

# STUDENT HANDBOOK ADDENDUM

## ALL CALIFORNIA LOCATIONS

This document constitutes an addendum to DeVry University's Student Handbook and the Title IX and Sexual Misconduct Policy. This addendum contains certain information required by the California Education Code. The section of the California Education Code is notated in parentheses (). DeVry's Policy is located on the [Title IX Information](#) webpage

The investigation and adjudication of alleged misconduct is not an adversarial process between the Complainant, the Respondent, and the witnesses, but rather a process to comply with obligations under existing law (66281.8).

### Definitions

California Education Code requires institutions to use the following definitions and policies when reviewing, investigating, and adjudicating incidents of Sexual Harassment. Please note that when DeVry is reviewing, investigating or adjudicating an allegation covered by Title IX, these definitions will be used only to the extent that they do not conflict with federal regulations.

**Affirmative consent** (67386) is the affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure the he or she has the affirmative consent of the other or others 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.

It is not a valid excuse to alleged lack of affirmative consent that the accused believed that the victim consented to the sexual activity under either of the following circumstances:

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

**Stranger and Non-stranger** (67386) are terms to describe the association between the Complainant and Respondent in a sexual harassment or sexual misconduct complaint. A stranger is a person(s) not known by the Complainant at the time of the alleged sexual

harassment or sexual misconduct. A non-stranger is a person(s) known by the Complainant, whether the person(s) is known casually, intimately, or for a short or long period, at the time of the alleged sexual harassment or sexual misconduct. DeVry University's Policy applies to misconduct involving both strangers and non-strangers, occurring on or off campus.

## **Additional Policies**

### **No-Contact Orders (66281.8)**

When requested by a Complainant or otherwise determined to be appropriate, DeVry shall issue an interim no-contact order prohibiting the Respondent from contacting the Complainant during the pendency of the investigation. DeVry shall not issue an interim mutual no-contact order automatically, but instead shall consider the specific circumstances of each case to determine whether a mutual no-contact order is necessary or justifiable to protect the Complainant's safety or well-being, or to respond to interference with an investigation. A no-contact order issued after a decision of responsibility has been made shall be unilateral and only apply against the party found responsible. Upon the issuance of a mutual no-contact order, DeVry shall provide the parties with a written justification for the order and an explanation of the terms of the order. Upon the issuance of any no-contact order, the institution shall provide the parties with an explanation of the terms of the order, including the circumstances, if any, under which violation could be subject to disciplinary action.

### **Informal Resolution (66281.8)**

DeVry will not mandate mediation to resolve allegations of sexual harassment, and will not allow mediation, even on a voluntary basis, to resolve allegations of sexual violence.

### **Evidence Consideration (66281.8)**

The investigator or hearing officer shall not consider the existence of a dating relationship or prior or subsequent consensual sexual relations between the complainant and the respondent unless the evidence is relevant to how the parties communicated consent in prior or subsequent consensual sexual relations. Where the investigator or hearing officer allows consideration of evidence about a dating relationship or prior or subsequent consensual sexual relations between the complainant and the respondent, the mere fact that the complainant and respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual. Before allowing the consideration of any evidence of this nature, the investigator or hearing officer shall provide a written explanation to the parties as to why consideration of the evidence is consistent with this clause.