
**Kern Community College District
Administrative Procedures
Chapter 3 – General Institution**

AP 3433 **Prohibition of Sexual Harassment Discrimination under Title IX**

References:

Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e;

Title IX Education Amendments of 1972;

Title 5 Sections 59320 et seq.;

~~Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e;~~

~~Title IX Education Amendments of 1972~~

Note: This procedure is **legally required**.

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

This procedure and the related policy protects students, employees, applicants for admission or employment, and other individuals participating or attempting to participate in the District's education program or activity. ~~in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities, a District bus, or at a class or training program sponsored by the District at another location.~~

Definitions

Sex Discrimination: Any discrimination based on sex, including, but not limited to, sex-based harassment. Sex discrimination includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

Sex-Based Harassment ~~sexual harassment~~ **under Title IX:** A form of sex discrimination that includes sexual harassment and harassment based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, or gender identity. Sex-based harassment includes the following: ~~Conduct that satisfies one or more of the following:~~

- **Quid pro quo harassment.** A District employee, agent, or other person authorized by the District to provide conditions the provision of an aid, benefit, or service under of the District's education program or activity explicitly or impliedly condition the

provision of such an aid, benefit, or service on a person's an individual's participation in unwelcome sexual conduct (~~quid pro quo harassment~~);

- **Hostile environment harassment.** Unwelcome sex-based conduct that, based on a totality of the circumstances, is subjectively and objectively offensive and is determined by a reasonable person to be so severe, or pervasive that it limits or denies a person's ability to participate in or benefit from, ~~and objectively offensive that it effectively denies a person equal access to~~ the District's education program or activity (i.e., creates a hostile work environment). Whether a hostile environment has been created is a fact-specific inquiry that includes the consideration of the following:
 - The degree to which the conduct affected the Complainant's ability to access the District's education program or activity;
 - The type, frequency, and duration of the conduct;
 - The parties' ages, roles within the District's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
 - The location of the conduct and the context in which the conduct occurred; and
 - Other sex-based harassment in 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.~~
 - **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.
 - **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.
- **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.