

PANOLA COLLEGE PROHIBITION OF SEXUAL ASSAULT POLICY

Policy Statement. Panola College is committed to providing a safe, educational and working environment for its students, faculty, and staff. This environment emphasizes the dignity and worth of all members of the College community and enables them to realize their full potential. Sexual assault is a serious offense and fundamental violation of human rights and dignity. It invades the safety, well-being, educational experience, and career of those it affects. Therefore, the College will not tolerate any form of sexual assault including, but not limited to acquaintance or date rape.

The goal of this policy is to cultivate an environment that is free from sexual assaults and that is consistent with constitutional protections, legal statutes, and personal freedoms. It also is intended to inform students, faculty, and staff of their rights if they are involved in an assault and their responsibilities if they are aware that one has occurred. Further, it specifies the complaint procedures and support services that a survivor of sexual assault can use.

Application of Policy.

All College campuses

Definitions.

None

Procedures and Responsibilities.

1.0 Policy.

Sexual assault violates the standards of conduct expected of every member of the College community and is strictly prohibited. A member of the College community who individually, or in concert with others, participates or attempts to participate in a sexual offense including, but not limited to sexual assault or the unwanted touching of an intimate area of any other person, is subject to disciplinary action by the College, notwithstanding any action that may or may not be taken by the civil authorities. In addition to incidents that occur on the College campus, the College may take disciplinary action in response to incidents that take place off campus.

2.0 Criminal Law of Texas in Regard to Sexual Assault

In addition to violating this policy, conduct prohibited by this policy may also constitute a criminal offense under Texas law.

Sexual assault is defined in the Texas Penal Code as the oral, anal, or vaginal penetration by a sexual organ of another; or oral, anal, or vaginal penetration by any means against a person's will or without her/his consent. An individual who is mentally incapacitated, unconscious, or unaware that the sexual assault is occurring is considered to be unable to give consent. Force employed may involve physical violence, the threat of physical violence, coercion and the intentional impairment of the person's power to appraise the situation through the administering of any substance. This definition applies whether the perpetrator is a stranger or an acquaintance or a group of individuals.

Use of drugs or alcohol by the accused is not a defense against allegations of sexual assault and does not diminish personal accountability or criminal liability.

3.0 To Whom the Policy Applies

This policy applies to all members of the College community. Members of the College community are required to abide by this policy at all times, whether on or off campus. When a student is alleged to have committed a sexual assault, this policy will apply at all times, whether or not the student was engaged in institutionally sponsored or related activities at the time of the alleged incident.

4.0 Responsibilities

All Community Members. All College community members are responsible for ensuring that their conduct does not violate this policy. All community members who observe what they believe to be incidents of sexual assault are encouraged to confront such conduct and to report such conduct to their supervisor or the Campus Police Department at once. Any community member who believes that he or she has experienced sexual assault in violation of this policy should notify Campus Police. A survivor may also report an assault to any supervisor, College administrator, or faculty member, and may receive assistance from any of the support agencies listed in Section XIII.

Supervisors. Institutional supervisors have the further responsibility to use their best efforts to assure that sexual assaults do not occur and that they are reported if they do occur. When a supervisor receives a report of, or otherwise identifies a problem as being one involving a potential claim of sexual assault in violation of this policy, the supervisor shall report the alleged incident to the Campus Police Department at once.

5.0 Response Protocol

Step 1: If a sexual assault has just occurred, make sure the person is safe and call 911 immediately. Police can provide transport to the closest emergency room for medical treatment and evidence collection. Survivors may seek assistance of other campus personnel or counselors in reporting a sexual assault to the Campus Police Department. Student survivors may also seek such assistance from the staff of Student Services.

Step 2: Assist in preserving evidence. Advise the survivor NOT to change clothes, shower, douche, brush hair, brush teeth, eat or drink, and if possible, not urinate. Tell the survivor NOT to disturb the crime scene.

Step 3: Communicate the importance of medical attention. Medical attention is vital for detecting and treating the survivor's emotional needs as well as numerous medical concerns, including sexually transmitted diseases, pregnancy and internal injuries. Survivors are encouraged to have a "rape kit" done whether or not they have decided to prosecute.

Step 4: Encourage legal (criminal and/or civil charges) and/or College disciplinary options.

Step 5: To the extent allowed by law, the survivor may choose a pseudonym or fictitious name to maintain confidentiality, or a pseudonym will be assigned at the survivor's request.

6.0 Reporting and Complaint Procedure

The informal and formal procedures set forth below are intended to provide a prompt response to charges of sexual assault, maintain confidentiality and fairness consistent with applicable legal requirements, and impose appropriate sanctions on violators of this policy.

A. Informal Complaints

If a person reports to a College administrator, supervisor, or faculty member that she or he has been sexually assaulted, but chooses not to file a formal complaint at that time, a complainant who is a student will be referred immediately to Student Services, and a complainant who is a faculty or staff member will immediately be referred to the Office of Human Resources. Survivors will be promptly notified of available support services on and off campus and alternative remedies. Informal complaints will be treated confidentially, consistent with applicable legal requirements.

For student survivors, the College provides assistance in changing academic schedules and on-campus living arrangements after an

alleged sexual assault, if so requested by the student and if accommodations are reasonably available. Arrangements for changes in academic schedules can be made by contacting Student Services.

B. Formal Complaints

Persons wishing to file formal complaints of sexual assault will be directed, and if possible escorted, to Campus Police, which is solely responsible for conducting investigations of these complaints. All formal complaints will be treated confidentially, consistent with applicable legal requirements and customary law enforcement practices. Survivors will be informed promptly of available support services, as well as legal and administrative options. These include:

Criminal: Sexual assault is an offense under Texas Penal Code. Reporting a sexual assault does not mean that the survivor must press charges. Making a report begins legal procedures should the decision to prosecute be made immediately or at a later date.

Civil: Survivors can contact an attorney about initiating a suit in civil court for damages under the intentional tort of assault. Civil actions may be brought against a perpetrator whether or not criminal charges are pursued.

Students can pursue charges against other students through the office of Student Services. In accordance with the Code of Student Conduct, a sexual assault is a very serious offense. Sanctions may include removal from the institution. All complaints involving sexual assaults where the respondent is a faculty member, an administrator, or a staff member will be processed through the Office of Human Resources.

Reporting a sexual assault incident to Campus Police or other law enforcement authorities does not require the survivor to initiate a College complaint procedure. In the case of a student survivor, however, Campus Police will initiate a referral to Student Services.

7.0 Sanctions

Formal complaints that a police investigation finds to be with merit will lead to the initiation of College disciplinary procedures applicable to the accused. In such cases, the survivor will have the option to participate or not participate as a witness in such disciplinary procedures. College sanctions, up to and including separation from the College, will be imposed upon those

determined to have violated this policy, in accordance with applicable due process requirements.

For students, sexual assault is defined in the Code of Student Conduct as a major violation, subjecting a perpetrator to disciplinary sanctions up to and including expulsion from the College.

If members of a College-affiliated group or organization violate this policy by committing a gang or other sexual assault, the group or association is subject to sanctions up to and including revocation of the College's registration, recognition or affiliation with the group or organization. These sanctions shall also apply if members of the group or organization know that a sexual assault is taking place, but fail to take immediate and appropriate action to stop the assault. Further sanctions apply if responsible leaders of the group or organization should have known that a sexual assault was taking place, but failed to take immediate and appropriate action to stop the assault. The organization cannot use ignorance of the acts of its members as a defense.

Sanctions up to and including dismissal from employment may be imposed on faculty, staff, or administrators who are found to be in violation of this policy.

8.0 Rights of the Parties

The College recognizes that community support for both the survivor and the accused is essential to a fair and just response to a sexual assault report. Therefore, the parties involved in a sexual assault incident are assured the following rights:

1. The right to privacy and treatment of sensitive information in a confidential manner. To the extent allowed by law;
2. The right to be treated with dignity and to receive nonjudgmental assistance;
3. The right to meaningful support from institutional organizations and departments as appropriate (i.e., counseling, resident life, Student Services, Title IX Coordinator, department chairs, etc.);
4. The right to a fair, impartial and timely investigation and resolution by campus disciplinary authorities of a sexual assault report;

5. The right to an explanation of the complaint procedures for sexual assault violations;
6. The right to an explanation of the allegations made against a party under this policy;
7. The right to know prior to a hearing the names of witnesses who may be called;
8. The right to speak on his or her own behalf in a disciplinary proceeding;
9. The right to an adviser at any campus disciplinary proceeding concerning a sexual assault complaint;
10. The right to have a support person present during the hearing. This person is not entitled to represent the complainant nor to assist her or him with her or his testimony. If the support person is to act as a witness, the hearing officer may require her or him to testify prior to the complainant. For student survivors, the adviser and support person will be the same individual;
11. The right to privacy with regard to her or his past sexual/relationship history during campus disciplinary proceedings, to the extent allowed by law;
12. The right to be informed in a timely manner of the outcome of any campus disciplinary proceeding concerning a sexual assault complaint, as defined by the Family Educational Rights and Privacy Act;
13. The right to appeal the outcome of a hearing in which the party participates.

In addition, Texas Law assures a survivor of sexual assault the following rights:

1. the right to receive from law enforcement agencies adequate protection from harm and threats of harm arising from cooperation with prosecution efforts;

2. the right to have a magistrate take the safety of the survivor or his or her family into consideration as an element in fixing the amount of bail for the accused;
3. the right , if requested, to be informed of relevant court proceedings and to be informed if those court proceedings have been canceled or rescheduled prior to the event;
4. the right to counseling, on request, regarding acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) infection and testing for acquired immune deficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS. (Texas Code of Criminal Procedure, Chapter 56).

9.0 Confidentiality

Because of the sensitive nature of sexual assault complaints, the need to protect the privacy of the parties, and the interest in resolving complaints as quickly and effectively as possible, the College will rigorously defend the confidentiality interests of all parties involved in a sexual assault complaint process to the extent allowed by law. These institutions will attempt to protect the identity of all complainants and respondents and ensure that the actions resulting from the initiation of a complaint procedure are kept confidential, informing only those officials and individuals with a need to know in order to respond to the case.

Notwithstanding the preceding paragraph, respect for due process requires that the requirement of confidentiality not be interpreted as unduly limiting the ability of either party to a complaint to prepare and present his or her case, particularly during the formal stage of the complaint process. Furthermore, the requirement of confidentiality will not be interpreted as unduly limiting the College's responsibility to investigate and take corrective action in response to sexual assault complaints. Information regarding sexual assault incidents occurring on campus may be released to the campus community to allow members of the community to make informed judgments and take appropriate preventive measures. The privacy of the survivor will be protected to the extent reasonably possible in the event that such information is released.

Other issues of confidentiality include:

1. Where applicable, persons who testify will be made aware of the need to identify the survivor and the assailant in the investigation and hearing of a discipline action and/or criminal prosecution.
2. Accused students or employees will also be made aware that the survivor will be informed of any student disciplinary sanctions invoked as a result of the disciplinary proceedings and apprised of the confidential nature of this information.
3. The survivor shall also be assured of the confidentiality of campus medical communications and resultant records which may be released only upon the patient's written consent, in response to a valid subpoena or otherwise in accordance with law.

10.0 Retaliation

Any person who initiates a complaint under this policy will do so without coercion or fear of reprisal. Retaliation against or harassment of any person involved in a complaint process (the complainant, the respondent, the investigator, a witness, a member of the hearing panel, etc.) may in and of itself constitute a violation of College policy and may be punished as such. Employees should report suspected retaliation to their immediate supervisor, the department chair, or Human Resources Department. Students should report suspected retaliation to Student Services. Encouraging others to retaliate also violates this policy.

11.0 Malicious, False Reporting

A complainant whose allegations are found to be both false and made with malicious intent will be subject to disciplinary action.

12.0 Services for Survivors

"Survivor" is a term often used to refer to a person who has been the target of an attempted or completed sexual assault in order to validate the person's strength and determination to "survive". The term victim connotes powerlessness and weakness. The experience of sexual assault has different meanings for each person. Common reactions to sexual assault include reactions of flashbacks, "body memories", dissociation, night terrors, panic attacks, shock, disbelief, embarrassment, shame, guilt, depression, powerlessness, denial, fear, anxiety, and anger. Prompt intervention with sexual assault survivors can work to lessen the trauma and enhance healing.

Employees may also receive immediate aid 24 hours a day from the Employee Assistance Program (866-327-2400).

The East Texas Crisis Center services includes a 24-hour, 7-day-a-week crisis line for sexual assault survivors, their families and friends, hospital accompaniment, crisis intervention and advocacy, emergency shelter, individual and group counseling to survivors, their families and friends, public education presentations on sexual assault topics and training for volunteer rape crisis counselors and education speakers. These services are provided by trained staff and volunteers. All services are free of charge. For more information, call (800-333-0358).