supervision of an individual who is licensed or certified. An example is a Ph.D. counselor-trainee acting under the supervision of a licensed or certified counselor.

(See Title IX and Clery Act; see also U.S. Dept. of Education, Handbook for Campus Safety and Security Reporting (February 2011) pp. 77–78; U.S. Dept. of Education, Questions and Answers on Title IX and Sexual Violence (April 2014) pp. 22–23 n. 26, <https://www.justice.gov/archives/ovw/page/file/910306/download>)

P. Rape Crisis Counseling Center (RCC): A center commonly known as a rape crisis center that provides, among other services: crisis intervention; follow-up and in-person counseling services; accompaniment and advocacy services; and information and referrals to victims and the general public. (See generally Penal Code, § 13837.)

Q. Responsible Employee: Any employee who (1) has authority to redress sexual violence, (2) has been given the duty to report sexual violence or other covered misconduct, or (3) a student could reasonably believe has this authority or duty. (U.S. Dept. of Education, Office for Civil Rights, Revised Sexual Harassment Guidance (January 2001) p. 13.) Reportable incidents of sexual violence known by a Responsible Employee must be disclosed to District’s Title IX Coordinator with all relevant information, including personally identifiable information about the victim, the accused, or other witnesses. (See U.S. Dept. of Education, Office for Civil Rights, Questions and Answers on Title IX and Sexual Violence (April 2014) D-3.)

R. Sexual Assault: Includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or the threat of any of these. See, e.g., Ed. Code, § 67380 et seq.; see also Penal Code, §§ 243.4 (sexual battery), 261 (rape.)

S. Sexual Assault Counselor: A Sexual Assault Counselor is a certified counselor who is authorized under the California Evidence Code to assert the privilege against disclosing any confidential communications between a victim and the counselor. Section 1035 of the Evidence Code defines a Sexual Assault Counselor as a person engaged in any office, hospital, institution, or center commonly known as a rape crisis center, whose primary purpose is to give advice or assistance to sexual assault victims, who has completed training by a rape crisis counseling center (as defined in Penal Code section 13837), and who meets either of the following: (1) is a psychotherapist, has a master's degree in counseling, or one year of counseling experience with six months of rape crisis experience; or (2) has 40 hours of training and is supervised by a qualified counselor. (Evid. Code, § 1035.2.) It also includes a person employed to counsel or assist sexual assault victims by a public or nonprofit agency that provides assistance to victims and witnesses of crimes (as specified by Penal Code section 13835.2), and who: (1) is a psychotherapist, has a master's degree in counseling or a related field, or has one year of counseling experience, at least six months of which is in rape assault counseling; or (2) has the minimum training for sexual assault counseling set for victim-witness services organizations, and is supervised by a qualified counselor. (Evid. Code, § 1035.2, subd. (b).)

T. Sexual Assault Forensic Examination (SAFE Examination): A SAFE exam is an exam, commonly referred to as a rape kit, conducted at a qualified health facility to collect forensic evidence from a sexual assault victim that can be used to identify the perpetrator of that crime as well as other crimes to the extent the perpetrator is a repeat offender. (See, e.g., Penal Code, §§ 13823.5, 13823.7.) California protocol for SAFE exams and additional information about SAFE exams and victims' rights are available at: <https://www.valor.us/category/publication/saam/>.

U. Trauma-Informed: Trauma-informed services are not specifically designed to treat symptoms or syndromes related to sexual violence, but they are informed about and sensitive to trauma-related issues present in survivors. A trauma-informed organization—whether a hospital, community mental health agency, rape crisis center, or dual/multi-service advocacy agency—is one which all components have been reconsidered and evaluated in light of a basic understanding of the role violence and exposure to trauma plays in the lives of survivors. (Harris & Fallot, 2001.) A trauma-informed approach also integrates an understanding of a survivor's history and the entire context of their experience. The attributes of the community to which the survivor belongs also can influence how a survivor is affected by trauma. The individual, the event, and the environmental factors can shape a survivor's reaction to trauma and the healing process. In practice, trauma-informed services involve striving to be culturally competent and to understand survivors within their familial, social, and community contexts and life experiences. (Proffitt, 2010, p. 3; See National Sexual Violence Resource Center, Building Cultures of Care: A Guide for Sexual Assault Services Programs (2013), <http://www.nsvrc.org/publications/nsvrc-publications-guides/building-cultures-care-guide-sexual-assault-services-programs>.) Additional information about trauma-informed practices is available from the National Substance Abuse and Mental Health Services Administration (SAMHSA) at: <http://www.samhsa.gov/nctic/trauma-interventions>.

V. Undocumented Individual: An undocumented individual is a foreign-national who (1) entered the United States unlawfully, without the proper authorization and documents; or (2) entered the United States legally as a nonimmigrant but has since violated the terms of their status and remained in the United States without authorization.

W. Victim: As used in the MOU, someone who is observed to or who states that a Part 1 violent crime, hate crime, or sexual assault has been committed against him or her. Parties may elect to also or instead use the term Survivor.

X. Victim Advocate: A Sexual Assault Counselor, as defined in section 1035.2 of the Evidence Code, or a victim advocate working in a center established under Article 2 (commencing with section 13835) of Chapter 4 of Title 6 of Part 4. (Penal Code, § 679.04, subd. (a).)

Y. Victim Support Person: Under California law, a victim of sexual assault has the right to

have a support person of the victim's choosing present at any interview by law enforcement authorities, district attorneys, or defense attorneys. However, the support person may be excluded from an interview by law enforcement or the district attorney if the law enforcement authority or the district attorney determines that the presence of that individual would be detrimental to the purpose of the interview. (Penal Code, § 679.04, subd. (a).)

Z. Victims of Crime Fund: This refers to the state Victim-Witness Assistance Fund created by Penal Code section 13835.7. The fund is held in the state treasury and dispensed by "the Office of Emergency Services exclusively for the purposes specified in [sections 13835 to 13835.10 of the Penal Code], any other purpose that supports victims, and for the support of the centers specified in section 13837." (Penal Code, § 13835.7.)

AA. Victim-Witness Assistance Program: Any public or private nonprofit agency that provides assistance to victims and witnesses of crimes and meets the requirements set out by Penal Code section 13835.2. This includes: (1) providing comprehensive services to victims and witnesses of all types of crime; (2) recognition by the county board of supervisors as the major provider of comprehensive services to victims and witnesses in the county; (3) selection by the board of supervisors as the agency to receive funds pursuant to this article; (4) assistance to victims of crime in the preparation, verification, and presentation of their claims to the California Victim Compensation and Government Claims Board; and (5) cooperation with the California Victim Compensation and Government Claims Board in verifying the data required for these claims. (Penal Code, § 13835.2, subd. (a).)

All listed definitions (A-AA.) are only applicable as pursuant to this MOU. No definition as listed in the MOU will supersede any language codified in policies of the City of Redwood City, the Redwood City Police Department, or any adopted San Mateo County-wide Response Protocols.

## V. JURISDICTION FOR LAW ENFORCEMENT SERVICES

A. Maps: The Parties agree to share patrol and sector maps to clarify jurisdictional boundaries. Such maps will depict all buildings and properties that are owned or controlled by the District at Cañada College campus, as well as all buildings and properties that are owned or controlled by recognized student and alumni organizations. All maps will be reviewed and updated on an annual basis or when a significant change is made to District property or local law enforcement reporting sectors. All modified maps will be shared with all Parties to this MOU. In addition, all maps will indicate any federal or tribal lands that are included in the jurisdictional boundaries, and if any such lands are present, all maps and action plans will be shared with those federal and tribal authorities. A copy of each map will be attached as Appendices to this MOU.

### B. Campus Public Safety Authorities, Operational Responsibility & First Responders:

DPS is the public safety authority and department who has responsibility for campus security, may receive reports of criminal offenses, and is the District's designated department with significant responsibility for student and campus activities.

RCPD has operational responsibility for any crimes, including National Incident Based Reporting System (NIBRS) formerly known as Part 1 violent crimes, hate crimes, and sexual assault, occurring on the District's Cañada College campus. RCPD has operational responsibility for any crimes, including National Incident Based Reporting System (NIBRS) formerly known as Part 1 violent crimes, hate crimes, and sexual assault, that occur within the municipality in which RCPD serves as the Police Department.

The RCPD shall have concurrent jurisdiction over the City of Redwood City in which RCPD has jurisdictional authority and operational responsibilities.

RCPD will act as the first responder to incidents, and have responsibility for the investigation of crimes and reporting to those authorized by law of Part I violent crimes, hate crimes, and sexual assault, occurring on the District's Cañada College campus, as well as any campus owned, operated and/or occupied facilities by the District, which fall under the jurisdiction of the City of Redwood City.

RCPD may act as the first responder to incidents, and have responsibility for the investigation of crimes and reporting to DPS of Part I violent crimes, hate crimes, and sexual assault, occurring at all locations within RCPD's jurisdictional boundaries.

If incidents occur that involve public safety/police action from both DPS and RCPD, law enforcement supervisors from each department will confer and decide which will have primary responsibility for investigating and reporting the incident based on the location of the incident.

C. Collaboration: The Parties recognize that regardless of which law enforcement agency ultimately has operational responsibility in responding to a sexual assault, hate crime or other Part 1 violent crime, other Parties may be the first responder to the report of the crime. Thus, each of the Parties has a responsibility to act in a manner that facilitates an effective law enforcement and institutional response, as well as appropriate treatment of the individual reporting the sexual assault or other violent crime. This includes ensuring the appropriate preservation of evidence and coordination with law enforcement to maintain chain of custody and authorize forensic sexual assault examinations.

D. Disputes Over Responsibility: If a dispute arises between the Parties regarding administrative, geographic or operational responsibility, and it cannot be resolved by referring to this MOU, the Party with jurisdictional responsibility for the incident will retain investigative responsibility. Other Parties will provide cooperation and resources in support of the investigation or resolution of the incident. The Party with responsibility for the incident will reasonably accommodate any requests from other Parties to conduct a parallel or joint response and/or criminal investigation.

## VI. REPORTING OBLIGATIONS

The Parties agree to the following procedures through which each Party will transmit reports it receives to the other Parties. These reports shall comply with the confidentiality requirements described in Section VII below, and shall not identify the victim or the alleged assailant unless the victim has consented to being identified.

A. DPS Reports to RCPD: Pursuant to California Education Code sections 67380(a)(6)(A) and 67383(a), DPS will report immediately or as soon as practicably possible to RCPD all reports received by a Campus Security Authority of any National Incident Based Reporting System (NIBRS) formerly known as Part 1 violent crime, sexual assault, or hate crime, committed on or off campus *within RCPD's jurisdictional area*. This includes reports victims make directly to Campus Security Authorities as well as reports victims make to other Cañada College employees that are then conveyed to DPS authorities. Such reports will include, where authorized:

- The name and characteristics of the victim;
- The name and characteristics of the perpetrator if known;
- Description of the incident, including location and date and time; and
- Any report number assigned to the police incident report documenting the investigation being conducted by the jurisdictional agency.

All such notifications to RCPD will be documented in DPS records. In addition, Campus will maintain a public crime log documenting the "nature, date, time, and general location of each crime" and its disposition, if known. The log should be accessible to the public during normal business hours.

B. RCPD Reports to DPS: Pursuant to the Clery Act, DPS must report aggregate data

concerning certain enumerated crimes. To enable DPS to fulfill this requirement, RCPD shall provide statistics on at least an annual basis to DPS on all crimes listed in 20 U.S.C. § 1092(f)(1)(F) for which RCPD acted as a first responder or had operational responsibility.

RCPD will notify DPS, pursuant to law and Redwood City Police Department Policy when students or employees are identified as the victims or suspects of any National Incident Based Reporting System (NIBRS) formerly known as Part 1 violent crime, sexual assault, or hate crime that occurs within RCPD's jurisdiction on District owned property, and/or when RCPD acts as first responder to an incident. Such reports can, but not necessarily include, where authorized:

- The name and characteristics of the victim;
- The name and characteristics of the perpetrator if known;
- Description of the incident, including location and date and time; and
- Any report number assigned to the police incident report documenting the investigation being conducted by the jurisdictional agency.

C. Clery Warnings: The Clery Act requires DPS to issue timely warnings for Clery crimes on- and off-campus that pose a serious threat to students and employees and emergency notifications for a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees on campus.

To facilitate the issuance of Clery Act-required timely warnings and emergency notifications, the Parties agree to coordinate the sharing of information as described above. The Parties acknowledge that DPS need not obtain the approval of an outside law enforcement agency to issue any warnings/notifications, nor is DPS required to seek preclearance of the content of any warning/notification. However, DPS will inform RCPD about such warnings as soon as practicable through the points of contact listed in this MOU.

## **VII. CONFIDENTIALITY & PRIVILEGE REQUIREMENTS**

The Parties will comply with applicable law and guidance regarding anonymous and confidential reporting of sexual violence, including when, how, and what information can or must be disclosed to local law enforcement officials or designated DPS officials.

A. Communications Between Parties: The Parties agree that if a victim requests confidentiality regarding a reportable incident, the Parties will take all reasonable steps to comply with the victim's request or inform the victim when the Parties cannot ensure confidentiality. A Party will not disclose the name of the victim to other Parties unless the victim provides written consent to being identified after being informed of their right to have identifying information withheld.

Prior to obtaining consent from the victim to share personally identifying information, Parties will inform the victim of sexual assault that notification to DPS - including the confidential resources described in subsection B below - likely will also result in notice to the campus Title IX coordinator, but that notification to confidential resources will not result in disclosure of personally identifiable information to the Title IX coordinator. Parties will also inform the victim that they can agree to engage with local law enforcement and participate in the investigation and prosecution using a pseudonym (*i.e.*, Jane or John Doe) instead of their true name. In that case, DPS may disclose the name of the alleged perpetrator to law enforcement (if known) while protecting the identity of the victim from public disclosure.

B. Privileged & Confidential Resources for Victims:

1. The Parties acknowledge that communications between victims and Sexual Assault Counselors, Psychotherapists, or Clergy Members are privileged communications. The privilege covers all confidential communications with the Counselors or

Psychotherapists, and those who work or volunteer in their offices when the communications are reasonably necessary for the accomplishment of the purpose for which the counselor was consulted. Such counselors generally are under no obligation to report incidents of sexual violence, unless the victim is a minor, and can generally claim the privilege in a criminal proceeding.

2. The Parties further acknowledge that communications between campus-designated “confidential resources” and victims are generally protected from disclosure of personally identifying information except in limited circumstances, including potentially in a criminal proceeding unless they qualify as privileged.
3. Finally, the Parties acknowledge that communications between victims and any Responsible Employees on Cañada College campus who are NOT designated “confidential resources” are not confidential and are subject to the reporting requirements described in Section VI above (in addition to other requirements under state and federal law).

The Parties agree to assist with the development of materials to share with each other, with victims, and with the campus community listing appropriate points of contact on- and off-campus within the above three categories, and including information about the levels of confidentiality and privilege applicable to resources in each category.

## VIII. COMMUNICATION AND COORDINATION

A. General: The Parties will meet regularly or exchange information as needed to:

- Share data and analysis about current trends and patterns in sexual assaults both on and off campus; and
- Share additional relevant crime data in furtherance of crime prevention goals and in accordance with the Jean Clery Act.

RCPD understands that once DPS becomes aware of an incident of sexual assault, it has obligations to take prompt and appropriate action to investigate, independent of any investigation by RCPD. DPS understands that RCPD may initiate an investigation and prosecution of an incident of sexual assault independent of any campus administrative proceeding.

B. Immediate Aftermath of an Incident - Victim Response and Evidence Collection/Preservation:

The Parties agree that in the immediate aftermath of a sexual assault both Parties will follow County of San Mateo’s protocols regarding;

1. *SAFE Exams and Evidence Collection/Preservation; and*
2. *Victim Communication and Interviews.*

C. Victim Services: The Parties agree, with the victim’s consent, to coordinate referrals for support services for sexual assault victims that are made available by municipal and other governmental agencies including, RCPD, District, San Mateo County District Attorney’s Office, and Qualified Community Based Organizations (CBOs)/RCCs per County of San Mateo’s protocols.

D. Sexual Assault Response Team (SART): The Parties agree to support and participate in the existing interdisciplinary Sexual Assault Response Team (SART) within their jurisdictions or support the development of a SART that includes District representatives, the Title IX Coordinator or designee, advocates, counselors, medical providers (ideally to include a Sexual Assault Forensic Examiner or a Sexual Assault Nurse Examiner), law enforcement support, and other competencies that may be needed to adequately deliver essential support services per County of San Mateo’s protocols.

E. Coordination During Ongoing Investigation: The Parties will regularly confer on the

status of an active investigation to ensure District's compliance with federal requirements while maintaining the integrity of an active RCPD criminal investigation per County of San Mateo's protocols.

## **IX. SEXUAL ASSAULT PREVENTION AND TRAINING**

A. Training Offered by RCPD and District: District agrees to offer training to RCPD regarding:

- The federal and state requirements regarding sexual assault prevention and response with which they must comply, including the Clery Act, Title IX, Title IV, the Safe Streets Act, Section 14141, FERPA, and other confidentiality and privacy statutes and policies; and
- The differing status of conduct offenses as defined and investigated by District as compared to similar criminal offenses.

RCPD agrees to work in conjunction with the San Mateo Sheriff's Office to assist in offering training and technical assistance to District security personnel and any personnel involved in a campus disciplinary investigation or proceeding regarding sexual assault, as needed. Both Parties agree that the San Mateo Sheriff's Office will be the primary provider of such training to the District.

RCPD agrees to provide its officers and command-level staff with trauma-informed sexual assault training. Training provided by RCPD will be Peace Officer Standards and Training ("POST") certified or provided by a trauma and sexual assault expert.

The Parties agree that training should occur as directed by law and POST requirement and be reinforced at management meetings, roll calls, and other gatherings periodically.

The Parties agree to collect and share data regarding the number and types of trainings provided pursuant to this section; and, in the normal scope of training to conduct regular evaluation of these trainings. The Parties agree to include such evaluation in their data collection and management reviews to look for trends and areas that will need to be revised in future trainings, when it comes to reported sexual assaults and sexual assault training.

B. Campus Community Training and Collaboration: RCPD agrees to collaborate with District and the San Mateo Sheriff's Office to provide outreach and training for the campus community about the awareness, prevention, intervention, investigation, and response to sexual assaults and other crimes of violence and to work with community-based resources and experts, including victim advocates, to provide these programs.

## **X. ACCOUNTABILITY**

The Parties agree to collect data, including a baseline number of reports of National Incident Based Reporting System (NIBRS) formerly known as Part 1 violent crimes, hate crimes, and sexual assault from the year prior to entering into the MOU, comparison of baseline numbers to current numbers of cases reported.

The Parties agree to collect data regarding the number and types of training each Party provides each year.

The Parties agree to determine common definitions to ensure a valid comparison of data collected. RCPD agrees to provide appropriate data as allowed by law, to allow District to conduct any required internal audits regarding this MOU.

Each Party representative responsible for implementation of this MOU will meet at least annually to discuss the effectiveness of the MOU to determine areas for improvement and discuss appropriate next steps.

**XI. MISCELLANEOUS**

This MOU is effective upon signature by both Parties and shall remain in effect for five (5) years. This MOU may be renewed with a renewal agreement by both parties

This MOU may be terminated upon 30 days' written notice by any Party. This MOU may be amended or terminated by mutual agreement of the Parties. An amendment or termination should be done in writing.

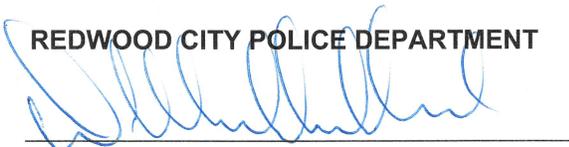
This MOU may be executed in counterparts.

The Parties agree that any costs associated with this MOU will be covered by the Party incurring such costs.

Each Party agrees to act in good faith to observe the terms of this MOU; however, nothing in this MOU is intended to require any unlawful or unauthorized act by any Party. Nothing in this MOU shall be interpreted to limit or restrict each of the Parties' legal, jurisdictional, or other rights or obligations with respect to the subject matter of this MOU.

No provision of this MOU shall form the basis of a cause of action at law or equity by any Party against any other Party, nor shall any provision of this MOU form the basis of a cause of action at law or equity by any third party.

**REDWOOD CITY POLICE DEPARTMENT**



Signature



RCPD Authorized Signatory

5-25-22

Date

**SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT**

Storti, Richard

Digitally signed by Storti, Richard  
Date: 2022.05.18 12:27:44 -07'00'

Signature

Dr. Richard Storti, Executive Vice Chancellor of Administrative Services

District Authorized Signatory

Date

## Appendix A Cañada College Jurisdiction Map

Yellow is RCPD jurisdiction. Gray is San Mateo County Sherriff's Office jurisdiction,



**San Mateo County Community College District**  
**2021 Annual Security Report**

Draft Update – Response to 2020-032 Cañada College Clery Act Audit

***About The San Mateo County Community College District***

The San Mateo County Community College District is one of the 73 community college districts in California. Our District operates 3 of the 115 community colleges within the California Community College System: Cañada College, College of San Mateo & Skyline College.

The three colleges of our district serve more than 21,000 students (FTE) and offer the first two years of instruction in a wide variety of transfer programs as well as more than 90 vocational- technical programs. Students can earn either Associate in Arts or Science degrees or receive Certificates of Proficiency in their chosen fields. The University Center at Cañada College collaborates with other colleges and universities to offer baccalaureate and master's degrees.

On the San Mateo County Community College District campuses, the Department of Public Safety, Personal Counseling, Health Services, Facilities Department and others are responsible for a number of measures to ensure personal safety and to protect property.

In compliance with the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act of 1998 (formerly The Student Right to Know Act of 1990), the San Mateo County Community College District provides information regarding crime statistics and security measures through public safety flyers, e-mails and publications to employees, prospective students, and matriculated students.

The Department of Public Safety reports to the Vice Chancellor of Facilities, Maintenance & Operations and Public Safety. The Department of Public Safety works closely with all departments of the Colleges to ensure that safety policies and procedures are uniformly executed and conveyed in a clear and consistent manner to all the college's students, faculty, and staff.

***What is the "Jeanne Clery" Disclosure Act?***

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, codified at 20 USC 1092 (f) as a part of the Higher Education Act of 1965, is a federal law that requires colleges and universities to disclose certain timely and annual information about campus crime and security policies. All public and private institutions of postsecondary education participating in federal student aid programs are subject to it. Can be "fined" up to \$58,328 by the U.S. Department of Education, the agency charged with enforcement of the Act and where complaints of alleged violations should be made, or face other enforcement action.

The Clery Act, originally enacted by the Congress and signed into law by President George Bush in 1990 as the Crime Awareness and Campus Security Act of 1990, stemmed from Howard & Connie Clery after their daughter Jeanne was raped and murdered at Lehigh University in 1986. They also founded the non-profit Security On Campus, Inc. in 1987. Amendments to the Act in 1998 renamed it in memory of Jeanne Clery. The complete text of the Clery Act and U.S. Department of Education regulations is available on the Security On campus, Inc. web site at: <https://www.govinfo.gov/content/pkg/FR-2014-10-20/pdf/2014-24284.pdf#page=33>

The Clery Act requires institutions that receive federal financial aid to publish an annual security report every year by October 1st that contains 3 years' worth of campus crime statistics and certain security policy statements, including policies related to the prevention and response to sexual and gender violence, and related offenses. The

San Mateo County Community College District (SMCCCD) Department of Public Safety (DPS) publishes this report in compliance with this requirement.

### ***Clery Act Definitions***

#### ***Geography***

**Main Campus** is defined as the buildings and property owned by San Mateo Community College District, for the following colleges:

- College of San Mateo
- Cañada College
- Skyline College

College campuses used by SMCCCD employees and/or students, includes buildings and property commonly referred to as San Mateo Community College District

**On-Campus** any buildings or properties that are owned or controlled by San Mateo Community College District College, reasonably contiguous to one another AND directly support or relate to the college's educational purpose.

**Public Property** is defined as the public property inside and directly adjacent to and accessible from college property (examples include pathways, streets, and sidewalks)

**Murder/Non-Negligent Manslaughter** is defined as the willful (non-negligent) killing of one human being by another (excludes deaths caused by negligence, attempts to kill, assaults to kill, suicides, accidental deaths, and justifiable homicides).

**Negligent Manslaughter** is defined as the killing of another person through gross negligence.

**Rape** – The penetration, no matter how slight, of the vagina or anus with anybody part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

**Forcible Fondling** – The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.

**Statutory Rape** – Sexual intercourse with a person who is under the statutory age of consent.

**Robbery** is the taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**Aggravated Assault** is an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could or probably would result in a serious potential injury if the crime were successfully completed.

**Burglary** is the unlawful entry of a structure to commit a felony or a theft. For reporting purposes, this definition includes: unlawful entry with intent to commit a larceny or a felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.

**Motor Vehicle Theft** is the theft or attempted theft of a motor vehicle.

**Arson** is any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another kind.

### ***Hate Crimes***

A hate crime is an actual criminal offence motivated in whole or in part by the offender's bias towards the victim's status based on race, color, religion, ethnic/national origin, gender expression, sex, age, disability, or sexual orientation identities. To be classified as a hate crime it must meet two criteria: (1) a crime must occur, such as physical assault, intimidation, or arson, and (2) the crime must be motivated by bias or prejudice. Incidents of this nature are criminal; along with violating college policies, they are illegal and punishable through customary law enforcement channels.

**Larceny** is defined as the unlawful taking, carrying, leading, or riding away of property from the possession of constructive possession of another.

**Vandalism** is willfully or maliciously destroying, injuring, disfiguring, or defacing any public or private property, real or personal, without the consent of the owner or person having custody or control by cutting, tearing, breaking, marking, painting, drawing, covering with filth, or any other such means as may be specified by local law.

**Intimidation** is to unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

**Simple Assault** is an unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

### ***Violence Against Women Act***

**Domestic violence** includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

**Dating violence** means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

**Stalking** means intentional and repeated harassment or following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated, or harassed, even if the perpetrator lacks such intent.

### ***Drug, Liquor, and Weapon Violations***

**Drug Law Violations** are violations of state and/or local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadone's); and dangerous non-narcotic drugs (barbiturates, Benzedrine).

**Liquor Law Violations** are violations of laws or ordinances prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; all attempts to commit any of the aforementioned. (Drunkenness and driving under the influence are not included in this definition.)

**Weapon Law Violations** are violations of laws or ordinances dealing with weapon offenses, regulatory in nature, such as: manufacturing, sale, or possession of deadly weapons; carrying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; all attempts to commit any of the aforementioned.

### ***Preparation of Annual Crime and Fire Statistics***

The SMCCCD Public Safety Department prepares the “Annual Security and Fire Report” (ASR (Annual Security Report)) and discloses the annual crime and fire statistics to comply with the Clery Act. The crime, arrest, and disciplinary referral statistics for incidents on campus, in non-campus buildings or property, or on public property include those reported to the SMCCCD Public Safety Department and other campus officials with responsibility for student and campus activities such as:

- Associate Vice President for Student Affairs
- Athletics Department
- International Education
- Title IX Office
- Human Resources
- Student Programs

The Public Safety Department also obtains information from local law enforcement agencies regarding the occurrence of crimes on public property within the campus, on non-campus property or on property immediately adjacent to and accessible from the campus. The Public Safety Department collects all statistics and compiles them in accordance with the Clery Act.

A copy of the ASR will be available at the Public Safety Department located in the B-Building room B1-101 on campus at 1700 West Hillsdale Blvd, San Mateo CA 94402. The ASR will also be available on the college website, the campus intranet, and is e-mailed to all employees.

Safety on SMCCCD campuses is a concern for the students, parents, and college employees. SMCCCD’s administration recognizes the importance of making the campus community aware of security on campus and has made this a top priority. Each year, an e-mail notification is sent to all enrolled students, faculty, and staff providing the website address to access the Clery Act report. Hard (paper) copies of the report may also be obtained from the SMCCCD Public Safety Department (B1-101) or by calling the Public Safety Office at (650)738-7000.

DPS prepares this report using information provided by other District and College offices such as Student Services, the Title IX Coordinator, and other Campus Security Authorities and information provided by local law enforcement agencies surrounding each of the campuses. Each of these offices provides updated policy information and crime data.

This report provides statistics for the previous three years concerning reported crimes that occurred on campus, in certain off-campus buildings or property owned, leased, or controlled by

the District. This report also includes institutional policies concerning campus security, such as policies regarding sexual and gender violence, alcohol, and other drugs. The Department intends that the information provided by this annual safety report is accurate; however, errors sometimes occur. This annual report does not reflect the full crime index for the entire Redwood City, San Mateo, or San Bruno communities, only Clery required reportable offenses. Any increase or decrease in statistics from previous reporting years may be due to the Department's better understanding of the requirements of how incidents should be classified and counted, and are not necessarily due to an increase or decrease in reported incidents

SMCCCD reserves the right to update the information contained in this report, as necessary.

### ***Distribution of the Annual Security Report***

The District distributes a notice of the availability of this Annual Security Report by October 1 of each year to every member of the District. Anyone, including prospective students and employees, may obtain a paper copy of this report by contacting DPS at (650) 738-7000.

### ***Reporting Crimes and Other Emergencies***

The San Mateo Community College District Campuses are safe learning environments, but like all places, crime, health, and safety emergencies may happen on our campuses. Community members, students, faculty, staff, and visitors are encouraged to immediately, or in a timely manner, report incidents that may constitute an emergency, a crime, a student code of conduct violation, or a physical injury. Remember, prompt reporting improves campus safety and security.

To report crimes or emergencies, members of the college community should call the Department of Public Safety (650) 738-7000 from any campus phone or cell phone. For life threatening emergencies, call 911 from any campus phone or from a cell phone, or call the local Police Department (Cañada College - San Mateo County Sheriff's Office (650) 216-7676, Cañada Vista Housing - Redwood City Police Department (650) 780-7000, College of San Mateo-San Mateo Police Department (650) 522-7700 and Skyline College - San Bruno Police Department (650) 616-7100).

Be prepared to advise the dispatcher where the emergency is located. If time permits, call Public Safety so that they can be alerted that emergency services are responding so that they can assist in giving directions to your location. On campus Public Safety officers will assist by directing the emergency response vehicles to the location of the emergency.

### ***Reporting of Crimes Policy (2.51)***

1. The Chancellor shall assure that, as required by law, reports are prepared of all occurrences reported to DPS of arrests for crimes committed on campus that involve violence, hate violence, theft or destruction of property, illegal drugs, or alcohol intoxication. The

Chancellor shall further assure that required reports of non-criminal acts of hate violence are prepared. Such reports shall be made available as required by law.

2. The Chancellor shall establish procedures related to the responsibility of employees, within the scope of employment or in their professional capacity, to report suspected

abuse and neglect of children. Reference: Education Code Section 67380; Penal Code Sections 261, 264.1, 273a, 273d, 285, 286, 288, 288a, 289, 647a, and 11164-11174.3; Welfare and Institutions Code Sections 300, 318, and 601; Family Code Sections 7802, 7807, 7808, 7820-7829, 7890, and 7892

### ***Anonymous Crime Reporting***

If you wish to report a crime anonymously, you may do so by completing the Anonymous Crime Reporting Form on the Public Safety Website. Please be as descriptive and detailed as possible. The purpose of Anonymous Crime Reporting is to comply with your wish to keep the matter confidential, while taking steps to ensure the future safety of yourself and others. Rest assured, you are submitting information completely anonymously and the Department of Public Safety will investigate the information you provide.

### ***Accurate and Prompt Reporting***

We encourage all community members, including students, faculty, staff, and guests to report all crimes and public safety related incidents to the Department of Public Safety in a timely manner at (650) 738-7000. If assistance is required from a local police department, fire, or EMS, DPS will contact the appropriate agency.

If a sexual assault or rape should occur, staff on the scene, including Public Safety, will offer the victim a wide variety of services and options for filing a report. Crimes should be reported to the Department of Public Safety to ensure inclusion in the annual crime statistics and to aid in providing timely warning notices to the community, when appropriate.

### ***Timely Warnings***

The San Mateo County Community College District is required to provide "timely warnings" and a separate more extensive daily crime log. It is these requirements that are most likely to affect the day-to-day lives of the campus community. The timely warning requirement is subjective and is only triggered when the institution appointees consider an incident to pose an ongoing "threat to the campus community" while the daily crime log records all criminal incidents reported to the Department of Public Safety.

If a situation arises that, in the judgment of the Director of Public Safety, constitutes a serious and/or on-going threat, a campus wide timely warning will be issued as soon as pertinent information is available as required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). A timely warning is a notification to the campus community concerning the occurrence of a Clery reportable crime that poses a serious and on-going threat. Each incident is considered on a case-by-case basis, depending on the facts of the case and the information currently available. The daily crime log includes not only incidents reported to Public Safety but covers all crimes, not just those required in the Annual Safety & Security Report; meaning incidents like theft are also included in the log.

Students, faculty, staff, community members, and guests are encouraged to report all crimes and public safety-related incidents to the SMCCCD Public Safety in a timely manner, to aid in providing accurate and timely warning notices to the community when appropriate, and to ensure inclusion in the annual crime statistics. Professional counselors are not obligated to report crimes under the timely warning requirement.

Depending on the circumstances of the crime, especially in situations that could pose an immediate threat to the community and individuals, the SMCCCD Public Safety Department may employ a variety of different mechanisms to notify the campus (i.e., ALERTME campus notifications, website; postings; email; text alert or other methods of communication that may be deemed appropriate.)

SMCCCD has partnered with Rave Mobile Safety to offer an emergency alert notification system called SMCCD Alerts. SMCCD Alerts is the primary method for sending timely warnings. The SMCCD Alerts service delivers reliable emergency text and email messages to subscribers anytime there is an emergency on campus that poses a safety concern for the community. Anyone can sign up for SMCCCD Alerts by visiting <https://www.smccd.edu/alertme/>

Timely warning notifications are written by the Director of Public Safety or their designees. The timely warning content will contain sufficient information about the nature of the threat to allow members of the campus to take protective action, and may include the following:

- A succinct statement of the incident
- Connection to previous incidents if applicable
- Date, time, and location of the warning
- Description and drawing of the suspect, if available
- Risk reduction and safety tips
- Other relevant and important information
- In some cases, SMCCCD may need to keep some facts confidential to avoid compromising an ongoing investigation, and/or to protect the privacy of the individuals involved.

Anyone with information warranting a timely warning should report the circumstances to SMCCCD Public Safety Department direct at (650) 738-7000 or ext. 7000 from any on-campus phone.

In the case of a campus emergency an archive of alerts will display below the most recent alert on the webpage. The most recent alert will be emailed to all campus addresses. Alerts will also be texted to you if you have registered your mobile number.

To report an emergency, dial 9-1-1. You can also contact Public Safety direct at (425) 466-9365 or office at (425) 564-2400.

### ***Daily Crime Log***

The Department of Public Safety maintains a Daily Crime Log. The log records, by the date incidents reported to us, all alleged crimes and other serious incidents that occur on campus, in a non-campus building or property, on public property, or within the Department's jurisdiction. The Daily Crime Log is available for public inspection at any of the three campus public safety offices. The Daily Crime Log includes the nature, date, time, and general location of each crime reported to us, as well as the disposition of the complaint, if this information is known at the time the log is created. We reserve the right to exclude crime report information from the log in certain circumstances. The Jeanne Clery Act also requires the Department of Public Safety to maintain a Daily Crime Log, listing reports of criminal activity in the last 60 days. To access the Daily Crime Log, click [here](#).

SMCCCD does not discriminate on the basis of race or ethnicity; creed; color; national origin; sex; marital status; sexual orientation; age; religion; genetic information; the presence of any sensory, mental, or physical disability; or veteran status in educational programs and activities which it operates. The following has been designated to handle inquiries regarding the non-discrimination policies:

***Title IX Officers***

<b>District Office</b> Mwanaisha Sims (650) 358-6808 Title IX Coordinator <a href="mailto:simsm@smccd.edu">simsm@smccd.edu</a>	<b>College of San Mateo</b> Kristi Ridgeway (650) 574-6640 Title IX Coordinator <a href="mailto:brickerl@smccd.edu">brickerl@smccd.edu</a>	<b>Cañada College</b> Max Hartman, (650) 306-3132 Title IX Coordinator <a href="mailto:hartmanmax@smccd.edu">hartmanmax@smccd.edu</a>	<b>Skyline College</b> Dr. Newin Orante (650) 738-4333 Title IX Coordinator <a href="mailto:oranten@smccd.edu">oranten@smccd.edu</a>
3401 CSM (College of San Mateo) Drive San Mateo, CA 94402.	1700 West Hillsdale Blvd. San Mateo, CA 94402	4200 Farm Hill Blvd. Redwood City, CA 94061	3300 College Drive San Bruno, CA 94066

**The San Mateo County Community College District Procedure on Sexual Harassment**

**AP 3434      Responding to Harassment Based on Sex under Title IX**

**References:**

- 20 U.S. Code Sections 1681 et seq.;
- 34 Code of Federal Regulations Parts 106.1 et seq.;
- Education Code Sections 67380 et seq.

**Introduction**

The District encourages members of the District community to report sexual harassment. This procedure only applies to conduct defined as sexual harassment under Title IX and applicable federal regulations and that meets Title IX jurisdictional requirements. The District will respond to sexual harassment and sexual misconduct that falls outside that definition and outside the jurisdiction of the Title IX federal regulations using California law and applicable District policies and procedures. In implementing these procedures discussed below, the District will also provide supportive measures, training, and resources in compliance with California law, unless they are preempted by the Title IX regulations.

**Title IX Coordinator**

Questions concerning Title IX may be referred to the District Title IX Coordinator whose contact information is below.

**The District's Title IX Coordinator:**

**Mwanaisha Sims**  
3401 CSM Drive  
San Mateo, CA 94402 (650)  
358-6808  
[simsm@smccd.edu](mailto:simsm@smccd.edu)

**The College Deputy Title IX Coordinators are:**

Deputy Title IX Coordinator Max  
Hartman  
4200 Farm Hill Blvd.  
Redwood City, CA 94601  
(650) 306-3132  
hartmanmax@smccd.edu

Deputy Title IX Coordinator of Athletics Max  
Hartman  
4200 Farm Hill Blvd.  
Redwood City, CA 94601  
(650) 306-3132  
hartmanmax@smccd.edu

The Title IX Coordinator is required to respond to reports of sexual harassment or misconduct. The Title IX Coordinator will handle information received with the utmost discretion and will share information with others on a need-to-know basis. For example, the Title IX Coordinator may need to address public safety concerns on campus, comply with state and federal legal requirements, or share information to implement supportive measures.

A report of sexual harassment to the Title IX Coordinator does not necessarily lead to a full investigation, as discussed more fully below. However, the Title IX Coordinator will make an assessment to determine if there is a safety risk to the campus. If the Title IX Coordinator finds there is a continued risk, the Title IX Coordinator will file the formal complaint without the Complainant's consent or cooperation.

**Title IX Harassment Complaints, Investigations, and Hearings**

These Title IX sexual harassment procedures and the related policy protect students, employees, applicants for employment, and applicants for admission.

**Jurisdictional Requirements – Application of Procedures**

These procedures apply if the conduct meets the following three jurisdictional requirements:

- The conduct took place in the United States;
- The conduct took place in a District “education program or activity.” This includes locations, events, or circumstances over which the District exercised substantial control over both the Respondent and the context in which the harassment occurred, including on-campus and off-campus property and buildings the District owns or controls or student organizations officially recognized by the District.
- The conduct meets the definition of Title IX “sexual harassment.”

**Definitions**

**Advisor:** Throughout the grievance process, both the Complainant and Respondent have a right to an Advisor of their choice. If a Party does not have an Advisor at the time of the hearing, the District must provide the Party an Advisor of the District’s choice, free of charge. The District may

establish restrictions regarding the extent to which the Advisor may participate in the proceedings as long as the restrictions apply equally to both Parties.

While the regulations only require the District to provide an Advisor to conduct cross-examination. The District will provide an Advisor for the entire hearing, if the Party does not identify his/her/their own private Advisor so the Advisor is able to observe the direct examination of all witnesses and is better able to assist the party and conduct cross-examination.

**Complainant:** A Complainant is an individual who alleges he/she/they is the victim of conduct that could constitute sexual harassment.

**Consent:** Consent means affirmative, conscious, and voluntary agreement to engage in sexual activity. Both Parties must give affirmative consent to sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he/she/they has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest, lack of resistance, or silence does not indicate consent. Affirmative consent must be ongoing throughout a sexual activity and one can revoke his/her/their consent at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, is not an indicator of consent.

The Respondent's belief that the Complainant consented will not provide a valid defense unless the belief was actual and reasonable, based on the facts and circumstances the Respondent knew, or reasonably should have known, at the time of the incident. A Respondent's belief is not a valid defense where:

- The Respondent's belief arose from the Respondent's own intoxication or recklessness;
- The Respondent did not take reasonable steps to ascertain whether the Complainant affirmatively consented; or
- The Respondent knew or a reasonable person should have known that the Complainant was unable to consent because the Complainant was incapacitated, in that the Complainant was:
  - asleep or unconscious;
  - unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication; or
  - unable to communicate due to a mental or physical condition.

**Decision-Maker:** The group of people who will oversee the live hearing and make a determination of responsibility. The Decision-Maker cannot be the Title IX Coordinator or the investigator.

**Formal Complaint:** A written complaint signed by the Complainant or Title IX Coordinator alleging sexual harassment and requesting an investigation. If the Title IX Coordinator signs the formal complaint, he/she/they will not become a Party to the complaint.

**Parties:** As used in this procedure, this means the Complainant and Respondent.

**Respondent:** A Respondent is an individual reported to be the perpetrator of conduct that could constitute sexual harassment.

**Sexual Harassment under Title IX:** Conduct that satisfies one or more of the following:

- A District employee conditions the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct (*quid pro quo* harassment);
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity;
- Sexual assault, including the following:
  - **Sex Offenses.** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
  - **Rape** (except Statutory Rape). The carnal knowledge of a person, without **the consent of the victim, including instances where the victim is incapable** of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. There is carnal knowledge if there is the slightest penetration of the genital or anal opening of the body of another person.
  - **Sodomy.** Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
  - **Sexual Assault with an Object.** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything the offender uses other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.
  - **Fondling.** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
  - **Sex Offenses, Non-Forcible Unlawful, Non-Forcible Sexual Intercourse.**
    - **Incest.** Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
    - **Statutory Rape** – Non-Forcible sexual intercourse with a person who is under the statutory age of consent. There is no force or coercion used in Statutory Rape; the act is not an attack.
  - **Dating violence.** Violence against a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of a relationship will be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
  - **Domestic Violence.** Violence committed:
    - By a current or former spouse or intimate partner of the victim;
    - By a person with whom the victim shares a child in common;

- By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
  - By a person similarly situated to a spouse of the victim under the domestic or family violence laws of California; or
  - By any other person against an adult or youth victim protected from that person's acts under the domestic or family violence laws of California.
- **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her/their safety or the safety of others or suffer substantial emotional distress.

### **Reporting Options**

Any individual may report sexual harassment to the District's Title IX Coordinator.

The District strongly encourages prompt reporting of sexual harassment. Prompt reporting allows for the collection and preservation of evidence, including physical evidence, digital media, and witness statements. A delay may limit the District's ability to effectively investigate and respond.

Because individuals may be deterred from reporting incidents of sexual harassment if alcohol, drugs, or other violations of District or campus rules were involved, the District will inform individuals that the primary concern is for student and employee safety and that use of alcohol or drugs never makes a Complainant at fault for sexual harassment. If other rules are violated, the District will address such violations separately from an allegation of sexual violence and may apply an amnesty policy to minor student code of conduct violations.

Individuals have the opportunity to decide whether they want to pursue a formal Title IX complaint. Reporting sexual harassment to the Title IX Coordinator does not automatically initiate an investigation under these procedures. A report allows the District to provide a wide variety of support and resources to impacted individuals and to prevent the reoccurrence of the conduct. A Complainant or the Title IX Coordinator filing a formal complaint will initiate an investigation.

If there are parallel criminal and Title IX investigations, the District will cooperate with the external law enforcement agency and will coordinate to ensure that the Title IX process does not hinder legal process or proceedings.

The District will document reports of sexual harassment in compliance with the Clery Act, a federal law requiring data collection of crime within the campus geography. Under the Clery Act, the District does not document personal information; the District reports the type of conduct, and the time, date, and location. (Also see BP/AP 3540 Sexual and Other Assaults on Campus)

### **District Employees and Officials with Authority**

District Officials with Authority are not confidential resources and are required to report allegations of sexual harassment to the Title IX Coordinator promptly. All other employees are encouraged to report allegations to the Title IX Coordinator but are not required to do so.

The District has designated the following employees as Officials with Authority:

The chancellor, the presidents of each College, all vice chancellors and vice presidents, deans, department heads and supervisors who have the authority to hire, discharge, discipline or effectively recommend these actions.

Officials with Authority are required to report all relevant information they know about sexual harassment including the name of the Respondent, the Complainant, any other witnesses, and the date, time, and location of the alleged incident.

### **Intake and Processing of Report**

#### **Receipt of Report**

After receiving a report of sexual harassment, the Title IX Officer will contact the Complainant and reporting party to explain rights under this policy and procedure and invite the Complainant to an in-person meeting. The Title IX Officer will notify the Respondent of the complaint and offer to meet with the Respondent to review and discuss the complaint. The Title IX Officer will discuss supportive measures with the Parties.

#### **Timeframe for Reporting**

To promote timely and effective review, the District strongly encourages individuals to report sexual harassment as soon as possible because a delay in reporting may affect the ability to collect relevant evidence and may affect remedies the District can offer.

#### **Supportive Measures**

Supportive measures are non-disciplinary, non-punitive individualized services offered free of charge to the Complainant or the Respondent regardless of whether a formal complaint has been filed. The District will provide the Complainant and Respondent with written notice of options for, available assistance in, and how to request available supportive measures. The District will provide such measures to Complainant and Respondent as appropriate and as reasonably available to restore or preserve equal access to the District's education program or activities. These measures are designed to protect the safety of all Parties, protect the District's educational environment, and deter sexual harassment. The District will provide supportive measures on a confidential basis and will not disclose that the District is providing supportive measures except to those with a need to know to enable the District to provide the service. Supportive measures may include changes to academic, living, transportation, and working situation or protective measures such as counseling, extensions of deadlines, other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

### **Removal of Respondent Pending Final Determination**

Upon receiving a report regarding sexual harassment, the Title IX Coordinator will make an immediate assessment concerning the health and safety of the Complainant and campus community as a whole. The District has the right to order emergency removal of a Respondent, or if the Respondent is an employee, place the employee on administrative leave.

### **Emergency Removal**

The District may remove a non-employee Respondent from the District's education program or activity on an emergency basis after it conducts an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.

The District may not use emergency removal to address a Respondent's threat of obstructing the sexual harassment investigation or destroying relevant evidence. Emergency removal is only available to address health or safety risks against individuals arising out of sexual harassment allegations, not to address other forms of misconduct that a Respondent might commit pending the processing of a complaint.

The District's Vice Chancellor for Educational Services or designee will conduct the individualized safety and risk analysis.

If the Vice Chancellor for Educational Services determines emergency removal is appropriate, he/she/they or designee will provide the person the District is removing from campus on an emergency basis with a notice and opportunity to attend a meeting and challenge the basis of his/her/their removal. The Vice Chancellor for Educational Services or designee will determine whether the emergency removal from campus order is warranted after considering information provided by the Respondent challenging the emergency removal.

### **Administrative Leave**

The District may place a non-student employee Respondent on administrative leave during the pendency of a grievance process described in the formal complaint process below. The District will follow any relevant policies, procedures, collective bargaining agreements, or state law in placing an employee on administrative leave.

### **Formal Complaint Grievance Process Notice to**

#### **Parties**

Upon receipt of a formal complaint, the Title IX Coordinator will provide the following notice in writing, to the Parties:

- Notice of the District's Title IX grievance process;

- Notice of the allegations of alleged sexual harassment with sufficient details known at the time and with sufficient time to prepare a response before any initial interview;
- Statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- Notice that the Parties may have an Advisor of their choice, who may be, but is not required to be, an attorney;
- Notice that the Parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a Party or other source; and
- Inform the Parties of any provision in the District's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the District decides to investigate allegations about the Complainant or Respondent that are not included in the notice provided above, the Title IX Coordinator will provide notice in writing of the additional allegations to the Parties.

#### **Dismissal of Formal Complaint**

The District must investigate the allegations in a formal complaint. However, the District must dismiss the formal complaint and will not process the complaint under these procedures if any of the following three circumstances exist:

- If the conduct alleged in the formal complaint would not constitute Title IX sexual harassment as defined in this procedure;
- If the conduct alleged did not occur in the District's education program or activity;
- If the conduct alleged did not occur against a person in the United States.

The District has discretion to dismiss a formal complaint or any allegation under the following circumstances:

- If at any time during the investigation or hearing: a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations;
- If the Respondent is no longer enrolled or employed by the District; or
- If there are specific circumstances that prevent the District from gathering evidence sufficient to reach a determination regarding responsibility as to the formal complaint or allegations.

If the District dismissed the formal complaint or any allegations, the Title IX Coordinator shall simultaneously provide the Parties with written notice of the dismissal and reason. The District will also notify the Parties of their right to appeal.

The District may commence proceedings under other policies and procedures after dismissing a formal complaint.

### **Consolidation of Formal Complaints**

The District may, but is not required to, consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of sexual harassment arise out of the same facts or circumstances.

### **Equitable Treatment of the Parties**

The District's determination of responsibility is a neutral, fact-finding process. The District will treat Complainants and Respondents equitably. The procedures will apply equally to both Parties. The District will not discipline a Respondent unless it determines the Respondent was responsible for sexual harassment at the conclusion of the grievance process.

### **Statement of Presumption of Non-Responsibility**

The investigation is a neutral, fact-finding process. The District presumes all reports are in good faith. Further, the District presumes the Respondent is not responsible for the alleged conduct. The District makes its determination regarding responsibility at the conclusion of the grievance process.

### **Bias or Conflict of Interest**

The District's Title IX Coordinator, investigator, Decision-Maker, or any person designated by the District to facilitate an informal resolution process, will not have potential actual bias or conflict of interest in the investigatory, hearing, sanctioning, or appeal process or bias for or against Complainants or Respondents generally. Actual bias is an articulated prejudice in favor of or against one Party or position; it is not generalized concern about the personal or professional backgrounds, positions, beliefs, or interests of the Decision- Makers in the process. The District will ensure that the Title IX Coordinator, Deputy Title IX Coordinators, investigators, Decision-Makers, and facilitators receive training on:

- The definition of sexual harassment in this procedure;
- The scope of the District's education program or activity;
- How to conduct an investigation;
- The grievance process including conducting hearings, appeals, and informal resolution processes; and
- How to serve impartially, including avoiding: prejudgment of the facts at issue; conflicts of interest; and bias.

### **Timeline for Completion**

The District will undertake its grievance process promptly and as swiftly as possible. The District will complete the investigation and its determination regarding responsibility or the informal resolution process within **180 days** calendar days.

When appropriate, the Title IX Coordinator may determine that good cause exists to extend the **180 calendar day** period to conduct a fair and complete investigation, to accommodate an investigation by law enforcement, to accommodate the unavailability of witnesses or delays by the Parties, to account for District breaks or vacations, or due to the complexity of the investigation. The District will provide notice of this extension to the Complainant and Respondent in writing and include the reason for the delay and anticipated timing of completion.

A Party may request an extension from the Title IX Coordinator in writing by explaining the reason for the delay and the length of the continuance requested. The Title IX Coordinator will notify the Parties and document the grant or denial of a request for extension or delay as part of the case recordkeeping.

### **Role of Advisor**

The role of the Advisor is to provide support and assistance in understanding and navigating the investigation process.

The Advisor may not testify in or obstruct an interview or disrupt the process. The Title IX Coordinator has the right to determine what constitutes appropriate behavior of an Advisor and take reasonable steps to ensure compliance with this procedure.

A Party does not have a right to self-representation at the hearing; an Advisor must conduct any cross-examination. The District must provide an Advisor of its choice, free of charge to any Party without an Advisor in order to conduct cross-examination. If an Advisor fails to appear at the hearing, the District will provide an Advisor to appear on behalf of the non-appearing Advisor. To limit the number of individuals with confidential information about the issues, each Party may identify one Advisor.

### **Confidentiality Agreements**

To protect the privacy of those involved, the Parties and Advisors are required to sign a confidentiality agreement prior to attending an interview or otherwise participating in the District's grievance process. The confidentiality agreement restricts dissemination of any of the evidence subject to inspection and review or use of this evidence for any purpose unrelated to the Title IX grievance process. The confidentiality agreement will not restrict the ability of either Party to discuss the allegations under investigation.

### **Use of Privileged Information**

The District's formal complaint procedure does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege (e.g., attorney-client privilege, doctor-patient privilege, spousal privilege, etc.), unless the person holding the privilege provides voluntary, written consent to waive the privilege.

### **Investigations**

The Title IX Coordinator is responsible to oversee investigations to ensure timely resolution and compliance with Title IX and this procedure.

Both Parties have the right to have an Advisor present at every meeting described in this section.

### **Trained Investigators**

The District will investigate Title IX formal complaints fairly and objectively. Individuals serving as investigators under this procedure will have adequate training on what constitutes sexual harassment and how the District's grievance procedures operate. The District will also ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence and complies with this procedure.

### **Burden of Gathering Evidence**

The District, not the Parties, has the responsibility to gather information and interview witnesses. As part of the District's burden of gathering evidence, the District's investigator will create an investigative report that fairly summarizes relevant evidence, whether it is inculpatory or exculpatory. The investigator shall not make findings or determinations of law or fact.

### **Notice of Investigative Interview**

The District will provide written notice of the date, time, location, participants, and purpose of all investigative interviews to a Party whose participation is invited or expected, with sufficient time for the Party to prepare to participate.

### **Evidence Review**

Both Parties have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a Party or other source.

Prior to the investigator preparing an investigative report, the District will make available to each Party and the Party's Advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The Parties will have at least ten days to submit a written response. The investigator must consider this written response prior to completing the investigative report.

### **Investigative Report**

The results of the investigation of a formal complaint will be set forth in a written report that will include at least all of the following information:

- A description of the circumstances giving rise to the formal complaint;
- A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
- A summary of the testimony of each witness the investigator interviewed;

- An analysis of relevant evidence collected during the investigation, including a list of relevant documents;
- A specific finding as to whether the allegations occurred using a preponderance of the evidence standard;
- A table of contents if the report exceeds ten pages; and
- Any other information deemed appropriate by the District.

The investigator will not make a determination regarding responsibility.

The investigator may redact information not directly related to the allegations or privileged information. However, the investigator will keep a log of information he/she/they do not produce to the Parties. The investigator will provide this log only to the Title IX Coordinator. The Title IX Coordinator will not disclose the log to the Parties but will maintain the log in the Title IX Coordinator's file, in the event it later becomes relevant.

At least ten days prior to a hearing, the District will send the investigative report to each Party and their Advisors, if any, the investigative report in an electronic format or a hard copy, for review and written response. The Parties will have at least ten days to submit a written response.

### **Hearing**

After completing an investigation and prior to completing a determination regarding responsibility, the District will hold a live hearing to provide the Complainant and Respondent an opportunity to respond to the evidence gathered before a Decision- Making panel. Neither Party may choose to waive the right to a live hearing, but the Parties can choose whether to participate in the hearing or answer some or all cross- examination questions.

### **Notice**

If the District proceeds to a hearing, the District will provide all Parties written notice of the date, time, location, participants, and purpose of the hearing with sufficient time for the Party to prepare to participate.

### **Hearing Format**

The District may provide a live hearing with all Parties physically present in the same geographic location or, at the District's discretion if either Party requests, the District may provide any or all Parties, witnesses, and other participants the ability to appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other in real time.

The District will make the information reviewed during the Evidence Review available at the hearing for reference and consultation. The District will not restrict the ability of either Party to discuss the allegations under investigation or to gather and present relevant evidence.

The District will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the Parties for inspection and review.

### **Decision-Maker**

The Decision-Makers will be free from conflict of interest or bias, including bias for or against Complainants or Respondents. In cases where the Complainant or Respondent objects to a Decision-Maker based on a conflict of interest, the Complainant or Respondent may request the Title IX Coordinator select a different Decision-Maker. The Complainant or Respondent must make this request to the Title IX Coordinator in writing at least five business days prior to the hearing.

The Decision-Makers may ask the Parties and the witnesses questions during the hearing. The Decision-Makers must objectively evaluate all relevant evidence both inculpatory and exculpatory and must independently reach a determination regarding responsibility without giving deference to the investigative report. The Decision-Makers must receive training on issues of relevance, how to apply the rape-shield protections for Complainants, and any technology to be used at the hearing.

### **Presenting Witnesses**

The District will provide the Complainant and Respondent an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Witnesses, like Parties, are not required to participate in the live hearing process.

Only relevant evidence will be admissible during the hearing. Relevant evidence means evidence, including evidence relevant to the credibility of a Party or witness, having any tendency in reason to prove or disprove any disputed fact material to the allegations under investigation.

### **Cross-Examination**

The District shall permit each Party's Advisor to ask the other Party and any witness relevant questions, including questions challenging credibility. The Party's Advisor must conduct cross-examination directly, orally, and in real time. A Party may never personally conduct cross-examination.

Before a Complainant, Respondent, or witness answers a question, the chair of the Decision-Making panel must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Decision-Making panel chair need not provide a lengthy or complicated explanation in support of a relevance determination.

If a Party or witness disagrees with a relevance determination, that individual has the choice of either (1) abiding by the chair's determination and answering the question or (2) refusing to answer the question.

The Decision-Makers cannot rely on the statements or testimony of a Party or witness who has refused to answer a question the Decision-Maker had found relevant unless the chair reconsiders and changes the ruling before reaching the determination of responsibility. If the chair changes the determination of relevance of an unanswered question, the chair must explain the decision to reconsider the ruling in the written determination of responsibility.

The Decision-Makers cannot draw an inference about the determination of responsibility based solely on a Party's or witness's absence from the live hearing or refusal to submit to cross-examination or to answer any question.

The Decision-Makers may also ask any Party or witness questions. If a Party or witness refuses to respond to a Decision-Maker's questions, the Decision-Maker is not precluded from relying on that Party or witness' statements.

### **Determinations of Responsibility**

When the Decision-Making panel makes a determination of responsibility or non-responsibility, the panel will issue a written determination regarding responsibility, no later than **30 days** after the date that the hearing ends.

When making a determination regarding responsibility, a Decision-Maker will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence. A Decision-Maker may not make credibility determinations based on an individual's status as a Complainant, Respondent, or witness. In evaluating the evidence, the Decision-Makers will use the preponderance of the evidence standard. Thus, after considering all the evidence it has gathered, the District will decide whether it is more likely than not that sexual harassment occurred.

The written determination will include:

- Identification of the allegations potentially constituting Title IX sexual harassment as defined in these procedures;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including who conducted the investigation and gave notifications to the Parties. The determination will also state when, where, and the date the investigator(s) interviewed the Parties and witnesses, conducted site visits, the methods used to gather other evidence. The procedural section should also discuss the dates and how the Parties were provided the opportunity to review and inspect evidence and the date of any hearings held and who attended the hearing;
- Findings of fact supporting the determination. In making these findings, the Decision-Making panel will focus on analyzing the findings of fact that support the determination of responsibility or non-responsibility;
- Conclusions regarding the application of the District's code of conduct to the facts;

- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- A statement of, and rationale for, any disciplinary sanctions the District imposes on the Respondent;
- A statement of whether the District will provide the Complainant with remedies designed to restore or preserve equal access to the District's education program or activity;
- The District need not disclose to the Respondent remedies that do not affect him/her/them as part of the written determination. The District can inform the Respondent that it will provide remedies to the Complainant. However, the District will inform the Complainant of the sanctions against the Respondent;
- The District's procedures and permissible bases for the Complainant and Respondent to appeal.

The District's Title IX Coordinator or designee will provide the written determination to the Parties simultaneously. The determination regarding responsibility becomes final either on the date that the District provides the Parties with the written determination of the result of the appeal, if the Parties file an appeal, or if the Parties do not file an appeal, the date on which an appeal would no longer be timely.

#### **Disciplinary Sanctions and Remedies**

The District must have completed the grievance procedures (investigation, hearing, and any appeal, if applicable) before the imposing disciplinary sanctions or any other actions that are not supportive measures against a Respondent. If the Decision-Making panel determines the Respondent was responsible for conduct that constitutes sexual harassment, the District will take disciplinary action against the Respondent and any other remedial action it determines to be appropriate. The action will be prompt, effective, and commensurate with the severity of the offense.

Remedies for the Complainant might include, but are not limited to:

- Providing an escort to ensure that the Complainant can move safely between classes and activities;
- Ensuring that the Complainant and Respondent do not attend the same classes or work in the same work area;
- Providing counseling services or a referral to counseling services;
- Providing medical services or a referral to medical services;
- Providing academic support services, such as tutoring;
- Arranging for a Complainant, if a student, to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and
- Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant's discipline.

Possible disciplinary sanctions for student Respondents include written or verbal reprimand, required training or counseling, non-academic probation, suspension, and expulsion. Possible disciplinary sanctions for employee Respondents include written or verbal reprimand, required training or counseling, reduction in pay, demotion, suspension, or discharge.

### **Appeal of Dismissal of a Formal Complaint or of the Determination of Responsibility**

A Complainant or Respondent may appeal the District's determination regarding responsibility or the dismissal of a formal complaint or any allegations. A Complainant or Respondent must submit a written appeal within **10 business days** from the date of the notice of determination regarding responsibility or from the date of the District's notice of dismissal of a formal complaint or any allegations.

### **Grounds for Appeal**

The **Hearing Officer** for an appeal will be a trained decision-maker who has not been involved in any aspect of the process as Title IX Coordinator, Advisor, Investigator or Decision-Maker. In filing an appeal of the District's determination regarding responsibility or the District's dismissal of a formal complaint, the Party must state the grounds for appeal and a statement of facts supporting those grounds. The grounds for appeal are as follows:

- A procedural irregularity affected the outcome;
- New evidence was not reasonably available at the time the District's determination regarding responsibility or dismissal was made, and this new evidence could affect the outcome; or
- The District's Title IX Coordinator, investigator, or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome (should this be that was not known at the time of the commencement of the process?).

### **Appeal Procedure**

If the Complainant or Respondent submit an appeal to the District, the District will:

- Notify the other Party in writing within **5 business days** of receiving a Party's appeal;
- Allow the non-appealing Party at least **10 business days** from the date of receipt of the appeal to submit a written statement in support of, or challenging, the requested outcome;

The **Hearing Officer** for the appeal will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within **45 business days** after the Hearing Officer on appeal receives the response to the appeal or the last day to provide a response. The District's **Title IX Coordinator or designee** will provide the written decision simultaneously to both Parties.

The Hearing Officer may extend or otherwise modify the deadlines provided above. Either Party may seek an extension by submitting a written request to the Hearing Officer explaining the need for the extension and the proposed length of the extension. The Hearing Officer will respond to the request within 48 hours in writing and will inform the Parties simultaneously whether the extension is granted.

### **Informal Resolution**

If the District's Title IX Coordinator or designee determines that a formal complaint is appropriate for informal resolution, it may provide the Parties with the opportunity to participate in an informal resolution process, including mediation, at any time prior to reaching a determination regarding responsibility.

The District's Title IX Coordinator or designee will provide the Complainant and Respondent written disclosure of the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the Parties from resuming a formal complaint arising from the same allegations, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

The District's Title IX Coordinator or designee must obtain the Parties' voluntary, written consent to the informal resolution process. If the Parties reach an agreement, the District does not have to complete a full investigation and adjudication of a report of sexual harassment. At any time prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

The informal resolution process is not available to resolve allegations that an employee sexually harassed a student.

### **Retaliation Prohibited**

The District prohibits any intimidation, threats, coercion, or discrimination against any individual who made a report or complaint of sexual harassment, testified, assisted, or participated or refused to participate in any manner in a Title IX investigation, proceeding, or hearing. Individuals who experience retaliation may file a complaint using the formal complaint process described above.

### **Dissemination of Policy and Procedures**

The District will provide its policy and procedures related to Title IX on its website and in each handbook or catalog provided to applicants for admission and employment, students, employees, and all unions or professional organizations holding collective bargaining with the District.

When hired, employees are required to sign acknowledging that they have received the policy and procedures. The District will place the signed acknowledgment of receipt in each employee's personnel file.

### **Training**

The District will provide a comprehensive trauma-informed training program to Title IX Coordinators, investigators, Advisors, Decision-Makers, and any individual who facilitates an informal resolution process, on the definition of sexual harassment, the scope of the District's education program or activities, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Any materials used to train the District's Title IX Coordinator, investigators, Decision-Makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

### **File Retention**

The District will retain on file for a period of at least seven years after closing the case copies of:

- The original report or complaint;
- Any actions taken in response to the complaint, including supportive measures;
- The investigative report including all evidence gathered and any responses from the Parties;
- The District's determination regarding responsibility;
- Audio or audiovisual recording or transcript from a hearing;
- Records of any disciplinary sanctions imposed on the Respondent;
- Records of any remedies provided to the Complainant;
- Any appeal and the result;
- Any informal resolution and the result; and
- All materials used to train Title IX Coordinators, investigators, Decision-Makers, and any person who facilitates an informal resolution process. The District will make these training materials publicly available on its website.

The District will make these documents available to the U.S. Department of Education Office for Civil Rights upon request.

### **Complaint Reporting**

The **Chancellor** shall provide the Board of Trustees, upon request, a report of complaints filed pursuant to AP 3434. This report must disaggregate the complaints by complaint type (Student Complainant and Student Respondent, Student Complainant and Employee Respondent, Employee Complainant and Student Respondent, Employee Respondent and Employee Respondent, etc.). This report must also disaggregate the complaints by the Complainant's race, age, gender, religion, or any other characteristic identified by the Board.

**CCL CA - New 7/20; Revised 10/20, 4/21, 10/21**

## ***SMCCD College Public Safety***

The SMCCD Public Safety Department's well-trained, courteous, and non-commissioned staff provides personal safety, security, crime prevention, preliminary investigations, and other services to the campus community 24 hours a day, 7 days per week. SMCCCD Public Safety are non-sworn and unarmed. SMCCCD Public Safety staff are trained and instructed in non-violent crisis intervention skills, allowing them to avoid and defuse most confrontational situations. All staff are trained in basic CPR and emergency response for major incidents (e.g., inclement weather conditions, earthquakes, medical emergencies, power failures, fire, evacuation procedures, acts of violence, hazardous substances, bomb threats, weapons use, or threats).

The SMCCCD Public Safety Department acts as the first responder for all criminal incidents, provides general patrol of campus facilities and property, investigates collisions, manages traffic safety and parking, coordinates emergency preparedness planning, and provides crime prevention support and information. The department responds to all reports of fire and/or medical aid while working in support of the local fire and police services at each campus.

SMCCCD Public Safety officers do not have authority to make arrests, but they work closely with federal, state, and local law enforcement agencies. Public Safety officers have the authority to ask individuals for identification and determine if that person has lawful business on campus property.

All Public Safety staff are held to the highest standard of maintaining an individual's confidentiality and are available to assist in filing reports on incidents. The Public Safety Department maintains a professional working relationship with the local and county municipalities. Most criminal incidents on our campuses are referred to the respective police departments in which SMCCCD maintains active MOUs (memoranda of understanding) for handling crimes on campus.

All crime victims and witnesses are strongly encouraged to immediately report any crime to the SMCCCD Public Safety Department as well as the appropriate law enforcement agency. Prompt reporting will ensure timely warning notices to the campus and timely disclosure of crime statistics. A Public Safety officers can be reached directly by calling (650) 738-7000 and speaking with dispatch or following the campus prompts if no dispatcher is available.

### ***Mission Statement***

The mission of the Department of Public Safety at San Mateo County Community College District is to provide a safe, secure, and healthy college environment for all students, staff, faculty, and visitors. With a highly visible presence and professional interactions with everyone on our three campuses; Skyline College, College of San Mateo and Cañada College, the Department of Public Safety is committed to achieving this mission through the provision of a variety of services, and respect for all in our diverse campus communities. We are dedicated to the protection of persons, property, and the freedom of all individuals to pursue a quality education without fear. We look for opportunities to provide service and to be of assistance, and strive to be helpful and approachable.

## ***Office Information***

The Public Safety office at **College of San Mateo** is located at 1700 W. Hillsdale Blvd., San Mateo, CA 94402 - Building 1, Room 101 (650) 738-7000.

The Public Safety office at **Cañada College** is located at 4200 Farm Hill Blvd., Redwood City, CA 94061 - Building 22, Room 161 (650) 738-7000.

The Public Safety office at **Skyline College** is located at 3300 College Drive, San Bruno, CA 94066 - Building 6, Room 106 (650) 738-7000.

Public Safety officers patrol the campuses of Cañada College, the College of San Mateo, and Skyline College 24-hours a day, 365 days a year.

## ***Local Law Enforcement Agencies***

The San Mateo Community College District (SMCCCD) has formal agreements with San Bruno Police Department, San Mateo Police Department, Redwood City Police Department and San Mateo County Sheriff's Office; a memorandum of understanding (MOU) is in place regarding the investigation of all crimes, including crimes related to the Violence Against Women Act. SMCCCD Public Safety also has cooperative relationships with PGE (Pacific Gas & Electric), SMC Office of Emergency Services and agencies varying agencies that support the County of San Mateo's Health and Wellness.

## ***Jurisdiction***

The following departments are the primary law enforcement agencies for SMCCCD' campuses:

- San Bruno Police (Skyline College Campus)
- San Mateo Police (College of San Mateo Campus)
- Redwood City Police (Cañada College Vista site)
- San Mateo County Sheriff's Office (Cañada College Campus)

## ***Campus Security Authorities***

In some instances, individuals on the Campus may choose to file a report with one of the "Campus Security Authorities" in accordance with the Jeanne Clery disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). Campus Security Authorities are college officials having "significant responsibility for student and campus activities." On SMCCCD, "Campus Security Authorities" include, but are not limited to the following:

Campus Security Authorities include but are not limited to:

- Director of Public Safety
- All Public Safety Officers
- Student Conduct Managers
- Title IX Coordinator(s)
- Diversity, Equity & Inclusion Administrators
- Diversity, Equity & Inclusion and Program Manager
- Associate Vice President of Student Affairs
- Student Success Personnel
- Human Resources Staff
- High School Programs Staff
- Dean of Student Life

- Director Disability Resource Center
- Disability Resource Center Staff
- Director of Enrollment Services
- Enrollment Services and Financial Aid Staff
- Multicultural Services Staff
- Director of TRiO
- TRiO Specialist(s)
- All Workforce Development Staff
- Athletic Director and Assistant Athletic Director
- Athletic Coaches and Trainers
- Director and Associate Director of the Early Learning Center
- Early Learning Center Staff
- International Education Staff
- Office of the President Staff
- Library Staff
- Club and Program Advisors
- Director of the Counseling Center

Note: “Professional Counselors,” whose official responsibilities include providing mental health counseling, when acting in that capacity for SMCCCD within the scope of their license or certificate, are exempt from disclosing information on crimes for inclusion into the annual disclosure of crime statistics. As a matter of policy, counselors are encouraged, when they deem it appropriate, to inform persons being counseled of the procedures to report crime on a voluntary basis for inclusion into the annual crime statistics. There are no pastoral counselors on campus.

It is important to note that Title IX representatives are not professional counselors and may be required to report certain incidents to law enforcement agencies.

Call the SMCCCD Public Safety Department or 911 if:

- Someone is injured or ill
- You see fire or smell smoke
- You see anything suspicious or suspicious behavior
- Someone is hurting another person
- You see someone stealing
- You discover something has been stolen or encounter stolen property
- You see someone forcing entry into a building or vehicle
- You see anything that may be a safety or hazardous situation

Call immediately; do not assume that someone else has called or will call. Provide SMCCCD Public Safety Department with accurate, detailed information including your name, the location of the incident/ emergency, the circumstances, the status of the victim(s), and a general description of what happened. Stay on the line until the operator or officer ends the call. Crimes can be reported at any time of the day, seven days a week, and 365 days per year. Reports are confidential within the guidelines established by the General Education Provisions Act, the Campus Security Act, and applicable California State laws. Public Safety officers will respond to reports of emergencies, crimes, or criminal activity. Officers will complete an incident report for

any crime that occurs on any of the San Mateo Community College District's properties, campuses or on land owned and/or controlled by SMCCCD.

### ***Security of and Access to Campus Facilities***

As a public agency whose responsibility is to serve the educational needs of students and potential students, it is the policy of San Mateo Community College District to ensure that college services are available, and buildings are open to the public during published hours of business. The District's public safety department is responsible for the security of the buildings and grounds of Skyline College, College of San Mateo, and Cañada College campuses. (NOTE: There are no student housing or dormitories on any SMCCCD campuses.) A building may be opened after hours to accommodate events arranged through SMCCCD or the respective facilities management departments at each campus. These include special approved college functions and prior arranged rentals as per the signed rental agreement. An after-hours building use may be approved for individuals, groups or clubs needing use of SMCCCD campus facilities when an official rental agreement is not prepared. All after hours building use must be approved by the respective college campus administrators in charge of facility use.

The SMCCCD Public Safety Department is available on campus 24 hours a day, 7 days per week. At the end of normal business hours, Public Safety officers will secure all the doors on the campus. During after-hours use, access to all College facilities is by key, code or access card, if issued, or by admittance by Public Safety officers. Permission/approval for all after hours building use must be submitted to the respective college campus administrators in charge of facility use in advance of the building use, this includes all facilities management and maintenance use.

Unauthorized access to buildings, rooms, or facilities and/or disorderly, disruptive, or criminal behavior on campus, or in any college-controlled facility, may at a minimum result in the person being removed from the campus. Failure to leave when lawfully requested may result in charges of criminal trespass. If a person served with a prior trespass notice reappears on campus, or if a person is found in a posted facility with no legitimate purpose, they may be subject to immediate arrest. Any individual or group granted permission to use college facilities shall agree in advance to abide by all college rules and regulations.

### ***Access***

All keys for academic and administrative buildings in the San Mateo County Community College District are recorded and tracked through the Facilities Planning, Maintenance & Operations Department. It is critical in protecting each campus to maintain accurate and effective control over building access. The District's key policy is designed to ensure that people who request keys are authorized to have them and to make each key holder accountable for the return of keys after that authorization has expired.

### ***Security Considerations for the Maintenance of Campus Facilities***

The San Mateo County Community College District is committed to campus safety and security. Locks, landscaping, and outdoor lighting are designed for safety and security. Sidewalks are designed to provide well-traveled, lighted routes from parking areas to buildings and from building to building. Grounds keeping personnel trim shrubs from sidewalks, walkways, and building entrances to make sure routes to buildings are in good repair. All campus walkways are inspected to ensure adequate lighting. Burned-out lights are replaced promptly.

We encourage community members to promptly report any security concern, including concerns about locking mechanisms, lighting, or landscaping to the Department of Public Safety (650) 738-7000.

### ***Key Management Policy***

1. Complete a Key Request Form and submit it to the Facilities Office at your campus. Key Request Forms can be found on the Facilities website.
2. All Key Requests must have all required Approval Signatures.
3. Keys will only be issued to the individual whose name is on the Key Request Form. Keys shall not be loaned to others or duplicated at any time.
4. Keys are available for pick up at the College Facilities Maintenance Center for Skyline College and Cañada College and at the Public Safety Office for the College of San Mateo. Valid Photo ID must be presented prior to key release.

### ***E-Keys/Electronic Access Controls***

As part of our efforts to provide a safe and secure teaching, learning, and working environment, electronic access controls sometimes supplement the mechanical key system. Instead of using a traditional key, doors that have been outfitted with electronic access controls require an electronic key (e-key) to gain access. E-keys are electronic keys embedded in an employee ID card. In a few rare instances, an e-key is not necessary but a code must be entered on the keypad to gain entry.

### ***Use of Keys***

Keys shall not be loaned or duplicated. California Penal Code 469 states: Any person who knowingly makes, duplicates, causes to be duplicated, or uses, or attempts to make, duplicate, causes to be duplicated, or use, or has in his/her possession any key to a building or other areas owned, operated or controlled by the State of California, any state agency, board or commission, a county, city or any public school or community college district without authorization from the person in charge of such building or area or his/her designated representative and with knowledge of the lack of such authorization is guilty of a misdemeanor. All keys and locks issued by the District remain the property of the District and can be recalled at any time.

### ***Return of Keys***

All District keys must be returned to the College Facilities Maintenance Center upon departure of employee.

### ***Student Use of Keys***

Keys will not be issued to students. Under special circumstances and only when absolutely required, however, students may be given access to college facilities with approval of a full-time faculty or manager, the appropriate Dean, Vice President, and the Campus Facilities Manager.

### ***Lost or Stolen Keys***

Lost or stolen keys must be reported immediately to the Department of Public Safety, as well as the Campus Facilities Manager. The safety and security of the College relies upon its key holders to maintain the integrity of the system. 21

### ***Public Safety and Security Considerations in Maintaining Campus Facilities***

The SMCCCD Facilities Department maintain lighting, cameras, landscapes, roadways and parking lots and all building interiors to promote a safe educational environment. SMCCCD Public Safety Department actively report any failing security features into SMCCCD's internal building maintenance system for immediate repair.

### ***On-Campus Affiliate Keys***

The San Mateo County Community College District has a variety of affiliations with education- related organizations that have chosen to locate their offices and programs on the San Mateo County Community College District Campuses. All the San Mateo County Community College District Security and Access policies apply to the various affiliates as well.

### ***Campus Security Policies, Crime Prevention & Safety Awareness Programs***

#### ***Crime Prevention and Security Awareness***

During orientation, campus event functions, health fairs, pre-registration and at the start of fall, spring and summer semesters, students are informed of services offered by the Department of Public Safety at the San Mateo County Community College District. Handouts and publications are shared with students outlining area resources, phone numbers, and safety tips. An orientation presentation is available to all new employees, students, and international students. A common theme is to encourage students and employees to be aware of their responsibility for their own safety and the safety of others. Periodically, the Department of Public Safety prepares short memorandums/emails on current or pending safety issues of the season for dissemination to the campus community.

When time is of the essence, information is released to the College community through Campus Notice e-mails (mysmccd.edu); AlertMe Emergency Text Message Notification; Emergency Announcement System (EAS); Public Safety Patrol; computer generated phone call or via the Public Safety website homepage.

Safety Campaigns like:

- Auto Theft Prevention
- How to Protect Your ID
- Auto Burglary Prevention
- See Something, Say Something

#### ***Crime Prevention and Self-Awareness***

##### **How to be an Active Bystander**

An active bystander is a person who witnesses a harmful or dangerous situation and chooses to speak up or step in to keep the situation from continuing or escalating. Bystanders play a critical role in the prevention of sexual and relationship violence. We want to promote a culture of respect and accountability where bystanders are actively engaged in the prevention of violence without causing further harm. Below is a list of ways to be an active bystander. If you or someone else is in immediate danger, dial 9-1-1.

- Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are ok.
- Confront people who seclude, hit on, try to make out with, or have sex with people who are incapacitated.
- Speak up when someone discusses plans to take sexual advantage of another person.
- Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
- Refer people to on or off campus resources listed in this document for support in health, counseling, or with legal assistance.

## **Bystander Intervention Strategies (the 3 Ds)**

- Direct
  - Directly confront the harasser.
  - Before you decide to respond directly, assess the situation: Are both you and the person being harassed physically safe? Can you tell if the person being harassed would like someone to speak up? If so, you may want to choose a direct response.
- Distract
  - Interrupt the incident in some way.
  - Instead of addressing the harasser, engage directly with the person who is being targeted. Don't talk about or refer to the harassment, talk about something completely unrelated. Ask for the time, compliment the person's shoes, or spill a drink.
- Delegate
  - Ask someone to assist.
  - Get help from someone else. Ask a staff member or RA to help. Ask someone who knows the victim better to intervene. Call campus security or another authority. Delegating is particularly profound since it breaks through the diffusion of responsibility that so often happens when there are multiple people around.

## **Risk Reduction**

With no intent to victim blame and recognizing that only abusers are responsible for their abuse, the following are some strategies to reduce one's risk of sexual assault or harassment (taken from Rape, Abuse, and Incest National Network, [www.rainn.org](http://www.rainn.org) )

- Be aware of your surroundings. Knowing where you are and who is around you, may help you to find a way to get out of a bad situation.
- Try to avoid isolated areas. It is more difficult to get help if no one is around.
- Walk with purpose. Even if you don't know where you are going, act like you do.
- Trust your instincts. If a situation or location feels unsafe or uncomfortable, it probably isn't the best place to be.
- Try not to load yourself down with packages or bags as this can make you appear more vulnerable.
- Make sure your cell phone is with you and charged and that you have cab money.
- Don't allow yourself to be isolated with someone you don't trust or someone you don't know.
- Avoid putting music headphones in both ears so that you can be more aware of your surroundings, especially if you are walking alone.
- When you go to a social gathering, go with a group of friends. Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
- Trust your instincts. If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately (local authorities can be reached by calling 9-1-1 in most areas of the United States).
- Don't leave your drink unattended while talking, dancing, using the restroom, or making a phone call. If

you've left your drink alone, just get a new one.

- Don't accept drinks from people you don't know or trust. If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, don't drink from the punch bowls or other large, common open containers.
- Watch out for your friends, and vice versa. If a friend seems out of it, is way too intoxicated for the amount of alcohol they've had, or is acting out of character, get them to a safe place immediately.
- If you suspect you or a friend has been drugged, contact law enforcement immediately (local authorities can be reached by calling 9-1-1 in most areas of the U.S.). Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).

If you need to get out of an uncomfortable or scary situation here are some things that you can try:

- Remember that being in this situation is not your fault. You did not do anything wrong; it is the person who is making you uncomfortable that is to blame.
- Be true to yourself. Don't feel obligated to do anything you don't want to do. "I don't want to" is always a good enough reason. Do what feel right to you and what you are comfortable with.
- Have a code word with your friends or family so that if you don't feel comfortable you can call them and communicate your discomfort without the person you are with knowing. Your friends or family can then come to get you or make up an excuse for you to leave.
- Lie. If you don't want to hurt the person's feelings it is better to lie and make up a reason to leave than to stay and be uncomfortable, scared, or worse. Some excuses you could use are: needing to take care of a friend or family member, not feeling well, having somewhere else that you need to be, etc.
- Try to think of an escape route. How would you try to get out of the room? Where are the doors? Windows? Are there people around who might be able to help you? Is there an emergency phone nearby?
- If you and/or the other person have been drinking, you can say that you would rather wait until you both have your full judgment before doing anything you may regret later.

### ***Crime Prevention Programs***

Public Safety officers are readily available to facilitate any student organization or program in a crime prevention educational endeavor; by providing brochures, videos, and personal experience on the subject matter.

The San Mateo Community College District and SMCCCD Public Safety Services are committed to providing a safe and secure learning and working environment. The safety of each student and employee are of paramount concern. Information regarding the following topics is provided to assist students and employees in learning about these topics, learning about how to avoid and prevent these types of offenses, and what to do in the event you or someone you know becomes a victim or has questions or concerns.

Public Safety resources are available for:

- Identity theft – General Guide <https://www.smcsheriff.com/identity-theft>
- Domestic Violence <https://hsa.smcgov.org/domestic-violence>
- Elder Abuse [https://www.sanmateocourt.org/self\\_help/abuse\\_harassment.php](https://www.sanmateocourt.org/self_help/abuse_harassment.php)
- Stalking [http://www.sanmateocourt.org/court\\_divisions/civil/civil\\_restraining\\_orders.php](http://www.sanmateocourt.org/court_divisions/civil/civil_restraining_orders.php)
- Sexual Assault/Rape <https://www.smc-connect.org/locations/rape-trauma-services-a-center-for->

[healing-and-violence-prevention](#)

- Dating and Personal Safety Tips <http://www.datehookup.com/content-dating-safety-a-self-defense-resource-guide-for-women.htm>
- Violence Against Women Act [https://nnev.org/resource-library/?cat\\_ct=fact-or-tip-sheetsguidance-documents](https://nnev.org/resource-library/?cat_ct=fact-or-tip-sheetsguidance-documents)

Additional information regarding sexual assault, sexual battery, dating and domestic violence, and sexual harassment is available at the College of San Mateo, Skyline College, and Cañada College health centers.

## ***Safety and Security Programs***

### ***Presentations***

At San Mateo Community College District (SMCCCD), there are a series of programs offered throughout the year to students, faculty and staff that promote safety and security. The programs are offered by the SMCCCD Public Safety Department. The SMCCCD Public Safety Department wants to encourage students, faculty, staff, and visitors to be aware of their own responsibility for their security and the security of others.

Classes are offered per request and as staffing availability can be accommodated. If any department or organization would like to schedule an offered program, contact the Director of Public Safety or (650)738-7000

Offered programs include, but are not limited to the following:

- Emergency Preparedness
- Campus Security Authority
- Introduction to the Campus and Public Safety Department (new student orientation)
- Driver Safety

### ***Safety Escorts on Campus***

The SMCCCD Public Safety Department offers an escort program to all students, faculty, and staff to and from any location on campus. To request an officer's assistance, call our dispatcher line at (650)738-7000 and a Public Safety officer will be able to provide you a safety escort.

### ***Crime Prevention***

Personal Safety is a shared responsibility. You are encouraged to think and act in ways that increase your personal safety, the safety of your belongings, and the protection of your vehicle. A program in Personal Safety is offered by the Department of Public Safety and can be requested by contacting the Director of Public Safety or (650)738-7000

Below are some tips that can help you prepare yourself and your property. This list is not meant to be an all-inclusive list, but merely a list to start you thinking about your personal and property safety and security. For more information go to: <http://www.ncpc.org/>

### ***Guard Yourself***

- Be physically and psychologically prepared to defend yourself. By preparing, you will have more options in a confrontation.
- When walking on campus, especially at night, use well-traveled, open routes to get to your destination. If possible, walk with another person or call the SMCCCD Public Safety Department at (650)738-7000 for

an escort.

- Avoid using isolated stairwells.
- Walk assertively, without daydreaming, and be alert to everything around you. Dress for movement; wear low-heeled shoes if possible and do not carry too many bulky packages.
- At night, never walk alone unless absolutely necessary. Wait in a well-lit place if someone is meeting you. Contact a Public Safety officer direct at (650)738-7000 and follow the campus prompt or call our dispatcher line at (650)738-7000 for a safety escort.
- Have your car keys in your hand before leaving the building. Get into your vehicle quickly and lock your doors, immediately. Caution: If you see someone loitering around your vehicle, leave and call (650)738-7000 for a Public Safety officer escort before approaching.
- Be aware of your surroundings and any signs that something is out of place.
- In the Office: Some employees carry a loud whistle or other noise device to alert nearby colleagues in case of emergency. Lock building doors. Do not prop open outside building doors that are supposed to remain locked.
- If you are working late, notify the SMCCCD Public Safety Department so that they can check on you periodically.
- On the street: Police advise saying “No” to requests for money from strangers and avoid confrontation by not saying or doing anything to provoke further conversation.
- If you feel threatened, try to avoid the danger by getting away from it quickly.
- Get Help
- Scream loudly for help, “Call the Police!”
- From any campus phone, dial ext. 7000 for the SMCCCD Public Safety Department or dial 9-1-1 for the police.
- Dial 9-1-1 for police or fire from any campus phone.