

1.0 Statement of Intent

- 1.1 The Los Rios Community College District Board of Trustees prohibits sexual violence, relationship violence, domestic violence, dating violence, sexual assault and stalking that is committed at or upon the grounds of, or upon off-campus grounds or facilities maintained by the Los Rios Community College District and its Colleges. This District Policy sets forth the District's comprehensive plan concerning sexual misconduct and its educational programs and procedures to prevent and provide redress for sexual violence, relationship violence, domestic violence, dating violence, sexual assault and stalking. Those who have experienced this misconduct at or upon the grounds of or upon off-campus grounds or facilities maintained by the District/College shall receive information and referrals to local community treatment centers.

2.0 Definitions

- 2.1 "Complainant" is the person who alleges sexual assault occurred.
- 2.2 "Respondent" is the person alleged to have committed sexual assault.
- 2.3 "Sexual assault" is broader than sexual violence and includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, domestic violence, dating violence, stalking, or threat of sexual assault.
- 2.4 "Relationship violence" is term that includes dating and domestic violence. Relationship violence is physical violence relating to a current or former romantic or intimate relationship regardless of the length of the relationship or gender/gender identity of the individuals in the relationship. Relationship violence includes conduct that would cause a reasonable person to be fearful for his or her safety.
- 2.4.1 "Dating violence" is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: (a) the length of the relationship; (b) the type of relationship; and (c) the frequency of interaction between the persons involved in the relationship. Dating violence does not include acts covered under the definition of domestic violence.
- 2.4.2 "Domestic violence" means abuse committed against an adult or a minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to:

(1) sexual relations between the parties while sharing the same living quarters; (2) sharing of income or expenses; (3) joint use or ownership of property; (4) whether the parties hold themselves out as husband and wife; (5) the continuity of the relationship; and (6) the length of the relationship. (Pen. Code, § 13700, sub. (b).)

- 2.5 “Stalking” means willfully, maliciously, and repeatedly following or willfully and maliciously harassing another person and making a credible threat with the intent to place a person in reasonable fear for his or her safety, or the safety of his or her immediate family. (Pen. Code, § 646.9, subd. (a).)
- 2.6 “Affirmative consent” means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity.
- 2.6.1 Consent means positive cooperation in the act or expression of intent to engage in the act pursuant to an exercise of free will. Lack of protest or resistance does not mean consent, nor does silence mean consent.
- 2.6.2 Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. Consent to some form of sexual activity does not imply consent to other forms of sexual activity. 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.
- 2.6.3 Consent must be given without coercion, force, threats, or intimidation.
- 2.6.4 Consent cannot be given when a person is incapacitated or otherwise unable or incapable of providing consent. A person cannot consent if she or he is unconscious or coming in and out of consciousness. A person cannot consent if she or he is under the threat of violence, bodily injury or other forms of coercion. A person cannot consent if her or his understanding of the act is affected by a physical or mental impairment.

3.0 Standards

- 3.1 Valid affirmative consent must be given by both parties to sexual activity at all times during the sexual conduct.
- 3.2 In the evaluation of complaints in any investigation or disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent that the respondent believed that the complainant consented to the sexual activity under either of the following circumstances:

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- 3.2.1 The respondent's belief in affirmative consent arose from the intoxication or recklessness of the respondent. Being intoxicated by drugs or alcohol does not diminish one's responsibility to obtain consent.
- 3.2.2 The respondent did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented.
- 3.3 In the evaluation of complaints in any investigation or disciplinary process, it shall not be a valid excuse that the respondent believed that the complainant affirmatively consented to the sexual activity if the respondent knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances:
- 3.3.1 The complainant was asleep or unconscious.
- 3.3.2 The complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity. Incapacitation is defined as the physical and/or mental inability to make informed, rational judgments. States of incapacitation include, but are not limited to, unconsciousness, sleep, and blackouts. Where alcohol or drugs are involved, incapacitation is defined with respect to how the alcohol or other drugs consumed affects a person's decision-making capacity, awareness of consequences, and ability to make fully informed judgments. The factors to be considered when determining whether consent was given include whether the person accused (respondent) knew, or whether a reasonable person should have known, that the complainant was incapacitated.
- 3.3.3 The complainant was unable to communicate due to a mental or physical condition.
- 3.3.4 The complainant was under eighteen years old. (Pen. Code, § 261.5.)

4.0 Procedures Upon the Receipt of a Report of Sexual Assault, Relationship Violence, or Stalking

- 4.1 The District/Colleges encourage the accurate and prompt reporting of all crimes to the Los Rios Police Department and the appropriate local police agencies where the victim wants to or is unable to make such a report. The District/Colleges encourage the accurate and prompt reporting of all incidents of sexual violence, relationship violence, domestic violence, dating violence, sexual assault and stalking to the College's Equity Officer or Title IX Officer and the Los Rios Police Department and the appropriate local police agencies. The Los Rios Police Department shall be responsible for reporting crimes as required by Federal and State law and coordinating the criminal aspects of the report.

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- 4.2 Sexual assault is a form of sexual harassment or sexual discrimination and should be reported under the District's Discrimination and Harassment Procedures Policy and Administrative Regulation (P/R-2423). Domestic violence, dating violence and stalking which are based on gender are also forms of sexual harassment or sexual discrimination and should be reported under the District's Discrimination and Harassment Procedures Policy and Administrative Regulation (P/R-2423).
- 4.3 The District/College shall utilize its Discrimination and Harassment Procedures Policy and Administrative Regulation (P/R-2423) and the Student Due Process Policy and Regulation (P/R-2442) to resolve complaints of sexual violence, relationship violence, domestic violence, dating violence, sexual assault and stalking and to impose the appropriate discipline. These procedures shall provide a prompt, fair, and impartial investigation and resolution of the matter.
- 4.4 Complainants and third parties may make confidential reports of sexual violence, relationship violence, domestic violence, dating violence, sexual assault and stalking. The District/College shall respect the privacy of individuals involved in these reports and shall keep the name of the complainant confidential. If compelled to reveal the complainant's name to the respondent, the District/Colleges shall inform the complainant prior to the commencement of the investigation. Complainants and third parties may make confidential reports to designated confidential reporters.
- 4.5 If the complainant requests confidentiality or asks that a complaint not be pursued, the District shall take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. De-identified data shall be provided to the Los Rios Police Department and the College's Title IX Officer. At the same time, the District shall evaluate the request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. The request for confidentiality shall be weighed against the following factors: the seriousness of the alleged harassment; the complainant's age; whether there have been other harassment complaints about the same respondent; and the respondent's rights to receive information about the allegations if the information is maintained by the District/College. Generally, the District/College shall conduct an investigation, despite a request that it not do so, if:
- 4.5.1 The respondent is alleged to have committed one or more prior sexual acts of sexual violence, relationship violence, domestic violence, dating violence, sexual assault and stalking, or used a weapon in those prior act(s); or
- 4.5.2 Sexual violence, relationship violence, domestic violence, dating violence, sexual assault and stalking occur repeatedly in a particular location or against a particular group.

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- 4.6 In its initial response, each College shall provide the complainant with information to assist the complainant. This information shall include written documentation about preserving evidence and the identification and location of witnesses.
 - 4.7 The District/Colleges shall respond to reports of non-stranger sexual violence, relationship violence, domestic violence, dating violence, sexual assault and stalking in the same manner as it does to reports of a stranger committing those acts. This response shall include appropriately reporting the matter to the police as well as engaging the discrimination and harassment complaint procedures and discipline procedures.
 - 4.8 The review of any incident of sexual violence, relationship violence, domestic violence, dating violence, sexual assault and stalking shall examine the role that alcohol or drugs may have played in the incident. Further, complainants and witnesses in an investigation of sexual violence, relationship violence, domestic violence, dating violence, sexual assault and stalking shall not be subject to discipline under the student Standards of Conduct unless the violation was egregious. An egregious violation is an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.
 - 4.9 The complainant shall be interviewed by District/College personnel with annual training in responding to sexual violence, relationship violence, domestic violence, dating violence, sexual assault and stalking. The District/College personnel shall coordinate their response with law enforcement to the extent feasible to minimize the impact of the investigation on the complainant. The Colleges shall develop a complainant interview protocol, which shall include a comprehensive follow-up complainant interview, if appropriate. The complainant shall be asked about the identities and location of witnesses. The complainant shall have the right to have the participation of advocates and other supporting persons throughout the process.
 - 4.10 The respondent shall be contacted and interviewed by the Los Rios Police Department or local law enforcement. Following those interviews, the respondent shall be interviewed by the District/College personnel with training on responding to reports of sexual violence, relationship violence, domestic violence, dating violence, sexual assault and stalking. The respondent shall be asked about the identities and location of witnesses.
 - 4.11 The complainant shall be provided with written notification about the availability of, and contact information for, on-campus and off-campus resources and services, and coordination with law enforcement, as appropriate. In addition, the complainant shall be provided with information about criminal prosecutions; civil prosecutions; the disciplinary process through the College; and the availability of mediation, academic assistance alternatives, and mental health counseling.

- 4.12 The District shall provide a comprehensive, trauma-informed, training program for District/College officials involved in investigating and adjudicating sexual violence, relationship violence, domestic violence, dating violence, sexual assault and stalking.
- 4.13 In addition to the foregoing, each College shall develop primary prevention and awareness programs for all incoming students and new employees and complainant-centered written procedures that shall contain, at a minimum, the following information:
- 4.13.1 The primary prevention and awareness program shall include: the District/College Policy prohibiting sexual violence, relationship violence, domestic violence, dating violence, sexual assault and stalking; definitions of those terms; the definition of consent; and provide safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene in cases of a risk of sexual violence, relationship violence, domestic violence, dating violence, sexual assault and stalking.
- 4.13.2 Personnel at the College who should be notified, and procedures for notification, with the consent of the complainant.
- 4.13.3 Legal reporting requirements and procedures for fulfilling them.
- 4.13.4 A description of College services and resources available to complainants, as well as appropriate off-campus services.
- 4.13.5 Procedures for ongoing case management, including procedures for keeping the complainant informed of the status of any student disciplinary proceedings in connection with sexual violence, relationship violence, domestic violence, dating violence, sexual assault and stalking, and the results of any disciplinary action or appeal, and helping the complainant deal with academic difficulties that may arise because of the victimization and its impact.

5.0 Education

- 5.1 The College written procedures shall be published in all student, faculty, and staff handbooks and shall be given to any student or employee who is the victim of sexual violence, relationship violence, domestic violence, dating violence, sexual assault and stalking.
- 5.2 Ongoing prevention and awareness campaigns shall be made available to students, staff and faculty.
- 5.3 Faculty, staff and students may obtain information about registered sex offenders

from the Los Rios Police Department.

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Adm. Regulation None