STUDENT SEXUAL MISCONDUCT POLICY*
Revised December 3, 2014 in accordance to VAWA legislation

*The policy is available in alternate formats, upon request. For further assistance, please contact (808)932-7445 (V), 932-7002 (TTY).
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>INTRODUCTION</strong></td>
<td>pg 4</td>
</tr>
<tr>
<td><strong>DEFINITIONS</strong></td>
<td>pg 4</td>
</tr>
<tr>
<td><strong>PREVENTION EFFORTS</strong></td>
<td>pg 8</td>
</tr>
<tr>
<td><strong>INTERVENTION EFFORTS</strong></td>
<td>pg 9</td>
</tr>
<tr>
<td><strong>TITLE IX COORDINATOR</strong></td>
<td>pg 9</td>
</tr>
<tr>
<td><strong>SEXUAL ASSAULT RESPONSE TEAM</strong></td>
<td>pg 10</td>
</tr>
<tr>
<td><strong>PROCEDURES FOR REPORTING SEXUAL MISCONDUCTS</strong></td>
<td>pg 10</td>
</tr>
<tr>
<td><strong>CONFIDENTIALITY</strong></td>
<td>pg 11</td>
</tr>
<tr>
<td><strong>CAMPUS PROCEDURES FOR REFERRING VICTIMS/SURVIVOR APPROPRIATE RESOURCES</strong></td>
<td>pg 16</td>
</tr>
<tr>
<td><strong>CAMPUS PROCEDURES FOR RESPONDING TO VICTIMS/SURVIVORS OF SEXUAL ASSAULT</strong></td>
<td>pg 16</td>
</tr>
<tr>
<td><strong>CAMPUS PROCEDURES FOR INVESTIGATING SEXUAL MISCONDUCT</strong></td>
<td>pg 18</td>
</tr>
<tr>
<td><strong>CAMPUS PROCEDURES FOR ADJUDICATING SEXUAL MISCONDUCT</strong></td>
<td>pg 19</td>
</tr>
<tr>
<td><strong>CONSEQUENCES FOR STUDENTS FOUND RESPONSIBLE FOR SEXUAL ASSAULT</strong></td>
<td>pg 21</td>
</tr>
<tr>
<td><strong>TRAINING</strong></td>
<td>pg 22</td>
</tr>
<tr>
<td><strong>RELATIONSHIP TO OTHER POLICIES AND LEGISLATION</strong></td>
<td>pg 23</td>
</tr>
<tr>
<td><strong>CAMPUS AND PUBLIC ANNOUNCEMENTS</strong></td>
<td>pg 25</td>
</tr>
<tr>
<td><strong>RECORDS OF SEXUAL MISCONDUCT</strong></td>
<td>pg 25</td>
</tr>
</tbody>
</table>
APPENDIX

APPENDIX A:  SUGGESTIONS FOR SUPPORTING
A PERSON(S) DISCLOSING SEXUAL MISCONDUCT. ........................................ pg 26

APPENDIX B:  RESOURCES FOR VICTIMS/SURVIVORS
OF SEXUAL MISCONDUCT .................................................................................. pg 27

APPENDIX C:  WHAT TO DO IF YOU ARE SEXUALLY ASSAULTED ......................... pg 29

APPENDIX D:  WHAT MEN AND BOYS CAN DO TO PREVENT RAPE ....................... pg 30
Introduction & Guiding Philosophy
The University of Hawai`i at Hilo (UH Hilo) does not condone or tolerate acts of sexual misconduct perpetrated by or against members of its student, staff and faculty community. As an institution of higher education, UH Hilo is committed to ensuring that all students, regardless of their background or identity, have access to a quality learning experience and the opportunity to pursue their academic goals in a safe, supportive learning environment. Further, all forms of sexual misconduct, including rape and sexual assault, interferes with students’ abilities to be active, engaged learners. As such, the University is actively committed to reducing and eradicating the incidence of sexual violence and ameliorating the root causes that lead to sexual violence, as well as providing appropriate support to victims and survivors when an act of sexual violence does occur. This policy is a nondiscrimination policy and applies to all students regardless of sexual orientation or gender identity as well as to third parties. UH Hilo’s Student Sexual Misconduct Policy complies with the complex and interrelated requirements of the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, as amended (“Clery Act”); the Violence Against Women Act, as amended (“VAWA”); Title IX of the Education Amendments of 1972 (“Title IX”); Title VII of the Civil Rights Act of 1964, as amended (“Title VII”); Hawai`i Revised Statutes (“HRS”) Title 21, Chapter 378; and other applicable laws and state and federal regulations. Please refer to the University of Hawai`i System Executive Policy E1.204 “Sexual Assault Policy and Procedural Guidelines.”

Definitions
The scope of “sexual misconduct” covered by this policy includes rape, acquaintance rape, and other sexual acts directed against another person, forcibly and/or against that person’s will; or when the individual is incapable of giving consent because of her/his youth or because of her/his temporary or permanent mental or physical incapacity (including incapacity due to drugs or alcohol). Sexual assault does not require the use of physical force and can be the result of a threat, expressed or implied, that places a person in fear of bodily injury.

Further sexual discrimination and sexual misconduct definitions include:

A. Consent
Consent in relationship to sexual activity is defined in accordance with its plain and common meaning. With respect to sexual activity, “consent” means words or actions that show a knowing and voluntary agreement to engage in mutually agreed sexual activity (including pictures/video). Mere assent (an affirmative statement or action) does not constitute consent if it is given by a person who is unable to make a reasonable judgment concerning the nature or harmfulness of the activity because of her or his incapacitating intoxication, unconsciousness, youth, language, intellectual or other disability, or other incapacity; or if the assent is the product of threat, coercion, or fraud. Past consent does not imply future consent; silence or an absence of resistance does not imply consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be withdrawn at any time.

---

1 The term “consent” with respect to sexual activity is not specifically defined by Hawai`i Revised Statutes.
B. **Dating Violence**

VAWA defines “dating violence”\(^2\) includes, but is not limited to, sexual or physical abuse or the threat of such abuse 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 the reporting party’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 purpose of Clery reporting, dating violence does not include acts covered under the definition of domestic violence.)

C. **Domestic Violence**

VAWA defines “domestic violence”\(^3\) as a felony or misdemeanor crime of violence committed by: a current or former spouse or intimate partner of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the local jurisdiction. Hawai‘i law on “domestic abuse” includes persons who have or have had a dating relationship and current and former roommates, children, and persons related by consanguinity.\(^4\)

D. **Indecent Exposure**\(^5\)

Under Hawai‘i law, “indecent exposure” involves a person intentionally exposing their genitals to another person under circumstances in which the conduct is likely to cause affront.

E. **Retaliation**

Retaliation is defined as adverse actions taken against a person because of their participation in the following types of protected activities:

1) seeking advice or assistance about a discrimination concern or possible incident of sexual violence;
2) opposing or filing an informal or formal complaint against conduct reasonably believed to constitute discrimination or sexual violence; or
3) testifying, assisting, or participating in an investigation or other proceeding related to a complaint of discrimination or sexual violence.

Adverse actions are actions that would dissuade a reasonable person from making or supporting a complaint of discrimination, sexual harassment, sexual assault, domestic violence, dating violence, or stalking.

---

\(^2\) 42 USC § 13925(a)(10)[40002(a) of VAWA] and 34 CFR Part 668 § 668.46

\(^3\) *Ibid*

\(^4\) See Appendix A - HRS § 586-1.

\(^5\) See Appendix A - HRS § 707-734.
F. Sexual Assault

Under Hawai‘i sexual offense laws, a person commits sexual assault, including but not limited to, when the person knowingly or recklessly subjects another person to an act of nonconsensual sexual penetration or sexual contact. This includes knowingly engaging in the behavior with a person who is unable to give consent due to incapacitation, intellectual disability, and age. Sexual assault also includes statutory rape, indecent exposure, and voyeurism or trespassing on property to engage in surreptitious surveillance for sexual gratification. Sexual assault can be committed by men or women and can occur between persons of the same or different sex.

Hawai‘i law categorizes sexual offenses as first, second, third, or fourth degree sexual assault, which takes into account factors such as severity, context, age of the victim, capacity for giving consent, and whether the acts involved forcible compulsion, lack of consent, threats of property damage, etc.

For the purpose of this policy “incapacitation” means the person’s decision-making ability is impaired such that the person lacks the ability to make a rational, reasonable decision due to an intellectual or other disability, sleep, involuntary physical restraint, alcohol, drugs, or so-called “date-rape” drugs.

G. Sexual Harassment

Sexual harassment is a form of sex discrimination that is strictly prohibited by this policy, as well as by UH Executive Policy EP 1.202 which prohibits discrimination and harassment based on protected categories, including sex, gender identity or expression, and sexual orientation.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. submission to or rejection of the conduct is either an explicit or implicit term or condition of an individual’s employment, education, or participation in a University program, activity, or service;
2. submission to or rejection of the conduct by an individual is used as a basis in decisions affecting that individual’s employment, education, or participation in a University program, activity, or service; or
3. when such conduct is unwelcome to the person to whom it is directed or to others directly aware of it, and when such conduct is:
   a) severe or pervasive; and
   b) has the purpose or effect of either:
      (1) unreasonably interfering with the employee’s work performance or student’s academic performance, or
      (2) creating an intimidating, hostile, or offensive work or educational environment.

The conduct must be both objectively and subjectively perceived as offensive. That is, the reporting party must view the conduct as offensive, and a reasonable person with the same fundamental characteristics as the reporting party (e.g., age, race, gender) must also view the conduct as offensive.

---

6 See Appendix A - HRS §§ 707-730 to 733.
H. Sexual Misconduct
For the purpose of this policy, sexual misconduct is a broad term that encompasses sexual harassment, sexual assault, and may include domestic violence, dating violence, indecent exposure and stalking. Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual misconduct can be committed by men or women, and can occur between people of the same or different sex. Sexual misconduct may be a form of sex discrimination prohibited by federal and state discrimination laws, including Title IX, Title VII, and Chapter 378 of the HRS. In addition, some forms of sexual misconduct violate the criminal laws of the State of Hawai‘i.

I. Sexual Violence
The U.S. Department of Education Office for Civil Rights (OCR) considers sexual violence to be a form of sex discrimination and a violation of Title IX of the Education Amendments of 1972. The term “sexual violence”7 refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent (e.g., due to the student’s age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

J. Stalking
VAWA defines “stalking”8 as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

“Course of conduct” means two or more acts, including, but not limited to, unwelcome acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means (including cyberstalking) follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property.

“Reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim. (Note: Hawai‘i law requires proof of intent9; however, this policy includes hostile environment harassment.)

“Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

APPLICABILITY
This policy prohibits sexual harassment, sexual assault, domestic violence, dating violence, and stalking in any University workplace, educational program, activity, or service, which includes all academic, extracurricular, student housing, athletics, and other programs. The policy applies

---

7 OCR Questions and Answers on Title IX and Sexual Violence, April 29, 2014
8 VAWA and 34 CFR Part 668 § 668.46
9 See Appendix A - HRS §711-1106.5.
This policy applies to sexual misconduct:
A. on University premises;
B. at University sponsored activities;
C. that has an adverse impact on the education or employment of a member of the University community; or
D. otherwise threatens the health or safety of a member of the University community.

A student or employee who reports to the University that they believe they have experienced sexual harassment, sexual assault, domestic violence, dating violence, or stalking, whether the offense occurred on- or off-campus, shall be offered appropriate assistance and be provided with a written explanation of the student or employee’s rights and options under campus procedures.

Prevention Efforts
Through a variety of curricular and co-curricular programs, UH Hilo strives to provide individuals with the information, skills and values necessary to help reduce the risk of sexual violence and prevent it from occurring in the first place. We believe that both men and women should be active partners in dialogue about this issue, and that the responsibility for providing sexual violence prevention education is distributed across all campus constituents and administrative areas. Because of their special and salient relationship with students, faculty members serve a particularly important role in helping to educate students about sexual misconduct. Attention is given to capitalizing on the unique culture of Hawai‘i to ensure educational efforts and prevention strategies are culturally relevant.

Specific initiatives to educate the campus community may include, but are not limited to, the following:
- The Office of the Vice Chancellor for Student Affairs provides overall coordination for curricular and co-curricular programs targeted to new first-year students such as UNIV 101 (the freshmen seminar) and new student orientation, that address prevention education, campus policies, risk reduction strategies, and available campus resources;
- Student Health & Wellness Programs implements a mandatory training for new students and a wide array of ongoing primary prevention programming throughout the academic year, addressing rape, sexual assault, domestic violence, stalking, cyber-harassment, and other forms of interpersonal violence, including the student-driven initiative, MEN OF STRENGTH;
- The residential life program in University Housing provides one-on-one consultations to on-campus residents about personal safety concerns through its peer and professional staff team, as well as sponsors educational programs throughout the academic year about healthy relationships and sexual assault prevention and intervention;
- The Campus Security Department is available to arrange workshops and seminars throughout the academic year for students, staff and faculty about personal safety and crime prevention; and,
• The Women’s Center sponsors events and activities to increase campus awareness about issues related to violence against women, as well as facilitates student, faculty and staff partnerships to promote gender and gender identity equity, as well as ameliorate other root causes of violence.

Intervention Efforts
UH Hilo is committed to ensuring that students who are the victims/survivors of sexual misconduct are treated in a respectful, supportive and caring manner. When sexual misconduct is reported to the University, we are committed to ensuring that:

• A victim/survivor’s safety, privacy and confidentiality is preserved to the greatest extent possible;
• S/he is able to access advocacy, medical, mental health and other support services both on- and/or off-campus in a timely manner with minimal hardship;
• Reasonable academic and other accommodations will be instituted to facilitate the victim/survivor’s recovery;
• Accurate and complete information about all options for recourse, including judicial, civil and criminal, will be communicated to the victim/survivor;
• A victim/survivor will be empowered with regard to choosing her/his options for recourse; and
• A victim/survivor’s choices will be honored to the greatest extent possible and will not influence the manner in which the University provides advocacy or support to that individual.

The University takes all allegations of sexual misconduct seriously and is obligated to respond with due diligence and implement actions and consequences accordingly that ensure the safety of our community. Should a victim/survivor wish that the incident not be investigated, the University will work with her/him to honor her/his wishes whenever reasonable and possible. Students who wish to report an allegation of sexual misconduct are strongly encouraged to ask about confidentiality issues and the extent of privacy that will be accorded when they report the incident.

Title IX Coordinator
The Title IX coordinator’s core responsibilities include overseeing the University’s response to Title IX reports and complaints and identifying and addressing any patterns of systemic problems as a result of such reports and complaints. The coordinator will be informed of all reports and complaints raising Title IX issues, even if the report or complaint was initially filed with another individual or office or if the investigation will be conducted by another individual or office. The coordinator will have the training, authority, and visibility necessary to fulfill their responsibilities. The University’s Equal Opportunity Program/Affirmative Action Director serves as the University’s Title IX coordinator. The coordinator’s core responsibilities also include where appropriate:

• Providing training on Title IX issues;
• Investigating facts relevant to a complaint;
• Confer with Dean of Students in determining appropriate sanctions for perpetrator and remedies for complainant;
• Determining appropriate interim measures for complainant upon learning of a report or complaint of sexual violence; and
• Ensuring appropriate policies and procedures are in place for working with local law enforcement and coordinating services with local victim advocacy organization and service providers.
The coordinator works closely with the Vice Chancellor for Student Affairs, Sexual Assault Response Team (SART), the University-Wide Campus Crisis Management Team and the Campus Security Department.

The coordinator plays an integral role in carrying out the University’s commitment to provide a positive learning, teaching and working environment for the entire community.

**Sexual Assault Response Team**

UH Hilo has a team of trained sexual misconduct victim/survivor advocates, called the Sexual Assault Response Team, or SART. The Team is convened by the Vice Chancellor for Student Affairs or designee (hereafter referred to as “VCSA”). Victims/survivors of sexual misconduct can contact or be referred to any member of the Sexual Assault Response Team. A Team member who becomes aware of an incident of sexual misconduct must notify the VCSA, who will involve other members of the Team as appropriate to respond in a coordinated manner. At a minimum, the Team members will comprise representatives from the following units:

- Counseling Services (Confidential Resource)
- Student Medical Services (Confidential Resource)
- Student Health & Wellness
- University Housing
- Dean of Students Office
- Campus Security Department

The role of the Sexual Assault Response Team is to:

- Respond in a coordinated manner to reports of sexual misconduct following the University protocol described below;
- Provide support, assistance and information to the victim/survivor; and
- As appropriate, notify campus administrators, staff and faculty about incidents of sexual misconduct so that appropriate action may be taken if necessary, such as informing the campus community of a possible threat to campus safety.

To ensure quality and consistency of response, the VCSA will arrange annual training programs for the campus community, particularly University Housing staff, about procedures for assisting persons reporting sexual misconduct incidents.

**Procedures for Reporting Sexual Misconducts**

A student who believes s/he has been the victim/survivor of sexual misconduct is encouraged to contact any member of the Sexual Assault Response Team. The names and contact information for the Team members are available at the following website, updated on a regular basis: [http://www.uhh.hawaii.edu/studentaffairs/conduct/policies.php](http://www.uhh.hawaii.edu/studentaffairs/conduct/policies.php). These trained staff members can provide support, advocacy, information, and counseling for victims/survivors, assist them with accessing needed support services, and guide them in pursuing options for recourse.

If the student requires immediate medical attention and/or is in life-threatening danger, s/he should call emergency assistance (911) or Campus Security (974-7911) immediately. When a student reports sexual misconduct to Campus Security, the security officer will take information about the incident, refer her/him to medical treatment, complete an Incident Report form, inform the student about her/his option to notify the police and/or the Dean of Students, and recommend that the student meet with a member of the Sexual Assault Response Team as soon as possible.
Reports received anonymously or from third parties will be reviewed and investigated to the extent possible. Anonymous or third party reports may be submitted at the University Campus Security website: [http://hilo.hawaii.edu/auxsvc/security/witness/](http://hilo.hawaii.edu/auxsvc/security/witness/).

**Confidentiality**

Efforts to maintain confidentiality will be exercised to the greatest extent possible. However, appropriate members of the University community will be informed that an incident of sexual misconduct has been reported. Certain information may need to be disclosed to appropriate administrators, the accused individual(s), and witnesses in order to conduct an investigation. Information may also be disclosed if required by law, rule, regulation, or by order of the court.

**Reporting and Confidently Disclosing Sexual Violence: Know the Options**

The University encourages victims of sexual violence to talk to somebody about what happened – so victims can get the support they need, and so the University can respond appropriately. Different employees on campus have different abilities to maintain a victim’s confidentiality.

- Some are required to maintain near complete confidentiality; talking to them is sometimes called a “privileged communication.”
- Other employees may talk to a victim in confidence, and generally only report to the University that an incident occurred without revealing any personally identifying information. Disclosures to these employees will not trigger a University investigation into an incident against the victim’s wishes.
- Some employees are required to report all the details of an incident (including the identities of both the victim and alleged perpetrator) to the Title IX coordinator. A report to these employees (called “responsible employees”) constitutes a report to the University – and generally obligates the University to investigate the incident and take appropriate steps to address the situation.

This section is intended to make students aware of the various reporting and confidential disclosure options available to them – so they can make informed choices about where to turn should they become a victim of sexual violence. The University encourages victims to talk to someone identified in one or more of these groups.

**The Options**

**A. Privileged and Confidential Communications**

- **Professional and Pastoral Counselors**
  
  Professional, licensed counselors and pastoral counselors who provide mental-health counseling to members of the school community (and including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX coordinator without a victim’s permission.

  Following is the contact information for these individuals:

  All professional mental health counselors in the Student Health & Wellness Program’s Counseling Services at 932-7465 (Student Services Center, 2nd Floor, E203)
• **Non-professional Counselors and Advocates**

Individuals who work or volunteer in the on-campus Student Medical Services, including front desk staff and students, can generally talk to a victim without revealing any personally identifying information about an incident to the University. A victim can seek assistance and support from these individuals without triggering a University investigation that could reveal the victim’s identity or that the victim has disclosed the incident.

While maintaining a victim’s confidentiality, these individuals or their office should report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report – which includes no information that would directly or indirectly identify the victim – helps keep the Title IX Coordinator informed of the general extent and nature of sexual violence on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Coordinator, these individuals will consult with the victim to ensure that no personally identifying details are shared with the Title IX Coordinator.

**Following is contact information for these non-professional counselors and advocates:**

**Staff located at the Student Health & Wellness Program’s Student Medical Services at 932-7369, Campus Center Room 212.**

A victim who speaks to a professional or non-professional counselor or advocate must understand that, if the victim wants to maintain confidentiality, the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator.

Even so, these counselors and advocates will still assist the victim in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules.

A victim who at first requests confidentiality may later decide to file a complaint with the school or report the incident to local law enforcement, and thus have the incident fully investigated. These counselors and advocates will provide the victim with assistance if the victim wishes to do so.

While these professional and non-professional counselors and advocates may maintain a victim’s confidentiality vis-à-vis the University, they may have reporting or other obligations under state law. [Hawaii State Laws include: Rev. Stat. § 350-1.1, Rev. Stat. § 346-224, §626-1, and §334-60.2, §453D-13 – that pertain to mandatory reporting to law enforcement in case of minors; imminent harm to self or others; requirement to testify if subpoenaed in a criminal case.]

If the University determines that the alleged perpetrator(s) pose a serious and immediate threat to the University community, the Director of Security may be called upon to issue a timely warning to the community. Any such warning should not include any information that identifies the victim.

**B. Reporting to “Responsible Employees.”**

A “responsible employee” is a University employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty.
When a victim tells a responsible employee about an incident of sexual violence, the victim has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A responsible employee must report to the Title IX coordinator all relevant details about the alleged sexual violence shared by the victim and that the University will need to determine what happened – including the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the University’s response to the report. A responsible employee should not share information with law enforcement without the victim’s consent or unless the victim has also reported the incident to law enforcement.

The following categories of employees are the University’s responsible employees:

- **Executive and Managerial Staff (E/M)**
  - Deans/Associate Deans
  - Director of Security
- **Housing Director/Associate Director/Resident Assistants (RAs)**
- **Athletic Director/Assistant Athletic Director, Athletic Trainers, Coaches & Assistant Coaches**
- **Women’s Center Staff**
- **EEO (Equal Employment Opportunity) / AA (Affirmative Action) Staff**

Before a victim reveals any information to a responsible employee, the employee should ensure that the victim understands the employee’s reporting obligations – and, if the victim wants to maintain confidentiality, direct the victim to confidential resources.

If the victim wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the victim that the University will consider the request, but cannot guarantee that the University will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Coordinator of the victim’s request for confidentiality.

Responsible employees will not pressure a victim to request confidentiality, but will honor and support the victim’s wishes, including for the University to fully investigate an incident. By the same token, responsible employees will not pressure a victim to make a full report if the victim is not ready to.

**Expectations of All UH Hilo Employees**

All employees (other than established confidential resources) have the obligation to report incidents of sexual misconduct that impacts UH Hilo students and staff. Employees are expected to promptly contact the UH Hilo Title IX Coordinator or member of the Sexual Assault Response Team (SART) when the employee has knowledge of an incident of sexual misconduct that affects UH Hilo students and staff. The Title IX Coordinator and/or SART team will take responsibility for prompt reporting to Campus Security and other appropriate UH Hilo officials as needed.
Requesting Confidentiality From the University: How the University Will Weigh the Request and Respond.

If a victim discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the University must weigh that request against the University’s obligation to provide a safe, non-discriminatory environment for all students, including the victim.

If the University honors the request for confidentiality, a victim must understand that the University’s ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.

Although rare, there are times when the University may not be able to honor a victim’s request in order to provide a safe, non-discriminatory environment for all students.

The University has designated the following individual(s) to evaluate requests for confidentiality once a responsible employee is on notice of alleged sexual violence:

Title IX Coordinator
Deputy Title IX Coordinators

When weighing a victim’s request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the alleged perpetrator will commit additional acts of sexual or other violence, such as:
  - whether there have been other sexual violence complaints about the same alleged perpetrator;
  - whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
  - whether the alleged perpetrator threatened further sexual violence or other violence against the victim or others;
  - whether the sexual violence was committed by multiple perpetrators;
  - whether the sexual violence was perpetrated with a weapon;
  - whether the victim is a minor;
  - whether the University possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence);
  - whether the victim’s report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the University to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the University will likely respect the victim’s request for confidentiality.

If the University determines that it cannot maintain a victim’s confidentiality, the University will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University’s response.
The University will remain ever mindful of the victim’s well-being, and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. Retaliation against the victim, whether by students or University employees, will not be tolerated. The University will also:

- assist the victim in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus (see Appendix B);
- provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the alleged perpetrator pending the outcome of an investigation) or adjustments for assignments or tests; and
- inform the victim of the right to report a crime to campus or local law enforcement – and provide the victim with assistance if the victim wishes to do so.

The University may not require a victim to participate in any investigation or disciplinary proceeding.

Because the University is under a continuing obligation to address the issue of sexual misconduct campus-wide, reports of sexual misconduct (including non-identifying reports) will also prompt the University to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual misconduct occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

**If the University determines that it can respect a victim’s request for confidentiality**, the University will also take immediate action as necessary to protect and assist the victim.

**Miscellaneous**

**Take Back the Night and other public awareness events**
Public awareness events such as “Take Back the Night,” the Clothesline Project, candlelight vigils, protests, “survivor speak outs” or other forums in which students disclose incidents of sexual violence, are not considered notice to the University of sexual violence for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the University will provide information about students’ Title IX rights at these events.

**Anonymous Reporting**
Although the University encourages victims to talk to someone, the University provides an online system for anonymous reporting ([http://hilo.hawaii.edu/auxsvc/security/witness/](http://hilo.hawaii.edu/auxsvc/security/witness/)). The system will notify the user (before s/he enters information) that entering personally identifying information may serve as notice to the University for the purpose of triggering an investigation.

**Off-campus Counselors and Advocates.**
Off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with the University unless the victim requests the disclosure and signs a consent or waiver form.
Following is contact information for these off-campus resources (See Appendix B for additional resources):

YWCA 24-Hour Sexual Assault Support Services: (808) 935-0677
Domestic Abuse Shelter (24 hour): (808) 959-8864

While these off-campus counselors and advocates may maintain a victim’s confidentiality vis-à-vis the University, they may have reporting or other obligations under state law. [Hawaii State Laws include: Rev. Stat. § 350-1.1, Rev. Stat. § 346-224, §626-1, and §334-60.2, §453D-13 – that pertain to mandatory reporting to law enforcement in case of minors; imminent harm to self or others; requirement to testify if subpoenaed in a criminal case.]

Campus Procedures for Referring Victims/Survivors to Appropriate Resources
Sometimes a student may disclose sexual misconduct to another member of the campus community, such as a faculty or staff member or a friend. Disclosing sexual misconduct occurs under varying circumstances. In some situations, it is an immediate crisis, but in other instances, the person may disclose an incident that occurred several months or years ago. If the student requires immediate medical attention and/or is in life-threatening danger, s/he or the person contacted should call emergency assistance (911) or Campus Security (974-7911).

However, in almost all instances the appropriate action for a member of the University community to take if a student discloses sexual misconduct is to refer her/him to a member of the Sexual Assault Response Team. If the victim/survivor discloses the incident to a University employee, s/he should inform the victim/survivor that the employee is obligated to inform the Vice Chancellor for Student Affairs or designee and the Title IX Coordinator of the report. When an individual discloses a sexual misconduct, the person receiving the information is encouraged to follow the suggestions described in Attachment A, “Suggestions for Supporting a Person Disclosing Sexual Misconduct.”

Campus Procedures for Responding to Victims/Survivors of Sexual Misconduct
When a victim/survivor contacts a member of the Sexual Assault Response Team, the Team member will follow the protocol described below:

1. Refer the student to medical treatment: The responding Team member will urge the student to seek medical treatment for injuries, receive prophylaxis for HIV/sexually transmitted infections, and get testing/education regarding pregnancy risks. The Team member and/or the Nurse will inform the victim/survivor that s/he may request the presence of a professional staff member during a medical examination.

2. Refer the student to a forensic medical examination: The responding Team member will urge victims/survivors of sexual assault to go to the emergency room at a community medical center for a forensic medical examination in addition to obtaining medical treatment. Forensic examinations are best conducted within 72 hours of a sexual assault for evidence to be valid should criminal proceedings be pursued. To preserve as much evidence as possible, victims/survivors should be advised not to perform any personal hygiene until the examination is complete. The Team member can arrange for a staff member to accompany the student to the medical center and arrange for an advocate from a sexual assault response center such as the YWCA to be present with the student during the examination if s/he wishes. Victims/survivors are strongly encouraged to contact YWCA Sexual Assault Support Services at (808) 935-3215 if they wish to file criminal charges for the assault, or think they might wish
to in the future. Sexual Assault Support Services can also assist with making arrangements for a forensic medical examination.

3. Provide and/or refer the student to support services: The responding Team member will arrange for immediate access to support services, which may include both on- and off-campus services. Available support services are listed in Appendix B. Counseling support provided by the Counselor on the Team will be offered to the student. In some situations, others involved in and/or affected by the incident such as roommates and friends may benefit from supportive services such as crisis intervention as well. The Team member will refer such individuals to Counseling Services so that their needs may be addressed.

4. Arrange accommodations for the student: The responding Team member may arrange for interim measures to ensure safety and appropriate academic accommodations for the complainant. The measures taken will depend upon the details of each case but may include changing academic, student employment, or campus residence situations, if requested by the complainant and if such accommodations can be reasonably made. While an investigation is pending, no contact orders can be issued. Further, in accordance with new State statutes, if the student is also employed in some capacity by the University, the responding Team member should notify and coordinate accommodations with the EEO/AA Office.

5. Inform the student about options for recourse. The responding Team member will inform the student about the option and right to notify law enforcement and the option and right to be assisted by campus authorities, if the person so chooses. The Team member will also inform the victim/survivor of her/his option to request a restraining order (also referred to as an order of protection or an injunction) against the accused individual and about the process to do so. Restraining orders are issued by the courts, not by the University. If the accused individual is not a UH Hilo student, the victim/survivor may wish to request of the judge that the accused individual not be permitted to be on the UH Hilo campus. If a victim/survivor requests a restraining order, it is the responsibility of the accused individual to request of the judge that any conditions of the order not adversely affect her/his ability to remain in school, in the residence halls, and/or on campus. If a victim/survivor obtains a restraining order against another individual, it is her/his responsibility to notify law enforcement officials if that individual violates the order. In situations in which the complainant is requesting confidentiality such that it limits the institution’s ability to initiate formal proceedings against the respondent and fully investigate the allegations, the university will take steps to limit the impact of the alleged sexual misconduct. These steps may include increased security or monitoring of certain locations, additional education or training for members of the campus community, and additional reminders of the campus’ misconduct assault policy.

6. Inform Vice Chancellor for Student Affairs (VCSA): The responding Team member will notify the VCSA or designee of a report of an incident of sexual misconduct (without disclosing the name of the victim/survivor). In consultation with the Director of Campus Security and the Title IX Coordinator, the VCSA or designee will determine appropriate action to be taken, including whether a campus-wide public announcement is warranted (see “Campus & Public Announcements” section below). The VCSA may contact the Vice Chancellor for Student Affairs at Hawai’i Community College if the circumstances of the incident warrant notifying Hawai’i Community College employees and students as well.

7. Anonymous or Third-Party Complaints: In the case where a report is received from an anonymous source or from an individual who is not the victim/survivor, the university will take steps to limit the
impact of alleged sexual misconduct, which may include increased security or monitoring of certain locations and additional reminders of the campus’ sexual misconduct policy.

**Campus Procedures for Investigating Sexual Misconduct**

The University does not utilize mediation to resolve allegations of sexual misconduct. The university will follow the protocol described below when reports of sexual misconduct are received.

1. A report will be documented in writing and submitted to the Title IX Coordinator or designee. The report may be written by the complainant or by an individual to whom the incident was disclosed, such as a Campus Security or University Housing staff member or a member of the **Sexual Assault Response Team**.

2. The Title IX Coordinator or designee will initiate an investigation following the procedures contained herein. The University commits to conducting a fair, impartial, and thorough investigation and will attempt to investigate all complaints within 60 days. The timeframe of the investigation may vary based on the complexity of the case. In the event an extension is needed both parties will be notified in writing by the Title IX Coordinator or designee. 

3. Investigations initiated by the Title IX Coordinator or designee shall be conducted by trained investigators within the university. Investigators shall receive appropriate training on an annual basis.

4. The Title IX Coordinator or designee will notify the Dean of Students upon the initiation of an investigation of sexual misconduct allegedly perpetrated against a student of the University. The Dean of Students will offer resources for personal support to an accused student, such as referring her/him to a counselor. The role of the support person is not to advocate for the accused student, but rather to provide personal support and assistance to ensure her/his wellbeing as well as offer referrals for assistance. Efforts will be made to avoid any potential conflicts of interest.

5. While an investigation is being conducted, the University may take any action it believes is appropriate against an accused individual in order to preserve the safety and wellbeing of the campus community, including but not limited to temporarily suspending or removing her/him from campus and/or from the residence halls or moving her/him to another residence hall.

6. If the incident occurred off-campus and the accused person(s) is a UH Hilo student, the Dean of Students may initiate an investigation or other appropriate action pursuant to University procedures.

7. The investigator shall interview the complainant, respondent, and any witnesses who may have knowledge of the alleged incident. Both complainant and respondent will have opportunities to provide the names of relevant witnesses and documentary evidence. Evidence or questioning pertaining to the complainant’s prior sexual history with anyone other than the respondent is not allowed. Evidence of a prior consensual relationship between the complainant and respondent is not sufficient justification to confirm sexual misconduct did not occur.

---

10 If the Title IX Coordinator or designee discovers that the accused individual is not a University of Hawai`i student, s/he will inform the Director of Campus Security who will then assume responsibility for the investigation. Individuals who are not students may be banned from campus by the Director of Campus Security. If the accused individual is a University of Hawai`i student whose home campus is not UH Hilo, the Dean of Students will notify the chief student affairs officer at the accused student’s home campus. In these cases, it is the responsibility of the home campus to investigate the incident and carry out its student conduct code procedures; UH Hilo personnel will cooperate fully with officials from other UH campuses in such situations. If the accused individual is a University employee, the Title IX Coordinator or designee will initiate an investigation in accordance with policies applicable to employees.
8. The investigator shall notify all parties questioned in the investigation that their statements have limited confidentiality, and shall be disclosed to the respondent party should the final investigation report determine that the alleged sexual misconduct did occur.

9. Both complainant and respondent have the right to bring an advisor of their choice to all phases of the investigation. The advisor is not permitted to speak or directly participate in any aspect the proceedings but may communicate with their advisee as necessary.

10. Upon the completion of an investigation, the Title IX Coordinator or designee shall send written correspondence to the complainant and respondent to notify the parties of the following: 1. The investigation has been completed; 2. A summary of the findings; 3. That the final investigation report has been submitted to the Dean of Students for adjudication, in the case of a student respondent, or the employee’s supervisor, in the case of an employee respondent.

**Campus Procedures for Adjudicating Sexual Misconduct**

The Dean of Students will adjudicate proceedings where an investigation report finds that an incident of sexual misconduct has occurred. Sexual misconduct is a violation of the Student Conduct Code. All proceedings will be in accordance with the procedures herein, which include ensuring that both the complainant and the accused student have their rights to due process upheld.

1. Upon receipt of a final investigation report which confirms the allegations of sexual misconduct, the Dean of Students shall notify the student respondent in writing of the date, time and location of a hearing wherein the student respondent may respond to the findings of the final investigation report. The Dean of Students shall also provide the student respondent a copy of the complete final investigation report prior to the hearing date.

2. The University uses the preponderance of the evidence standard (i.e. the more likely than not standard) to determine if a policy violation occurred. If, following the hearing, the Dean of Students finds that the existing information fails to support the alleged violation and the findings of the final investigation report; no action will be taken against the respondent. If the Dean of Students determines that it is more likely than not that the respondent violated the Student Conduct Code, the Dean of Students will render a decision and impose sanctions and remedies as appropriate. Students found responsible for violating this policy will receive sanctions ranging from disciplinary probation to dismissal from the university. The level of sanction will be determined based on the severity of the incident and the respondent’s past conduct history. Both complainant and respondent will simultaneously be notified in writing of the decision of the Dean of Students.

3. Hearing Procedures: In situations in which there is a hearing by the Dean of Students or designee the following guidelines shall apply:

   - A date and time will be set for the hearing by the adjudicator. Complainant and respondent will be notified in writing at least one week in advance of the hearing.
   
   - The adjudicator may accommodate the complainant with special arrangements during the hearing, such as not requiring her/him to be in the same room at the same time with the respondent, if requested by the complainant, if the accommodations can be reasonably made, and if the accommodations do not violate the right to due process of the respondent.
• Both the complainant and the respondent may have an advisor of their choice (other than an attorney) present at hearings, although the advisor is not permitted to speak or directly participate in the hearing.

• All hearings will be closed.

• In a complaint involving multiple student respondents, each respondent shall have separate hearings.

• Prior to a hearing, complainant and respondent may review documentation that will be presented during the hearing. Personally identifiable information may be redacted.

• The complainant and respondent and his/her advisor, if any, will be allowed to attend the hearing, excluding deliberations, at which information is received. Admission of any other person to the hearing will be at the discretion of the adjudicator.

• The complainant and respondent have the right to be assisted by an advisor of her/his choice, at his/her own expense. The student is responsible for presenting his/her own information, and therefore, advisors are not permitted to speak or to participate directly in a hearing. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the hearing because delays will not normally be allowed due to the scheduling conflicts of an advisor. An advisor may not be attorney. However, if the same matter is also being investigated through pending criminal proceedings both complainant and respondent may be allowed to have an attorney serve as his/her advisor, at his/her own expense, to behave in the same manner as any other advisor.

• Relevant written statements, documents or other information such as photographs, and witnesses may be presented at the hearing by the complainant and respondent and accepted as information for consideration by the adjudicator. The same rules for the types of evidence that may be presented during the investigation also apply for the appeals hearing.

• All procedural questions are subject to the final decision of the adjudicator.

• Formal rules of process, procedure and/or technical rules of evidence, such as those applied in criminal and civil court, will not be used.

• There will be a single verbatim record, such as an audio recording, of all hearings (not including deliberations). Deliberations will not be recorded. The record will be the property of UH Hilo and no copies will be made or distributed. All records will be confidential.

• If the respondent, without advance notice or explanation, fails to appear at the hearing, the adjudicator will make a decision based on the evidence contained within the Final Investigation Report and supplemental information, if any, provided by the complainant.

4. Both parties may appeal the decision of the Dean of Students. An appeal must be submitted in writing to the Vice Chancellor for Student Affairs postmarked within ten (10) school days, or ten (10) business days if school is not in session, of the date of the written decision. The appeal must be based on one or more of the following criteria:
• New Information: To consider new information, sufficient to alter a decision, or other relevant facts not brought out in the investigation, because such information and/or facts were not known to the student appealing at the time of the investigation.

• Procedural Error: To determine whether the investigation conformed to proscribed procedures in light of the complaint and the information presented, and in conformity with proscribed procedures.

• Substantive Facts: To determine whether the decision reached was based on information that, if believed by the Dean of Students, was sufficient to establish that a violation of the Student Conduct Code occurred.

The VCSA or designee will review the appeal and determine if it meets the criteria for an appeal to be heard. If it fails to meet one or more of the criteria, the appeal will be denied and the Dean of Student’s decision and sanction(s) will become final. If the VCSA or designee determines the appeal meets one or more of the criteria, the VCSA or designee will review the appeal. While an appeal is being reviewed, an accused student must comply with all sanctions and conditions of the original administrative decision, unless otherwise exempted by the Dean of Students.

The VCSA or designee will review the case and render a final decision in writing and sent via certified mail within twenty (20) working days after receipt of the appeal. Should an extension of time be required for any reason, the parties shall be notified in writing, and a decision shall be made within fifteen (15) working days of the extension. If the VCSA or designee provides either party the opportunity to submit supplemental documents for review, then the other party shall be permitted to submit rebuttal or supplemental documentation.

The standard of review for an appeal is whether the finding is against the clear weight of the evidence in the record of the case.

5. UH Hilo strongly prohibits retaliation. Retaliation is an adverse action taken against an individual because they have filed a complaint of sexual misconduct, participated in an investigation, or otherwise objected to sexual misconduct. The adverse action should be something that a reasonable person would view as being targeted to discourage the complainant from objecting to sexual misconduct. Incidents of retaliation are considered as separate charges of misconduct. A person found responsible for engaging in retaliation will be subject to disciplinary action.

6. The University reserves the right not to charge a complainant who reports an incident of sexual misconduct with violating the Student Conduct Code if the incident involves her/his use of alcohol or other drugs or other possible violations of the Code.

**Consequences for Students Found Responsible for Sexual Misconduct**

Upon completion of an investigation and subsequent proceedings of the student disciplinary process, students who are found responsible for sexual misconduct will be held accountable for their actions. Sanctions may include but are not limited to being placed on warning or probation, loss of certain privileges, providing restitution, and/or being suspended or dismissed from the University. In addition to any sanctions imposed by the Dean of Students, a student may be subject to the following consequences:

**On-Campus Residents:** A student who lives in the residence halls may have her/his housing privileges revoked by the University if found responsible for sexual misconduct. A student who does not reside in
University campus residential facility may be banned from visiting the residential areas of the University for a specified period of time if found responsible for sexual misconduct.

**Student-Athletes**: Student-athletes may be terminated from an athletic team and may have her/his athletic scholarship revoked or terminated by the University if found responsible for sexual misconduct.

**Student Employees**: Students who work on-campus, including graduate interns and assistants, may be terminated from their jobs by the University if found responsible for sexual misconduct, particularly if the on-campus place of employment is one in which the victim/survivor may be required to visit.

**Student Organizations**: Chartered student organizations (CSOs) and Registered Independent Student Organizations (RISOs) found to condone, promote, or be involved in activities relating to sexual misconduct may have their University recognition withdrawn and/or other sanctions imposed by the University.

**Student Leaders/Officers**: Students holding positions of leadership and/or service on campus, such as in student government, who are found responsible for sexual misconduct may be terminated from such positions. Students aspiring to such positions are ineligible to hold them if they are not in good disciplinary standing with the University.

**Special Program Participants**: Students who are not in good disciplinary standing or who are accused of a Student Conduct Code violation which is pending may be ineligible for participation in special programs such as National Student Exchange, international exchange programs, and study abroad programs.

The application of the University sexual misconduct policy does not preclude the application of any other relevant University policy, rule, or regulation.

**Training**
The UH Hilo Title IX coordinator shall be responsible for coordinating all Title IX and sexual misconduct training on campus. Ongoing training for employees will include practical information about how to prevent and identify sexual violence, including same-sex sexual violence; the behaviors that may lead to and result in sexual violence; the attitudes of bystanders that may allow conduct to continue; the potential for revictimization by responders and its effect on students; appropriate methods for responding to a student who may have experienced sexual violence, including nonjudgmental language; the impact of trauma on victims; and the person(s) to whom such misconduct must be reported.

UH Hilo will ensure that “responsible employees” with the authority to address sexual violence including the Chancellor, Vice Chancellors, Deans, Directors Campus Security, Administrators, Athletic and Associate Athletic Director, and Resident Assistants are trained to respond appropriately to reports of sexual misconduct.

UH Hilo will ensure that all persons involved in responding to, investigating, or adjudicating sexual misconduct including the Title IX Coordinator, Deputy Coordinators, Campus Security, “responsible employees,” victim advocates, and others who receive complaints, will be trained in handling sexual violence complaints, and in the operation of the University’s grievance procedures.
To ensure that students understand their rights under Title IX and to encourage students to report incidences of sexual misconduct, UH Hilo will provide ongoing training for new and continuing students regarding Title IX and sexual violence.

**Relationship to Other Policies and Legislation**

This policy interfaces with other existing University policies, as well as state statutes and federal regulations, in numerous ways, including but not limited to the following:

**Jeanne Clery Act**: The Jeanne Clery Disclosure of Campus Security Policy & Campus Crime Statistics Act is a Federal law, formerly known as the Crime Awareness & Campus Security Act of 1990, requiring colleges and universities that participate in federal financial aid programs to maintain and disclose information about crime on and near their campuses. This federal law requires staff in positions designated as Campus Security Authorities (CSAs) report sexual misconduct and other crimes. Examples of positions designated as CSAs include: campus security, dean of students, residence life staff, athletic directors, coaches, student activities staff, and any position with significant responsibility for campus and student activities. Institutions must publish an annual campus security report providing crime statistics, including forcible and non-forcible sex offenses. The information contained in the annual security report does not contain any personally identifiable information but provides statistical data categorizing the type of incident and the location where the incident occurred in accordance with general location categories as defined by the Clery Act. The report must also include policy statements regarding various safety and security measures, campus crime prevention program descriptions, and procedures for responding to allegations of sex offenses. The Clery Act also requires institutions to maintain a public log of all crimes reported to them or those of which they are made aware, as well as to provide timely warnings of crimes that represent a threat to the safety of students or employees.

**Violence Against Women Act (Reauthorized on 3/7/2013)**: Initially passed in 1994, VAWA created the first U.S. federal legislation acknowledging domestic violence and sexual assault as crimes, and provided federal resources to encourage community-coordinated responses to combating violence. VAWA 2013 is built upon the overarching goals of the initial 1994 VAWA and its subsequent 2000 and 2005 reauthorizations to provide and improve advocacy, services, and support for all victims of domestic violence, sexual assault, dating violence and stalking – crimes that primarily impact women, in addition to too many children and some men.

**Family Educational Rights & Privacy Act**: The Family Educational Rights & Privacy Act (FERPA) is a Federal law that protects the privacy of student education records. In accordance with FERPA, the Dean of Students may disclose the final results, including only the name of the perpetrator, violation of the Student Conduct Code, and sanction, of a UH Hilo disciplinary proceeding to a victim/survivor of a forcible or non-forcible sex offense. This may include the results of a disciplinary proceeding even if the accused student was not found responsible for the violation. The final decision is shared with the victim/survivor only after s/he signs a statement that s/he understands the information is confidential.

**Campus Sexual Assault Victims' Bill of Rights**: The U.S. Congress enacted the "Campus Sexual Assault Victims' Bill of Rights," sometimes referred to as the Ramstad Act, in 1992 (Public Law: 102-325, section 486(c)). This law requires that all colleges and universities (both public and private) participating in federal student aid programs afford sexual assault victims certain basic rights. These rights include the following: The accuser and accused must have the same opportunity to have others present at campus disciplinary proceedings; both parties shall be informed of the outcome of any disciplinary proceeding; victims/survivors shall be informed of their options to notify law enforcement authorities;
Vic\textsuperscript{t}ims/survivors shall be notified of counseling services; and vic\textsuperscript{t}ims/survivors shall be notified of options for changing academic and living situations if so requested and if such changes are reasonably available.

\textbf{Hawai\textsuperscript{i}i Penal Code}: Sex offenses, as defined in the Hawai\textsuperscript{i}i Penal Code, Part V, Sections (707) 730-733, may be subject to criminal prosecution.

\textbf{Nondiscrimination, Anti-Harassment, and Affirmative Action Policy}: UH Executive Policy E1.202 – \textit{Nondiscrimination, Anti-Harassment, and Affirmative Action Policy} is the systemwide policy prohibiting discrimination in University education, employment, programs, activities, and services. It covers equal opportunity, reasonable accommodations, definition of “discriminatory harassment,” and federal contractor obligations to maintain good faith efforts to recruit job applicants who are qualified veterans, individuals with disabilities, and members of underrepresented groups (women, minorities). The term discriminatory harassment includes sexual harassment and other gender based offenses such as sexual assault, domestic violence, dating violence, and stalking.

\textbf{University of Hawai\textsuperscript{i}i System Sexual Assault Policy}: The University of Hawai\textsuperscript{i}i Executive Policy E1.204, “Sexual Assault Policy and Procedural Guidelines,” is the System-wide policy prohibiting sexual discrimination and misconduct within the University. The policy authorizes Chancellors or their designees to implement procedures for their respective campuses for responding to reports of sexual discrimination and misconduct, and to use the executive policy and procedure as a guide to develop a similar protocol tailored to the organizational structure of their respective campus. This UH Hilo sexual misconduct policy is intended to supplement and comply with the scope and procedural guidelines of the University of Hawai\textsuperscript{i}i System policy.

\textbf{University of Hawai\textsuperscript{i}i System Sexual Harassment Policy}: The University of Hawai\textsuperscript{i}i Executive Policy E1.203, “Policy on Sexual Harassment and Related Conduct,” is the System-wide policy prohibiting sexual harassment within the University. The policy prohibits conduct that may involve sexual assault. Accordingly, the University may consider both policies when investigating complaints of sexual assault.

\textbf{University of Hawai\textsuperscript{i}i System Workplace Nonviolence Policy}: The University of Hawai\textsuperscript{i}i Executive Policy E9.210 on workplace nonviolence prohibits violence in the workplace. The policy affirms the University’s commitment to maintaining a safe and secure environment for students, employees (including administrators, faculty and staff), visitors, and other members of the University community. Victims of sexual assault who wish to file a complaint with the University have the option of using campus procedures for sexual assault or procedures for workplace nonviolence.

\textbf{Student Conduct Code}: UH Executive Policy E7.208 – \textit{University of Hawai\textsuperscript{i}i Systemwide Student Conduct Code} affirms the rules and regulations that students are expected to comply with. The policy also prohibits conduct that conflicts with the University’s values and community standards. Prohibited conduct includes sexual harassment, discrimination, physical and verbal abuse, assault, and surreptitiously taking photos, audio or video recordings when such acts are likely to cause injury or distress.

\textbf{Policy on the Use of Information Technology Resources}: UH Executive Policy E2.210 – \textit{Executive Policy on the Use and Management of Information Technology} is the systemwide policy outlining the appropriate use of information technology resources by University faculty, staff, and students. The policy provides guidance for IT users on complying with University policies regarding sexual harassment, email
harassment, and community standards regarding privacy. The policy also references Hawai‘i law prohibiting the use of computers to commit sexual assault and child abuse.

**Campus and Public Announcements**
As a University, we recognize that we have an ethical and fiduciary responsibility to act and respond in ways that minimize risk to our campus community and actively promote a living-learning environment free from fear and coercion. There are times when incidents of violence occur on or near campus that have the potential to affect the wellbeing of students, staff and faculty. The University will provide timely relevant information through appropriate, reasonable mediums (e.g., alerts sent by email and/or on the University website) to ensure that members of the campus community have access to information that can enable them to make informed choices about their personal safety.

In consultation with the Director of Campus Security, the VCSA will determine whether a report of sexual misconduct represents a threat to the safety of members of the campus community. If so, the VCSA, Director of Campus Security, or the University Relations office will make the announcement to the campus community in a timely manner. To protect her/his privacy, the name of the victim/survivor will not be made public in any such public communication. When possible, the victim/survivor will be advised regarding the issuance of announcements. University employees contacted in response to such an announcement should refer inquiries to the University Relations office.

**Records of Sexual Misconduct**
In compliance with the Clery Act, the University is required to provide annual statistics on sexual misconduct incidents that occur on or near campus. These statistics are public information; however, victims/survivors will not be identified by name. To facilitate the annual reporting of these statistics, the Office of the Vice Chancellor for Student Affairs will maintain confidential records of all reports of sexual misconduct on or near campus.

###

**APPROVED:**

______________________________
Donald O. Straney, Chancellor

______________________________
Date
APPENDIX A:

SUGGESTIONS FOR SUPPORTING A PERSON(S) DISCLOSING SEXUAL MISCONDUCT

(For Faculty, Staff and Friends)*

The first response is to provide support and basic crisis intervention to the individual. However, victims/survivors of sexual misconduct may take days, weeks or even years before they can talk about what has happened to them. Talking about sexual violence will often bring up topics difficult to handle. Remember that if someone has chosen you to talk with about sexual misconduct, it is because they trust you. Acknowledge that trust by being supportive and non-judgmental.

In most instances, the most appropriate action for you to take is to encourage and assist the victim/survivor to seek assistance at the UH Hilo Counseling Center. A counselor will coordinate services on campus to support the student. It is not your job to serve as a counselor to the victim but the way you respond, offer support, and refer her/him for assistance can make a significant impact on her/his recovery.

Use sensitive and supportive communication with the victim/survivor of sexual misconduct. Such communication is:

- **Supportive**: gives victims the sense that they can trust you;
- **Nonjudgmental**: conveys the message that the perpetrator, not the victim, is responsible for the assault;
- **Empathetic**: shows sensitivity to the trauma the victim is experiencing;
- **Non-directive**: encourages the victim to make her/his choices, without pressure;
- **Provides information**: gives the victim information about options available to her/him;
- **Encourages self-directed decision-making**: allows the victim to regain a sense of control through making her/his own choices.

Examples of ways to talk with victims/survivors when they disclose that they have been sexually assaulted include:

- “Thank you for telling me this, I realize how hard this is.” *(Conveys support and empathy)*
- “May I ask you some questions, so that we can figure out what to do next?” *(Shows respect and is non-directive)*
- “Sometimes when this happens, victims blame themselves—this is not your fault.” *(Shows non-judgment)*
- “There are different options for help, would you like to talk about these?” *(Gives information and encourages the person’s decision-making)*
- “Staff at the Counseling Center is available to help. They are especially trained to work with students who have been assaulted, and can offer you help with whatever you choose to do or not to do. May I help you make the call?” *(Gives information and helps the victim/survivor link with services)*

*Adapted from Rutgers: The State University of New Jersey’s Sexual Assault Protocol*
APPENDIX B:
RESOURCES FOR VICTIMS/SURVIVORS OF SEXUAL MISCONDUCT

Emergency Response

Police/Fire/Ambulance: 911
Campus Security: (808) 974-7911

Campus Services and Support

Student Medical Services
(808) 932-7369, Campus Center Room 212

Medical Services provides follow-up treatment and care, including referral for a forensic medical examination at the Hilo Medical Center. The student can also be evaluated at Student Health Services for emergency contraception and testing for some sexually transmitted infections. For tests not conducted at Student Health Services, the Nurse will assist with arrangements for testing at an outside laboratory.

Counseling Services
(808) 932-7465, New Student Services Center, 2nd floor, Room E203

The Counseling Center offers continuing supportive individual counseling including support for traumatic events such as sexual misconduct as well as referrals to other mental health services. When you contact the Counseling Center, you may request to work with a female or male counselor.

Women’s Center
(808) 932-7381, New Student Services Center, 2nd floor, Room E223/E224

The Women’s Center can assist a student who reports sexual misconduct with initial consultation and information about available on- and off-campus services. The staff works to support a student who has been victimized at her/his request, through the reporting and investigation process.

University Housing
(808) 932-7406, PB 11 Room 5

University Housing staff members are trained to assist students who are residents with resources and referrals. Staff members will assist with connecting students to vital care and support services.

Dean of Students Office
(808) 932-7472 or (808) 932-7470, Student Services Building Room W301

Students who have been assaulted by a UH Hilo student may report the incident to the Dean of Students office, which will investigate the matter and hold students who are found responsible accountable for their actions.
Off-Campus Services and Support

24-Hour Sexual Assault Crisis Line: (808) 935-0677

Sexual Assault Support Services (SASS) supports victims/survivors of sexual assault and their significant others immediately after an assault via a 24-hour telephone line. Victims/survivors who appear at the Hilo Medical Center or Kona Hospital or report an assault to the police will receive in-person contact with an SASS staff member for support and advocacy 24 hours a day.

Victim/Witness Assistance Program
Office of the Prosecuting Attorney
655 Kilauea Avenue, Hilo: (808) 934-3306

Assists individuals by explaining procedures and provides orientation and support to victims/survivors and witnesses through the criminal justice system. Provides information on cases, promotes public awareness of victim/witness concerns, and provides referrals to service agencies providing further assistance to victims/survivors.

Temporary Restraining Orders (TROs)
Family Court, 777 Kilauea Avenue, Hilo: (808) 961-7500
District Court: 777 Kilauea Avenue, Hilo: (808) 961-7470

Responsible for administering restraining orders, both temporary and long-term ones. For cases involving family members, relations or roommates, restraining order are handled by Family Court; all other cases are handled by District Court. Turning Point for Families (see below) provides assistance with preparing requests for restraining orders administered through Family Court.

Child & Family Services, Alternatives to Violence
1045A Kilauea Avenue, Hilo: (808) 969-7798

Peer counseling, education groups and legal help for women and children. Advocacy and help for battered women including services such as preparing and filing requests for restraining orders. Therapeutic groups for children under 12. Court-mandated groups for men/women who batter.

Domestic Abuse Shelter
c/o Child & Family Services, 1045A Kilauea Avenue, Hilo: (808) 959-8864

24-hour spouse abuse shelter for women and their children who are victims of spouse abuse within their household. Clients may stay up to 60 days and some transportation is provided.

National Sexual Assault Hotline: (800) 656-4673 (toll free)

24-hour access to information, resources and research regarding sexual assault.
APPENDIX C:

WHAT TO DO IF YOU ARE SEXUALLY ASSAULTED

- Know that no victim or survivor is ever at fault for their own sexual assault, regardless of their behavior, actions or whereabouts. Every person deserves to live in a safe environment free of violence.
- If you have been sexually assaulted, the most important thing is to take care of your safety and well-being. Get to a place away from the perpetrator and seek family or friends if possible.
- When reporting a sexual assault, document as many details as possible, as soon as possible. Accurate recall of events will fade quickly. Documentation in sufficient detail soon after an incident can serve as more reliable evidence in legal proceedings should they follow. Specifically:
  - Note the location and time of any events. Describe the number and characteristics of the assailant or assailants. Write down as much detail as possible about the circumstances surrounding the assault as possible. Note if you may have inflicted any injuries on the assailant, e.g., scratched the assailant's face with your nails. A greater level of detail increases the likelihood that the suspect will be apprehended and successfully prosecuted.
  - Maintain as much evidence as possible in its intact state. Do not wipe away or throw away any bodily fluids, secretions or tissue that can be identified. Refrain from brushing your teeth, drinking beverages, removing/changing clothing, or removing/changing bedding, furniture or any fabric/upholstery.
  - Resist the urge to clean up by washing, showering or douching. You may receive a forensic examination to collect sexual assault evidence by a trained health professional at a medical care facility. The specimens that will be collected are very important in establishing the guilt and identity of the assailant. Many of these specimens contain DNA evidence that can provide conclusive proof of the identity of the assailant.
  - Before going to a hospital to receive a forensic examination, it is a good idea to bring an extra change of underwear, clothing and shoes, as these items will likely be kept by the hospital as part of the evidence collection process to be turned over to law enforcement.
- As soon as possible after a sexual assault, be sure to use available counseling or mental health services, including contacting the 24-hour crisis hotline. The sooner that you seek emotional and psychological support, the sooner you can begin the road to recovery. Sexual assault is a very traumatic experience, but many victims/survivors are able to find ways to go on with their lives and turn the experience into a source of strength and wisdom. Talking to others about what happened as soon as possible is critical to the healing process.
APPENDIX D:

WHAT MEN AND BOYS CAN DO TO PREVENT RAPE

Because the overwhelming majority of perpetrators of sexual assault and rape are male, boys and men have a special role and responsibility to prevent this form of violence.

It isn’t enough to be “against rape.” Research shows that the vast majority of heterosexual men would never rape a woman and believe that rape is wrong. Yet, most college men who commit rape fail to recognize their acts as such, even when the victim presses charges. Closely and critically examine the way you treat and feel about women: might you ever be placing yourself in potentially compromising situations? Do you categorize some women as “loose” or “slutty” and therefore presume they are sexually available? Ask yourself honestly: do you believe in any rape myths or some variation of them? If so, work on changing.

Take an active stand against sexism. Avoid making sexist jokes or laughing when others tell them. Whether you actively participate in the degradation of women or simply passively listen, you are communicating that you believe women are not as deserving of respect or equal treatment as men are. Jokes, comments, pornography and other forms of media which objectify or sexualize women foster a “rape culture” which justifies and normalizes rape. Remember, too, that every woman is somebody’s sister, daughter, mother, girlfriend, etc. Men often expect and demand that the women who are close to them be treated appropriately but some men may fail to afford the same treatment to other women. Treat all women as you would want the women you care about to be treated.

Never assume. Ask straightforward, tactful questions about your partner’s sexual boundaries and desires. If you believe you’re mature enough to have sex, then you should be comfortable with open, honest communication — even if it means you might get rejected. Refrain from coercive, pressuring techniques. Realize that prevailing gender role norms may inhibit women from being assertive when expressing their sexuality, so when a woman is comfortable enough to be responsible for her own sexuality, she needs to be appreciated for that, not judged. If you are unable to get a clear response from your partner or sex is being used to manipulate you, it’s best to get yourself out of the situation.

Establish clear verbal consent from a sober partner. Research shows that men and women interpret non-verbal signals, dress, and behavior in different ways. Men, in general, more readily interpret behavior such as touching, laughing or consumption of alcohol or other drugs as signs of sexual interest when women are in fact only being friendly or flirtatious; similarly, going up to a man’s room, wearing revealing clothing, or dancing in a suggestive manner are often misinterpreted. Unless a woman has given you a verbal, audible and sober “yes,” you don’t have clear consent for sexual intercourse.

Manage alcohol and other drug use. The vast majority of campus rapes involve alcohol or other drug use on the part of the perpetrator and/or victim. Research studies demonstrate that alcohol increases male sexual aggression by exacerbating the effects of testosterone. Men should especially be aware
that when they are intoxicated, they may not listen as well or be aware of their own strength. Regardless of your state of intoxication, you are accountable for your actions.

**Hold your male friends accountable.** How men are raised in US society can affect the way men think and talk about sexual relationships or women. You may feel a lot of pressure to prove your masculinity. The best role models of masculinity are those who aren’t afraid to stand up for or do the right thing. Stop a friend who is getting too sexually aggressive. If you care about your male friends, don’t let them go home with potential sexual partners who are intoxicated or high, sexually harass women at a house party or in a bar, or otherwise place themselves in potentially risky situations. Men have a lot to lose if they’re accused or convicted of rape.

**Take a public stand against sexual assault.** Write letters to the editor of the college newspaper. Participate in anti-violence marches and rallies. Not enough men’s voices are heard in the public arena in support of a non-violent community. All men are ethically and morally responsible for influencing the behavior of the few men who do commit violence against women. Ultimately, men have the greatest potential to impact other men and prevent sexual assault (Katz, 1995).

_Because the overwhelming majority of campus rapes involve a male student assaulting a female student, most of the suggestions provided above apply to heterosexual relationships; however, same-sex assaults also occur, and many of these same strategies can be applied for prevention. For more information on how men can help reduce sexual assault on campus and in our communities, please visit MEN OF STRENGTH at their Facebook page, [https://www.facebook.com/uhhilomenofstrength](https://www.facebook.com/uhhilomenofstrength)._