

DE ANZA COLLEGE CLERY ACT ANNUAL SECURITY REPORT – VIOLENCE AGAINST WOMEN ACT § 304

SEX AND GENDER-BASED DISCRIMINATION, HARASSMENT AND VIOLENCE

De Anza College prohibits sex and gender-based discrimination, harassment, and violence, including acts of sexual assault, dating and domestic violence and stalking, which may also constitute crimes. (See Foothill-De Anza district Board Policy 4640 and Administrative Procedure 5510.9.) While De Anza College policy uses different standards and definitions than California state law, sex- and gender-based incidents often overlap with the crimes of rape, sexual assault, stalking, dating violence and domestic violence.

Acts of violence and harassment based on sex or gender, including sexual orientation, gender identity and gender expression, may also constitute crimes. Individuals who have experienced incidents involving one or more of these behaviors are protected by federal laws, specifically Title IX (deanza.edu/titleix) and the Clery Act, which mandates the contents of this report.

Immediate Care and Preservation of Evidence

If you experience sex- or gender-based discrimination, harassment or violence – or rape, acquaintance rape, sexual assault, sexual harassment, stalking, dating violence or domestic violence – some or all of these safety suggestions may guide you after an incident has occurred:

1. Go to a safe place and speak with someone you trust. Tell this person what happened. If there is any immediate danger, contact the campus police if you are on campus, or call 911 if you are off campus.
2. Consider securing immediate professional support (such as counseling, victim advocacy, medical services, etc.) to assist you in the crisis. See deanza.edu/titleix/online for suggested resources.
3. If you are on campus during regular business hours, you may go to the college Psychological Services office (deanza.edu/psychologicalservices) or the Student Health Services office (deanza.edu/healthservices) for support and guidance. These are both confidential resources. After regular business hours, or in any situation if an individual wishes, local resources are also available and may be able to provide confidential assistance.
4. For your safety and well-being, immediate medical attention is encouraged. Being examined as soon as possible, ideally within 72 hours, is important in the case of rape or sexual assault. Sexual Assault Nurse Examiners are available at [Santa Clara Valley Medical Center](http://SantaClaraValleyMedicalCenter.com).

To preserve evidence, it is recommended that you do not bathe, shower, douche,

eat, drink, smoke, brush your teeth, urinate, defecate or change clothes before receiving medical attention. Even if you have already taken any of these actions, you are still encouraged to seek prompt medical care, as evidence may still be recoverable.

- Typically, if police are involved or will be involved, they will obtain evidence from the scene, and it is best to leave things undisturbed until their arrival. They will gather bedding, linens or unlaundered clothing, and any other pertinent items that may be used for evidence. It is best to allow police to secure items in evidence containers, but if you are involved in transporting items of evidence, such as when going to the hospital, secure them in a clean **paper** bag or clean bedsheet to avoid contamination.
 - If you have physical injuries, photograph or have them photographed, with a date stamp on the photo.
5. Record the names of any witnesses and their contact information. This information may be helpful as proof of a crime, to obtain an order of protection, or to offer proof of a campus policy violation.
 6. Try to memorize details (such as a physical description, names, license plate number, car description, etc.) – or even better, write down notes to remind yourself of details, if you have time and the ability to do so.
 7. **Even after the immediate crisis has passed**, consider seeking support from De Anza College’s Psychological Services office or the YWCA of Silicon Valley Rape Crisis Center (ywca-sv.org/crisis-intervention).
 8. If you obtain external orders of protection (such as a restraining order, injunction or order of protection from abuse), please notify the Foothill-De Anza district police (deanza.edu/police) or the campus Title IX coordinator, Lauren Balducci, (408.864.8945 or balduccilaureen@deanza.edu) so that those orders can be observed on campus.
 9. Contact the Title IX coordinator if you need assistance with De Anza College policy concerns, such as no-contact orders or other supportive measures. The Title IX coordinator will also assist in any needed advocacy for students who wish to obtain protective or restraining orders from local authorities. De Anza College will offer reasonable academic support, safety escorts, no-contact orders, access to psychological counseling services, and other support and resources as needed. The college can also offer information about legal assistance, visa and immigration assistance, and student financial aid considerations.

Reporting to Law Enforcement

It is the policy of De Anza to notify the Foothill-De Anza district police when sex- or gender-based discrimination, harassment or violence occurs, typically without providing identifying information about the incident, unless a complainant wishes that information to be shared, or an emergency requires disclosure.

Complainants have the option to notify law enforcement directly, or to be assisted in doing so by Foothill-De Anza district police. If requested, campus officials can facilitate reporting to Foothill-De Anza district police but may also respect a complainant's request not to do so.

De Anza College Reporting

In the event that sex- or gender-based discrimination, harassment or violence or the crimes of sexual assault, stalking, dating violence or domestic violence do occur, De Anza College takes the matter very seriously.

De Anza College employs supportive and protective measures such as no-contact orders or emergency removal in cases in which a violence risk assessment indicates such action is warranted.

If a student is accused of sex- or gender-based discrimination, harassment or violence, they are subject to action in accordance with the policies on sexual assault and sexual harassment as listed in the [De Anza College catalog](#) and on the De Anza College [policies website](#). A student wishing to officially report such an incident may do so by contacting the Title IX coordinator.

Anyone with knowledge about sex- or gender-based discrimination, harassment, or violence, or the crimes of rape, sexual assault, sexual harassment, stalking, dating violence or domestic violence is encouraged to report it immediately to the Title IX coordinator.

Supportive and protective measures for individuals who have experienced these incidents are available from the campus whether the individual chooses to report to local or campus law enforcement, and irrespective of whether the individual pursues a formal complaint through the Office of Student Development resolution process.

Confidential Resources

An individual who seeks completely confidential assistance may do so by speaking with professionals who have legally protected confidentiality. On campus, confidential reports may be made to licensed health care professionals in the Psychological Services office and the Health Center. Information shared with these resources will remain confidential and will not be shared with the De Anza College or anyone else without express, written permission of the individual seeking services unless required by law or court order.

Prevention and Education

De Anza College offers a range of campaigns, strategies and initiatives to promote awareness, education, risk reduction and prevention in an effort to reduce the frequency of sex or gender-

based discrimination, harassment and violence amongst members of the campus community.

It is the policy of De Anza College to offer programming to identify and prevent domestic violence, dating violence, sexual assault (including stranger and known offender assaults) and stalking each year.

Educational programs are offered to raise awareness for all incoming students and employees and are often conducted during new student and new employee orientation and throughout an incoming student's first quarter through the eCheckUp service in the MyPortal online platform used by all students.

Programs and other campaigns offered throughout the year to all students and employees include strong messages regarding not just awareness, but also primary prevention (including normative messaging, environmental management and bystander intervention), and discuss institutional policies on sex- or gender-based discrimination, harassment and violence as well as the California definitions of domestic violence, dating violence, sexual assault, stalking and consent in reference to sexual activity.

Bystander engagement is encouraged through safe and positive intervention techniques and by empowering third-party intervention and prevention such as calling for help, using intervention-based apps, identifying allies and creating distractions.

Bystander empowerment training highlights the need for those who intervene to ensure their own safety in the intervention techniques they choose and motivates them to intervene as stakeholders in the safety of the community when others might choose to be bystanders.

Campus and Community Resources

De Anza College shall provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid and other services available for complainants, both within and outside in the community.

On-campus counseling, health, mental health, and intervention resources are available at the Student Development website at deanza.edu/student-development.

Off-campus resources that offer advocacy services and counseling are listed on the Psychological Services website at deanza.edu/psychologicalservices/resources

LEGAL DEFINITIONS

Rape is generally defined by states as forced sexual intercourse. It may also include situations in which the complainant is incapable of giving consent due to incapacitation by means of disability, alcohol or other drugs. Many rapes are committed by someone the complainant

knows, such as an acquaintance or friend.

Under California law, rape is defined as sexual intercourse against the will of the complainant that can occur under a variety of circumstances, including:

- When the assailant uses physical force or the threat of force to overpower and control the complainant
- When the complainant fears that they or another will be injured if the complainant does not submit
- When the complainant is unconscious of the nature of the act, and this is known to the assailant
- When the complainant is incapable of giving legal consent due to a mental disorder or developmental or physical disability, and this is known or reasonably should be known to the assailant
- When the act is accomplished by threatening to use the authority of a public official to incarcerate, arrest or deport the complainant or another person
- When the assailant uses duress, such as a direct or implied threat of hardship or retribution, to coerce the complainant.
- When the assailant uses force, fear or threats to accomplish sexual intercourse against the will of the spouse. This provision of the law is known as the “spousal rape law.”

The complete CA rape and sexual assault offense definitions are located online at glendale.edu/home/showdocument?id=35600.

OTHER SEXUAL OFFENSES

Other sexual offenses include the following: sodomy (forced anal intercourse), oral copulation (forced oral-genital contact), rape by a foreign object (forced penetration by a foreign object, including a finger) and sexual battery (the unwanted touching of an intimate part of another person for the purpose of sexual arousal).

- Information about California law and definitions of sexual harassment and assault can be found at deanza.edu/titleix/definitions.
- De Anza College policies and procedures on sexual harassment and assault can be found at deanza.edu/policies/sexual_harassment.

Sexual harassment is a form of misconduct that undermines the integrity of the academic environment. It is the policy of De Anza College that sexual harassment is prohibited. All members of the De Anza College community, especially administrators, faculty members and other individuals who exercise supervisory authority, have an obligation to promote an environment that is free of sexual harassment. Sexual harassment is defined at

deanza.edu/policies/sexual_harassment.

Any complaints or inquiries regarding sexual harassment of a student by an administrator, faculty member or staff member should be brought to the immediate attention of the Title IX coordinator. Any complaints or inquiries regarding sexual harassment of a student by another student should be brought to the immediate attention of the Title IX coordinator.

De Anza College will promptly respond to such information to determine appropriate steps for resolving the issue. If, for any reason, a student wishes to report or inquire regarding sexual harassment but feels it would not be appropriate to raise such issues with the Title IX coordinator, the student may inquire or complain to any college mandatory reporter (faculty or staff members or administrators).

If it is established that harassment occurred, De Anza College will discipline the offender. Disciplinary action for violations of this policy can range from verbal or written warnings, up to and including immediate termination from employment or dismissal from De Anza College for serious or repeated violations.

Sex Offenders

In accordance with the Campus Sex Crimes Prevention Act of 2000, which amends the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, the Jeanne Clery Act, and the Family Educational Rights and Privacy Act of 1974, De Anza College is providing a link to the California state Sex Offender Registry at oag.ca.gov/sex-offender-reg.

All sex offenders are required to register in the state of California and to provide notice of each institution of higher education in California at which the person is employed, carries out a vocation, or is a student.

In addition to the above notice to the state of California, all sex offenders are required to deliver written notice of their status as a sex offender to the Foothill-De Anza district police no later than three business days prior to their enrollment in, employment with or volunteering at the college.

Such notification may be disseminated by De Anza College to, and for the safety and well-being of, the college community, and may be considered by the college for enrollment and discipline purposes.

CAMPUS PROCEDURES FOR ADDRESSING SEX OR GENDER-BASED DISCRIMINATION, HARASSMENT AND VIOLENCE

Supportive Measures

When De Anza College receives a report of sex or gender-based discrimination, harassment, or violence, the campus Title IX coordinator is notified. If the complainant wishes to access local community agencies or law enforcement for support, the college can assist the complainant in

making these contacts.

The Title IX coordinator will offer assistance to complainants in the form of supportive measures such as opportunities for academic adjustments, visa and immigration assistance, changes in working situations, and other assistance as may be appropriate and available on campus or in the community (such as no-contact orders, campus safety escorts, transportation assistance, targeted interventions, etc.).

The Title IX coordinator can connect the complainant with Psychological Services on campus. No complainant is required to take advantage of these services and resources, but the college provides them with the intention of offering help and support. Similar support will be made available to respondents as well.

Protection Orders

De Anza College does not issue orders of protection. Orders of protection, restraining orders, injunctions or similar lawful orders may be obtained through the court system and can be enforced by the Foothill-De Anza district police. Individuals who have obtained a protection order are encouraged to provide a copy to the Foothill-De Anza district police as soon as possible following the issuance, to ensure full enforcement.

Although De Anza College does not issue orders of protection, individuals may request that the college issue an administrative directive, such as a no-contact order. Upon request, a determination will be made by the college as to whether to issue an administrative directive.

For information regarding how to obtain a protection order, contact the Foothill-De Anza district police at fhdapolice.org. For interest in how to obtain a no-contact order, contact the Title IX coordinator.

Process Rights

A summary of rights, options, supports and procedures, in the form of this document, is provided to all complainants, whether they are students, employees, guests or visitors.

When appropriate upon receipt of notice or a formal complaint, the Title IX coordinator will initiate a prompt, fair and impartial process, commencing with an investigation, which may lead to the imposition of sanctions for a respondent based upon a preponderance of evidence (i.e., what is more likely than not).

Procedures detailing the investigation and resolution processes of De Anza College can be found online at deanza.edu/titleix/filing-complaint.

The Title IX coordinator is ultimately responsible for assuring in all cases that the behavior is brought to an end, that De Anza College acts to reasonably prevent its recurrence, and that the effects on the complainant and the community are remedied.

All parties are entitled to a process that

- Is prompt, fair and impartial – from initial investigation to final result – including being
 - Completed within reasonably prompt timeframes, including allowing for the extension of timeframes for good cause with written notice to the parties of the delay and the reason for the delay
 - Conducted in a manner that is consistent with the institution’s policies and transparent to the parties
 - Given timely notice of meetings at which the parties (one or all) may be present
 - Given timely provision to the parties and any appropriate officials of equal access to any information that will be used during informal and formal disciplinary meetings and hearings
 - Conducted by officials who do not have a conflict of interest or bias for or against the any of the parties
- Is conducted by administrators who, at minimum, receive annual training on
 - Issues related to dating violence, domestic violence, sexual assault and stalking
 - How to conduct an investigation and hearing process that protects the safety of the parties and promotes accountability
- Allows all parties the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice
- Does not limit the choice of adviser or presence for any party in any meeting or institutional disciplinary proceeding; however, the institution may establish regarding the extent to which the adviser may participate in the proceedings, as long as the restrictions apply equally to all parties
- Provides for simultaneous written notification to all parties of:
 - The result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault or stalking
 - The institution’s procedures for the parties to appeal the result of the institutional disciplinary proceeding, if such procedures are available
 - Any change to the result
 - When such results become final
- Prohibits retaliation

Process Outcomes

For offenses including sex or gender-based discrimination, harassment and violence, which typically include the crimes of domestic violence, dating violence, sexual assault and stalking, sanctions range from warning to expulsion.

Serious and violent incidents and acts of sexual assault usually result in suspension, expulsion, or termination of employment.

Knowingly providing false or misleading information to investigators can result in additional

consequences under the Code of Student Conduct (deanza.edu/student-development/conduct).

Training

The Title IX coordinator is also responsible for assuring that training is conducted annually for all institution-provided advisers, investigators, decision-makers and appellate decision-makers involved in the resolution of formal complaints through a process that ensures the safety of all parties and promotes accountability.

Training will focus on sexual assault, domestic violence, dating violence, stalking, sexual harassment, retaliation and other behaviors that can be forms of sex- or gender-based discrimination, harassment or violence covered by Title IX and Clery Act.

Recordkeeping and Privacy

De Anza College records of investigations and resolutions are maintained in privacy in accordance with the institution's record retention policy for a minimum of seven years for Title IX reports. Information is shared internally between administrators who need to know in order to complete their job duties.

When information must be shared to permit the investigation to move forward, the parties will be informed. Privacy of the records specific to the investigation is maintained in accordance with California law and the federal Family Educational Rights and Privacy Act (FERPA). Any public release of information needed to comply with the open crime logs or timely warning provisions of the Clery Act will not include the names of complainant or information that could easily lead to a complainant's identification.

Additionally, De Anza College maintains privacy in relation to any supportive measures afforded to a complainant, except to the extent necessary to provide the supportive measures. Typically, if faculty members or administrators are asked to provide supportive measures for a specific student, they are told that such measures are necessary under Title IX or the Clery Act, but they are not given any details of the incident, or what kind of incident it is.

Irrespective of state law or public records access provisions, information about complainants is maintained privately in accordance with Title IX and FERPA.

In any complaint of sex- or gender-based discrimination, harassment or violence covered under Title IX or the Clery Act, the complainant and respondent are entitled to the same opportunities for a support person of their choice throughout and to fully participate in the process, including any meeting, conference, hearing, appeal or other procedural action.

Complainants and respondents who participate in a Title IX investigation process have the right to have one individual of their choice to serve as their adviser throughout the investigation process. The right to an adviser is extended so that the complainant or respondent can identify someone that they want to assist them with navigating and understanding the investigation

process, including providing support during each portion of the investigation process and any meeting or interview that is associated with the investigation process. It is recommended that an adviser not be someone who is a witness in the same matter.

The parties will receive written notification of the allegations as well as any hearing outcome. They will also be afforded opportunities to review and respond to the investigation report before it is finalized and again before a hearing.

Delivery of written notifications to the parties will occur simultaneously (without undue delay between notifications). All parties will be informed of the college's appeal processes, and their rights to exercise a request for appeal. Should any change in outcome occur prior to finalization, all parties will be timely informed in writing, and will be notified when the results of the resolution process become final.

Retaliation

Both Title IX and the Clery Act provide protections for whistleblowers who bring allegations of noncompliance with the Clery Act or Title IX to the attention of appropriate campus administrators.

De Anza College does not retaliate against those who raise concerns of noncompliance. Any concerns should be brought to the immediate attention of the campus Title IX coordinator or to officials of the U.S. Department of Education.

STATISTICAL REPORTING UNDER THE CLERY ACT

Reporting of statistics under the Clery Act uses federal offense definitions that allow comparability across campuses and locations, regardless of the state or location in which the campus is located. These definitions are as follows:

SEXUAL ASSAULT, defined as:

Sex Offenses, Forcible – Any sexual act directed against another person, without the consent of the complainant including instances where the complainant is incapable of giving consent.

- Forcible Rape – Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the complainant.
- Forcible Sodomy – Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will (nonconsensually) in instances where the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- Sexual Assault With An Object – To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or

against that person's will or not forcibly or against the person's will (nonconsensually) in instances where the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

- Forcible Fondling – The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification, forcibly and/or against that person's will (non-consensually) or not forcibly or against the person's will in instances where the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sex Offenses, Nonforcible – Nonforcible sexual intercourse.

- Incest – Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by California law.
- Statutory Rape – Nonforcible sexual intercourse with a person who is under the statutory age of consent of 18 years old, according to California state law.

DATING VIOLENCE, defined as: violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition –

- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- Dating violence does not include acts covered under the definition of domestic violence.

DOMESTIC VIOLENCE, defined as: a felony or misdemeanor crime of 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 CA (courts.ca.gov/selfhelp-domesticviolence.htm?rdeLocaleAttr=en)
- By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of CA.

*To categorize an incident as domestic violence, the relationship between the respondent and the complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

STALKING, defined as: engaging in a course of conduct directed at a specific person that would cause a reasonable person to

- Fear for the person's safety or the safety of others; or
- Suffer substantial emotional distress.

For the purposes of this definition –

- (i) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

Clery Act crime statistics for De Anza College can be found at deanza.edu/police/clerystatistics.