

KAUA'I COMMUNITY COLLEGE



2022 Annual Security Report



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2022 UNIVERSITY OF HAWAII KAUAI CC

ANNUAL SECURITY REPORT

**Prepared in compliance with the “Jeanne Clery Disclosure of
Campus Security Policy and Campus Crime Statistics Act”**

I. OVERVIEW OF KAUAI CC CAMPUS PUBLIC SAFETY DEPARTMENT

Introduction

Kauai Community College (Kauai CC), which is one of seven community colleges in the University of Hawaii (UH) system, is firmly committed to providing a safe and secure campus environment. Policies and procedures are designed to provide precautionary measures to protect people and property. However, each member of the Kauai CC community should use good judgment and take appropriate precautions to reduce the possibility of becoming the victim of a crime on campus. The following report is provided in an effort to notify the campus community about certain crimes that have been committed on the Kauai CC Campus, as well as to promote awareness of current programs available for your safety and well-being.

The Kauai CC campus consists of 33 academic, administrative and recreational buildings situated on 200 acres. The campus population consists of approximately 1,500 day and night students, and 129 faculty and staff plus 5 RCUH (Research Corporation of the University of Hawaii) employees. RCUH supports and enhances research, development, and training in Hawaii, with a focus on the University of Hawaii.

The Campus Public Safety Department (CPSD) consists of one Public Safety Chief and nine Security Officers. The CPSD, under the administration of the Vice Chancellor for Administrative Services (VCAS), is responsible for providing safety and security for the campus. The CPSD Office is located in Fine Arts I, Room 110. Security Officers are on duty 24 hours a day, 365 days per year.

Mission Statement

The CPSD is firmly committed to providing a safe and secure environment for our students, faculty, staff and guests. Our policies and procedures are designed to ensure that reasonable precautionary measures are taken to protect people and property.

Enforcement

The CPSD enforces federal, state, and local laws as well as University rules, regulations, and policies on the Kauai CC campus and associated Clery Geographic areas (see map pg. 50).

Working Relationships with State & Local Police

The Kauai Police Department (KPD) is the primary law enforcement agency for the County of Kauai. The CPSD maintains an open and reciprocal relationship with KPD and other law enforcement agencies in the state, utilizing their resources and expertise to gather crime-related information, reports, and statistics.

Memorandum of Understanding (MOU) with Local Police

There is a written Memorandum of Understanding between Kauai CC and KPD concerning the investigation of certain criminal incidents on our campus. KPD and CPSD cooperate regularly at incident

scenes in and around the campus area. The prompt reporting of crimes ensures the timely issuance of campus alerts and disclosure of crime statistics.

No Arrest Authority

Any campus incident requiring police action is referred to KPD. Security Officers are unsworn and are not authorized to carry firearms. As unsworn personnel, Security Officers possess neither the power nor authority to affect a formal arrest of a person or persons, nor to conduct criminal investigations.

II. REPORTING PROCEDURES

Reporting of Crimes and Emergencies On Campus

Students, faculty, staff and visitors are expected to report all immediate threats to the health or safety of the campus directly to 911, and then to CPSD. This facilitates the quickest emergency response and enables CPSD to issue a timely warning or emergency notification to the campus. Non-emergency incidents and crimes on campus should be reported to CPSD.

To report an immediate threat to the health or safety of the campus:

- Call 911 and stay on the line;
- If possible, have someone else around you call Campus Police Security Dept by dialing (808) 245-8399 or (808) 278-3107; from a campus phone, dial x399.
- Call Kaua'i Police Dept at (808) 241-1711.

Confidential Reporting Procedures

If you are the victim of a crime (or witness to a crime) but do not want to pursue legal action within the criminal justice system, you may still want to file an anonymous complaint. With your permission, a Kaua'i CC Security Officer will file a report as to the details of the incident without revealing your identity. The purpose of a confidential report is to comply with your wish to keep the matter confidential, while taking steps to ensure the future safety of yourself and others on campus. With such information, CPSD can keep an accurate record of the number of incidents involving students, employees and visitors; determine where there is a pattern of crime with regard to a particular location, method, or suspect; and alert the campus community to potential dangers. Reports of crimes filed in this manner are counted and disclosed in the annual crime statistics for the Kaua'i CC, as required by the Clery Act.

Kaua'i CC requests all pastoral and professional counselors to encourage their clients to report criminal offenses on a voluntary, confidential basis to KPD and/or CPSD for inclusion in the annual disclosure of crime statistics.

III. TIMELY WARNINGS AND EMERGENCY NOTIFICATIONS

In accordance with the Higher Education Opportunity Act (HEOA Public Law 110-315), Kaua'i CC is required to keep the campus community informed of crimes and emergencies that pose a health or safety threat to the campus through Timely Warnings and Emergency Notifications.

Timely Warnings: These warnings are issued when the campus determines that a Clery related crime presents a serious and/or continuing threat to students and employees, such as a murder, sex offense or robbery.

Emergency Notifications: These notifications are issued when a significant emergency or dangerous situation presents an immediate threat to the health or safety of the campus. There could be times when

this overlaps with a Timely Warning, like a shooting; however, emergency notifications may also encompass crimes that are not reported under Clery (e.g. non-criminal incidents such as an imminent weather emergency or an outbreak of a communicable disease).

Kaua'i Community College primarily issues both Timely Warnings and Emergency Notifications through the **UH Alert System**. This emergency communications system provides alerts through emails and mobile phone text messages. Other methods of communication may also be utilized, such as Kaua'i CC's website, social media, or direct communication by faculty and staff.

Upon confirmation of a crime, significant emergency, or dangerous situation posing an immediate or ongoing threat to the health or safety of the campus, campus officials will, without delay, issue the Timely Warning or Emergency Notification, unless doing so, in the professional judgment of responsible authorities, will compromise efforts to assist a victim, or to contain, respond to, or otherwise mitigate the threat.

**If you have a UH Username and Password,
take 1-minute & sign up to receive
UH ALERT Emergency Text & Email Notifications at
www.hawaii.edu/alert.**

IV. EMERGENCY EVACUATION PROCEDURES AND POLICIES

Kaua'i CC's Emergency Operation Plan includes information about the Campus Crisis Management Team (CCMT), Kaua'i CC's operating status parameters, incident priorities and performance expectations, shelter-in-place and evacuation guidelines, and local contingency and continuity planning requirements. Kaua'i CC conducts announced emergency response exercises at least once a year. These exercises include table top exercises and functional exercises in the field and usually involve the participation of first response agencies (e.g., police and fire departments, Emergency Medical Services, etc.). Kaua'i CC also conducts tests of the emergency notification systems once a year. These exercises and tests are designed to assess and evaluate the emergency plans and capabilities of the institution. Kaua'i CC emergency response staff (i.e., CCMT) are trained to respond to campus emergencies in accordance with the National Incident Management System and the Incident Command System. When a serious incident occurs that causes an immediate threat to the campus, the first responders to the scene are usually the CPSD and the KPD. If the services of the Kaua'i Fire Department and Emergency Medical Services are needed, they will also be requested to respond. Depending on the nature of the incident, other local or federal agencies may also be involved.

Kaua'i CC's Evacuation Policy is fully outlined in Kaua'i CC's Emergency Response Plan and is implemented by the Kaua'i CC CCMT, Public Safety, and faculty. Should an emergency evacuation be required, the entire campus would be notified by UH Alert and audio messaging without delay. Students/faculty/staff will be directed to walk *without delay* to the evacuation rally point nearest them.

Each instructional building on campus has an evacuation map posted in conspicuous locations. The map displays life safety information and directions regarding which evacuation rally point the reader should report to. Building Coordinators have been trained as to where their assigned evacuation rally point is and can direct students/faculty/staff in their building to the assigned location. Building Coordinators will assure that the building is completely emptied and will then provide accountability and guidance to the persons under their per view while at the evacuatio rally point.

General information about the emergency response and evacuation procedures for Kaua'i CC are published

each year as part of the University of Hawai'i's Clery Act compliance efforts, and is available on the CPSD Emergency/Security website (<http://kauai.hawaii.edu/campus-safety>).

V. ACCESS TO CAMPUS FACILITIES

Kaua'i Community College Campus office hours are Monday through Friday, 7:45 am – 4:30 pm. Most facilities at Kaua'i CC are open to students, faculty, staff and the public during the day and evening hours when classes are in session. During times when the College is officially closed, buildings are locked and access is limited to faculty, staff, and authorized students only. The general public is welcome to attend cultural and recreational events on campus, but their access is limited only to the facilities wherein the events are occurring and being monitored. Security Officers regularly patrol the campus grounds, including the interior areas of the college facilities. Security Officers file reports if they observe any obstruction of lighting or pathways and any kind of hazards along or on the sidewalks. All reports are submitted to the Operations and Maintenance (O&M) Department and the VCAS.

VI. MAINTENANCE OF CAMPUS FACILITIES

Kaua'i CC lighting is off during non-requested events and further improvements in campus lighting are being made in parking lots, areas with heavy landscaping, and along sidewalks and pathways frequently traveled by students. On-duty Public Safety Officers regularly file reports if they observe the overgrowth of shrubbery, any obstruction of lighting or pathways and any kind of hazards along or on the sidewalks. These reports are submitted to the O&M Department for review and correction.

VII. EDUCATION PROGRAMS

Crime Prevention and Security Awareness Programs

Each semester Kaua'i CC presents educational programming to students, faculty, and staff at New Student Orientation, and New Employee Orientation, respectively.

Daily Crime Log

CPSD records in a Daily Crime Log all alleged criminal incidents, including non-Clery Act crimes, that have been reported to CPSD within the last 60 days. Crimes are recorded by the date they are reported and include the following information: nature of the crime, date, time and general location of occurrence, and disposition of complaint, if known. This log is prepared and maintained by the Public Safety Chief, or his designee, and is kept at the CPSD Office located in Fine Arts I, Room 110. The public can request to view the Daily Crime Log in person at the CPSD Office.

Crime in Progress

- Do not attempt to apprehend or interfere with a suspected criminal.
- If not in immediate danger and the opportunity affords, obtain a good description of the perpetrator, taking note of their height, weight, sex, approximate age, skin color, hair, facial hair, eyes and clothing. Also identify any distinguishing characteristics or marks, unusual behaviors, and direction of flight. Finally note the license plate number, make and model, color, and any distinguishing characteristics of any vehicles involved.
- Call **911** and stay on the line unless directed otherwise.
- If possible, have a person next to you call CPSD at (808) 245-8399 or from a campus phone: x399 and notify them of the situation.

Campus Security Services

- During Campus operating hours (M - F, 7:45 AM to 4:30 PM), or at other times when a class or an official campus event may be scheduled, CPSD will either provide transportation or foot escort for anyone walking at night that are concerned for their own safety. This service is only available in the confines

of the campus grounds. Please call (808) 245-8399, or dial Ext. 399 on a campus phone so that an escort can be dispatched to the caller's location.

- Radio motor patrol (utility cart), foot patrol and bike patrol all serve to deter potential crime.
- Response to medical emergencies. Officers are trained in emergency first-aid, Cardiopulmonary Resuscitation (CPR), and in the use of an Automated External Defibrillator (AED).
- Security Officers conduct safety and security hazard inspections of the campus. They initiate work requests to Operations & Maintenance for needed repairs. They also prepare inspection reports to be forwarded to heads of appropriate departments.

Temporary Restraining Order (TRO)

You have a right to a safe campus environment, free from the threat of harm from a family member or acquaintance. If someone you know is engaging in a pattern of harassment (including physical or sexual violence, verbal threats, property damage or stalking), you can seek protection by obtaining a temporary restraining order (TRO) against the perpetrator. If you need to extend your protection for up to three years, you can obtain a protective order, which sets guidelines aimed at protecting you. This can include prohibiting the defendant from calling or visiting you. Kaua'i CC cannot apply for a TRO or Protective Order on behalf of a person. Instead, the individual must apply for these orders through the State Judiciary system as follows:

- File through Family Court if the defendant is or was married to you, had a child with you, lives or lived with you, has or had a dating relationship with you, or is related to you by blood.

Family Court
3970 Kaana Street
Lihue, HI 96766
(808) 482-2303

- File through District Court if the defendant was never married to you, did not have a child with you, has never lived with you, never had a dating relationship with you, or is not related to you by blood.

Civil Division
3970 Kaana Street, Suite 207
Lihue, HI 96766
(808) 482-2303

Any student, faculty, or staff who obtains a TRO or Protective Order from the State should provide a copy to the CPSD. The CPSD will then meet with the individual to develop a safety plan while on campus. This plan may include security escorts and other arrangements.

VIII. ALCOHOL AND DRUG POLICIES

Alcohol and Drug Policies

In conformance with Hawai'i state and federal laws, university faculty, staff and students are not permitted to manufacture, sell, distribute, possess, use, dispense, or be under the influence of illegal drugs and alcohol at Kaua'i CC sponsored or approved events, or on Kaua'i CC property or in buildings used by Kaua'i CC for education, research, or recreational programs. Kaua'i CC will cooperate with law enforcement agencies responsible for enforcing laws related to illegal use of drugs, tobacco and alcohol. CPSD enforces these laws and UH policies regarding the violation of these laws.

Students found in violation may be subject to the provisions of the student conduct code and/or arrest.

Faculty and staff found in violation of this policy are subject to disciplinary action as provided in collective bargaining agreements, UH policy, and other applicable state laws and rules, and may also be subject to arrest.

The law states that no one under the age of 21 may buy, possess, or drink alcoholic beverages. Any type of alcohol is forbidden in all public and common areas of the campus. The serving of alcoholic beverages at special events requires permission from the Chancellor or designee.

Please read the OFFICIAL NOTICE TO FACULTY, STAFF AND STUDENTS REGARDING DRUG-FREE WORKPLACE POLICIES: <https://www.hawaii.edu/ohr/documents/1861/>.

The document contains UH policies on illegal drugs, alcohol and substance abuse, related information about the UH student conduct code, legal sanctions, health risks associated with substance abuse, and drug and alcohol counseling treatment and rehabilitation programs. Information regarding the UH substance abuse awareness program may be obtained from the University Health Services Mānoa - Alcohol and Other Drug Education Program: http://www.hawaii.edu/shs/health_promotion/adepphp. Students may contact [Hale Mālama program](#) for Kauaʻi CC services or [community resources](#). Employees may contact the Employee Assistance of the Pacific at (808) 597-8222 or www.eapacific.com. Calls are confidential.

The Higher Education Act

Section 120 of The Higher Education Act, Drug and Alcohol Abuse Prevention, requires that certification of on-campus prevention efforts be made available to the students and the public. Kauaʻi CC has a personal support counselor available to provide substance abuse education, counseling, and intervention services. For more information, contact: Jie Shen, Mental Health Counselor, 808-245-8346, Library (LRC) 120.

Weapons Policy

The possession of illegal and dangerous weapons on university premises is strictly prohibited. Illegal and dangerous weapons include, but are not limited to, firearms, ammunition, spear guns, explosives, and dangerous substances. Any person found in violation may be subject to all applicable state and federal laws, UH policy, and the Student Conduct Code.

Should you suspect or discover someone on campus in possession of a weapon, contact CPSD immediately. Since 2003, public displays of any type of “replica” firearms are illegal; this includes pellet, air, water, and toy guns.

Gambling Policies

In accordance with the laws of the State of Hawaiʻi, gambling is **not permitted** on the Kauaʻi CC campus.

IX. CRIME STATISTICS

Federal Law

The United States Code 1092(f), Higher Education Act of 1965 (as amended), is also known as the Crime Awareness and Campus Security Act of 1990, or the Jean Clery Act.

"All public and private institutions of postsecondary education receiving federal financial aid must provide timely warnings of campus crime and publish an annual campus crime report."

Incidents reported to the Public Safety Department that fall into one of the required reporting

classifications will be disclosed as a statistic in this annual report published by Kaua'i CC.

Jeanne Clery Act

Jeanne Clery was sexually assaulted and murdered in her dorm room at Lehigh University in 1986. The law enacted in her memory is intended to ensure that students and other interested parties are well informed about serious campus crimes before making an educated decision. The Clery Act mandates that universities report crime statistics to current and prospective students and employees.

Campus Security Authorities (CSA)

The Clery Act requires all institutions to collect crime reports from a variety of individuals and organizations that Clery considers to be Campus Security Authorities (CSAs). The following individuals are considered CSAs:

- Chancellor at (808) 245-8210
- Vice Chancellor for Student Affairs at (808) 245-8274
- Vice Chancellor for Academic Affairs at (808) 245-8229
- Vice Chancellor for Administrative Services at (808) 245-8230
- Director of Institutional Effectiveness and the University Center at (808) 245-8336
- TIX Coordinator at (808) 245-8260

There are two types of individuals who, although they have significant responsibility for student and campus activities, are not Campus Security Authorities. They are:

- Pastoral counselor: A person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor on campus. (Do not have one at this time)
- Professional counselor: A person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of his or her license or certification. This definition applies even to professional counselors who are not employees of the institution, but are under contract to provide counseling at the institution.

Annual Security Report

The Jeanne Clery Act requires that an annual security report containing crime figures of specific crimes be forwarded to the U.S. Department of Education and be made available to the community. The crimes that are required to be reported under the Clery Act includes:

murder/ non-negligent manslaughter, negligent manslaughter, forcible sex offenses, non-forcible sex offenses, robbery, burglary, aggravated assault, motor vehicle theft, arson, domestic violence, dating violence and stalking.¹ ***Additionally, the University must report statistics of arrests or disciplinary referrals for liquor, drug, and weapons offenses, and for hate crimes.***

¹ For definitions of domestic violence, dating violence, sexual assault and stalking, refer to the Violence Against Women Act (VAWA) section of this report.

Federal UCR (Uniform Crime Reporting Codes) Part I Crimes Definitions

Murder and Non-Negligent Manslaughter: The willful (non-negligent) killing of one human being by another; including deaths caused by injuries received in a fight, argument, quarrel, assault or commission of a crime.

Negligent Manslaughter: The killing of another person through gross negligence.

Forcible Sex Offenses: Any of the following sexual acts directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent and includes: forcible rape, forcible sodomy, sexual assault with an object and forcible fondling.

Non-Forcible Sex Offenses: Any unlawful, non-forcible sexual intercourse such as incest and statutory rape.

Robbery: The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

Aggravated Assault: An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm.

Burglary: The unlawful entry of a structure to commit a felony or a theft.

Motor Vehicle Theft: The theft or attempted theft of a motor vehicle, including vehicles taken without the owner's permission for the purpose of "joyriding."

Arson: Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

Hate Crimes

For Clery purposes, hate crimes include any offense in the following two groups that is motivated by bias. Bias is a preformed negative opinion or attitude toward a group of persons based on the actual or perception of their *race, gender, religion, sexual orientation, ethnicity, disability, national origin or gender identity*.

- **Against a Person:** Any Uniform Crime Reporting Part I crime (with the exception of negligent manslaughter and weapons violations, i.e. carrying, possessing, drug abuse violations, and liquor law violations), and any other crime causing bodily injury or intimidation where there is evidence of bias or hate motivation and that the victim was selected because of an actual or perceived race, gender, religion, national origin, disability, or sexual orientation.
- **Against Property:** Any larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property, in which the underlying motivation for the offense is bias.

Crimes under the purview of the Clery Act must be reported by location of occurrence in one of the following four categories: on-campus property, on-campus student housing facilities, non-campus property and public property (i.e., streets, sidewalks, municipal parking lots and areas immediately adjacent to the campus).

Annual Disclosure of Crime Statistics

The crime statistics disclosed in this annual report were obtained from the following sources: CPSD, KPD and Campus Security Authorities. For statistical purposes, crime statistics reported to any of these sources are recorded in the calendar year that the crime was reported. The statistics are gathered, compiled, and reported to the University community via the Annual Security Report published by this institution. The annual crime statistics are also submitted to the Department of Education and made available to the public via their website.

Kaua'i CC will send an email to every enrolled student and current employee on or prior to October 1st of each year to announce the availability of the report. The notice includes a brief summary of the contents of the Annual Campus Security Report. The notice also includes the web address to the Annual Campus Report and information on how to request a hard copy of the report.

Classification of UCR Reportable Crimes

The UCR Program was conceived in 1929 by the International Association of Chiefs of Police to meet a need for reliable, uniform crime statistics for the nation. In 1930, the FBI was tasked with collecting, publishing, and archiving those statistics. Today, several annual statistical publications, such as the comprehensive [Crime in the United States](#), are produced from data provided by nearly 17,000 law enforcement agencies across the United States.

Source: [FBI Uniform Crime Reports](#)

The statistics listed in this report were published in accordance with the standards and guidelines used by the FBI Uniform Crime Reporting Handbook and relevant federal law (the Clery Act).

The number of victims involved in a particular incident is indicated in the statistics column for the following crime classifications: murder/non-negligent manslaughter, negligent manslaughter, forcible and non-forcible sex offenses, and aggravated assault. For example, if an aggravated assault occurs and there are three victims, this would be counted as three aggravated assaults in the crime statistics chart.

The number reflected in the statistics for the following crime categories includes one offense per distinct operation: robbery, burglary, larceny, vandalism, and arson. For example, if five students are walking across campus together and they are robbed, this would count as one instance of robbery in the crime statistics chart. In cases of motor vehicle theft, each vehicle stolen is counted as a statistic.

Unfounded Crimes

A crime is considered unfounded for Clery Act purposes only if sworn or commissioned law enforcement personnel make a formal determination that the report is false or baseless.

Clery Crime Statistics Table

Kaua'i CC Crime Statistics as reported for 2019, 2020, and 2021 are presented in this report in the tables below.

CRIMINAL OFFENSES

Murder/Non-Negligent Manslaughter

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

Manslaughter by Negligence

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

Rape

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

Fondling

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

Incest

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

Statutory Rape

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

Robbery

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

Aggravated Assault

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

Burglary

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

Motor Vehicle Theft

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

Arson

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

ARRESTS & DISCIPLINARY REFERRALS

Weapons Law Arrest

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

Weapons Law Disciplinary Action

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

Drug Law Arrest

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

Drug law Disciplinary Action

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

Liquor law Arrest

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

Liquor Law Disciplinary Action

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

VAWA CRIMES

Domestic Violence

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

Dating Violence

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	0	n/a	0
2021	0	n/a	0

Stalking

Year	On-Campus	Non-Campus	Public Property
2019	0	n/a	0
2020	2	n/a	0
2021	0	n/a	0

Two Stalking cases were added for the year 2020 that was not counted in last year's ASR.

Non-Campus Buildings or Property

There were no non-campus buildings or property for 2019, 2020, and 2021.

Hate Crimes

There were no reported hate crimes for the years 2019, 2020 or 2021 on Kaua'i CC's campus.

Unfounded Crimes:

There were no unfounded crimes for the years of 2019, 2020, or 2021 on Kaua'i CC's campus.

IX. SEX DISCRIMINATION AND GENDER-BASED VIOLENCE

A. Introduction

Kaua'i CC is committed to maintaining and promoting safe and respectful campus environments that are free from sex discrimination and gender-based violence. Members of the Kaua'i CC community, guests and visitors have the right to be free from all forms of sex/gender harassment, discrimination and misconduct, which can include acts of sexual violence, sexual harassment, domestic violence, dating violence and stalking. All members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others.

Kaua'i CC does not tolerate and prohibits sex discrimination and gender-based violence, including the crimes of sexual assault, domestic violence, dating violence, and stalking, under its sexual misconduct policy, Interim EP 1.204, Policy and Procedure on Sex Discrimination and Gender-Based Violence
<https://www.hawaii.edu/policy/docs/temp/ep1.204.pdf>

B. Policy

Sexual misconduct, including sexual harassment, sexual assault, sexual exploitation, domestic and dating violence, and stalking are violations of interim EP 1.204. A number of federal laws and regulations, including Title IX, the Violence Against Women Act, and the Clery Act mandate how institutions respond to such

allegations. Many types of sexual misconduct also constitute violations of Hawai'i law.

Members of the campus community, guests, and visitors have a right to be free from sexual misconduct. The sexual misconduct policy, Interim EP 1.204, is intended to define expectations for appropriate conduct, and outline resolution processes to address conduct that does not meet these expectations. When individuals accused of sexual misconduct are found to be in violation of the policy, Kaua'i CC will impose serious sanctions, as will be explained further in this report.

All members of the campus community, guests and visitors are protected by Interim EP 1.204, regardless of their sexual orientation or gender identity. Kaua'i CC has jurisdiction over conduct that occurs on Kaua'i CC property and outside of Kaua'i CC property if the conduct was in connection with a Kaua'i CC-sponsored program or activity, or if the conduct may have a continuing adverse effect or could create a hostile environment on campus. For more details on this policy, please visit the University of Hawaii System Office of Institutional Equity (OIE) webpage at <https://www.hawaii.edu/titleix/>.

While Interim EP 1.204 utilizes different standards and definitions than Hawai'i state law, sex discrimination and gender-based violence often overlap with the crimes of rape, sexual assault, sexual harassment, domestic violence, dating violence, and stalking. Individuals subjected to these behaviors are protected by state law, federal law, specifically, Title IX, and the Clery Act, which mandates the contents of this annual security report.

C. Violence Against Women Act (VAWA)

On March 7, 2013, President Obama signed a bill that strengthened and reauthorized the Violence Against Women Act (VAWA). Included in the bill were amendments to the Clery Act that afforded additional rights to campus individuals subjected to sexual violence, dating violence, domestic violence, and stalking. VAWA amended the Clery Act to require institutions to compile statistics for incidents of domestic violence, dating violence, sexual assault, and stalking, and to include certain policies, procedures, and programs pertaining to these incidents in their annual security reports (ASRs). The statute requires institutions to include this new information in the ASR beginning with the ASR that must be provided to students, employees, and prospective students and employees by October 1, 2014.

As stated above, Kaua'i CC prohibits the crimes of domestic violence, dating violence, sexual assault and stalking (as defined by the Clery Act) and reaffirms its commitment to maintaining a campus environment that emphasizes the dignity and worth of all members of the campus community. To that end, Kaua'i CC issues this statement of policy to inform the campus community of our programs to address domestic violence, dating violence, sexual assault, and stalking, as well as the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, which will be followed regardless of whether the incident occurs on or off campus when it is reported to a campus official.

D. Education and Prevention Programs

In an effort to reduce the risk of gender-based violence, as well as the crimes of rape, sexual assault, sexual harassment, stalking, dating violence, and domestic violence occurring among its students, Kaua'i CC utilizes a range of campaigns, strategies, and initiatives. It is the policy of Kaua'i CC to offer programming to identify and prevent domestic violence, dating violence, sexual assault, and stalking each year.

Kaua'i CC's programming efforts include, but are not limited to:

Online Training for Students and Employees.

Students and employees at Kaua'i CC are provided access to online training.

Students are offered the opportunity to take *Everfi - Sexual Assault and Prevention Online Student Training Program on Sex-Discrimination and Gender-Based Violence*. *Everfi – Sexual Assault and Prevention online student training* is an educational tool for students to learn about sex-discrimination, gender-based violence, and the rights and resources available to them on the campus and in the community. The curriculum covers Title IX, VAWA and relevant Hawaii State law. The training establishes standards for what constitutes sexual violence and how to respond to problematic situations. Because these problems occur on both an intimate and institutional level, the training takes a look at these issues from a personal and academic lens. There are five parts to the training:

- Part I – Values, Identities, and Relationships
- Part II – Gender Identities and Stereotypes
- Part III – Sexual Harassment and Stalking
- Part IV – Consent, Coercion, and Stepping In
- Part V – Reporting and Responding to a Survivor

For more information, contact the TIX Coordinator at tixkauai@hawaii.edu.

New employees are required to participate in, and current employees are strongly encouraged to participate in, the online training, *Preventing Harassment and Discrimination*. See below for training module descriptions.

Preventing Harassment & Discrimination invites employees to consider the nature of harassment and discrimination, and provides practical tips on creating a safe, inclusive environment for work, including safe and positive options for bystander intervention.

- Module 1-Building Positive Workplaces introduces a positive and productive workplace, power of bystanders, and everyone plays a role in a positive workplace culture.
- Module 2-Developing Awareness and Recognizing Discrimination includes developing awareness of troubling behavior in the workplace, inclusivity and equity, and harmful impact of discrimination on the individual and the workplace.
- (For Supervisors) Module 2s-Developing Awareness and Recognizing Discrimination
- Module 3-Cultivating Attitudes and Identifying Harassment contains cultivating positive, productive, and professional attitudes, harmful impact of harassment on the individual and the workplace, barriers to intervention, microaggressions, hostile work environment, quid pro quo, and abusive conduct.
- (For Supervisors) Module 3s Leading Workplaces Resistant to Harassment
- Module 4-Taking Action Against Retaliation defines and identifies retaliation, taking action to prevent or address harmful conduct, reporting harassment and retaliation and legal penalties and remedies for committing misconduct.
- (For Supervisors) Module 4s-Leading Workplaces Resistant to Retaliation
- Module 5-Maintaining Positive Workplace includes reviewing the importance of bystander intervention to maintain a respectful workplace, why a positive workplace culture matters, and additional resources.
- Module 6-Building Supportive Communities includes TIX, building positive relationships, forms of relationship abuse, federal and state Laws: dating/domestic violence and laws, consent, sexual assault & laws, understanding targets' reactions, stalking and laws, barriers to intervention, reporting and disclosure, reporting options, responding supportively to disclosures, supportive measures, grievance process, legal protections, and forms of retaliation.
- Module 7-Conclusion includes national resources, post-course survey/assessment

For information on *Preventing Harassment & Discrimination*, please contact: the TIX Coordinator at tixkauai@hawaii.edu.

In Person Training

In person trainings included:

- Title IX training provided to faculty and staff

- Safe-Zone training for faculty, staff, and students
- Kaua'i CC's PAU Violence committee members attended Annual Sexual Violence Prevention CAT meeting and training
- Kaua'i CC's PAU Violence Committee members attended the Hawai'i State Coalition Against Domestic Violence's Virtual Conference

Awareness Events & Activities

“Awareness programs” refer to programs, campaigns, or initiatives that increase audience knowledge of the issues of sexual assault, domestic violence, dating violence and stalking share information and resources to prevent interpersonal violence, promote safety, and reduce perpetration. These types of programs, which can include tabling and distribution of information, are offered to all students and employees to promote awareness of rape, domestic violence, dating violence, and stalking. Kaua'i CC's “PAU Violence Kaua'i” committee, whose mission is to promote the prevention, awareness, and understanding of violence through education both on campus and in the community, offers educational events and campaigns throughout the year. PAU Violence committee works to provide awareness and education that will create a culture of respect on campus by engaging students and members of the campus community in critical conversations about what we can all do to prevent interpersonal violence and intervene when it happens.

Below are examples of some events & activities held in 2021-2022:

- DV Awareness - Clothesline Project
- DV Awareness - Clothesline Project Tabling
- DV/SV awareness - Uncover Your Voice Through Art
- SV Awareness - Chalk the Walk for SAAM
- SV Awareness - National Denim Day
- SV Awareness - Hunting Ground Screening
- DV Awareness - No More Campaign, and
- SV/DV Awareness - Doll Making Event
- LGBTQ+ National Coming Out Day – Kumu Hina presentation on māhū
- TIX Awareness - Tabling

In preparing these programs, Kaua'i CC makes a conscientious effort to ensure that the contents of the material:

- Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome; and
- Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.

Kaua'i CC also has the following resources available to students and employees:

- Kaua'i Community Resource Card – contains contact information for resources within Kaua'i CC and off campus in the community for counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services.
- Title IX Resource Guide for Students on Sexual Misconduct: Campus Policies, Procedures and Victim Services

E. Risk Reduction

Awareness and Prevention

Sexual misconduct and other forms of gender violence can affect anyone and is never the fault of the victim. Those who commit sexual misconduct are responsible for their actions. Kaua'i CC provides the following suggestions to increase awareness and reduce instances of sexual misconduct.

Awareness & Prevention for Intimate Partner Violence, Stalking, Sexual Harassment, and Sexual Violence

- Look out for your friends, and ask them to look out for you. Respect them and ask them to respect you, but be willing to challenge each other about high-risk choices.
- Alcohol and drugs can be used as a tool to gain control over an intoxicated person. Don't accept drinks from strangers and don't leave your drinks unattended.
- Don't take advantage of someone who may be under the influence of drugs or alcohol. Others' loss of control does not put you in control.
- Individuals have a right to set boundaries and limitations in their intimate experiences and relationships. Consent is required each and every time. If a potential partner says "no," accept it and don't push. If you want a "yes," ask for it, and don't proceed without clear permission.
- Know the signs of isolating and controlling behavior. Healthy relationships consist of honesty, respect, trust, equality, and shared responsibility. Violence in a relationship is never deserved.
- Show your potential partner respect if you are in a position of initiating sexual behavior.
- Clearly communicate your intentions to your potential sexual partners. Make sure you understand their intentions and/or boundaries before you proceed. If you are unsure what's OK in any interaction, ask.
- Understand that consent to one type of sexual behavior does not automatically grant consent to other types of sexual behaviors. If you are unsure, stop and ask.
- Avoid ambiguity. Don't assume you have consent, regardless of whether someone is attracted to you, of how far you can go with that person, or if the individual is physically and mentally able to consent. If you have questions or are unclear, you don't have consent.
- Someone's silence or passivity is not consent. Pay attention to verbal and non-verbal signals to avoid misreading intentions.
- Be on the lookout for mixed messages. That should be a clear indication to stop and talk about what your potential partner wants or doesn't want to happen. That person may be undecided about how far to go with you, or you may have misread a previous signal.
- Respect the timeline for sexual behaviors with which others are comfortable, and understand that they are entitled to change their minds.
- Even if you don't think you are intimidating in any way, your potential partner may be intimidated by or fearful of you, perhaps because of your sex, physical size, or a position of power or authority you may hold.
- Understand that exerting power and control over another through sex is unacceptable conduct.

It's always ok to ask for help. There are resources on campus and in the community that are there to assist you whether you are concerned about an incident that happened to you or a friend, the safety of your relationship, or your own choices and behaviors.

Bystander Intervention

Most people want to be engaged bystanders and help in difficult or uncomfortable situations, but incorrectly assume someone else will take action. This section addresses how to be an active bystander and properly assist in a problematic situation.

What is Bystander Intervention?

Bystander Intervention is a strategy based on the likelihood of individuals or groups willing to address a situation they believe is problematic. It is often used to address various types of violence, such as bullying, sexual harassment, sexual assault, intimate partner violence and other forms of gender-based violence. You

are a bystander if you observe a situation. When you decide to respond to a problematic situation, you are an engaged or active bystander.

What Can You Do to be an Engaged Bystander?

Specific interventions can be divided into four main types (“The Four D’s”)

1. **DIRECT:** Say or do something that directly engages one or more of the parties involved
2. **DISTRACT:** Say or do something to interrupt the interaction
3. **DELEGATE:** Ask for the help of some-one else who may be better able to intervene
4. **DELAY:** Check in with the victim or do something after the difficult moment or incident has passed

Things to Consider Before You Act

1. Is the situation an emergency or non-emergency?
2. Should intervention be direct, indirect or both?
 - a. **For emergency direct intervention, consider:**
 - **taking** someone’s keys away, drive the person home.
 - **remove the person from the situation**
 - **administer CPR**
 - b. **For emergency indirect intervention, consider**
 - **call 911**
 - **seek assistance from a professional**
 - **distract the people involved**
 - **enlist help from others**
 - c. **For non-emergency direct intervention, consider**
 - **talking to the person directly about the situation**
 - d. **For non-emergency indirect intervention, consider**
 - **speaking to and getting help from someone with more expertise and/or authority; campus TIX Coordinator, campus administrator, or other professional**

ULTIMATELY, BE SURE TO S.E.E.

- **SAFE REPORTING:** Choose a course of action, direct or indirect, that best ensures the safety of those involved, including yourself.
- **EARLY INTERVENTION:** Take action before the problem becomes worse.
- **EFFECTIVE HELPING:** Implement specific helping skills depending on the situation. For more information on Bystander Intervention in situations of intimate partner violence or sexual assault, please visit the University of Hawaii System Office of Institutional Equity website at www.hawaii.edu/titleix.

F. If You Have Experienced Sexual Assault, Dating Violence, Domestic Violence, or Stalking

Immediate Action

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

- Go to a safe location as soon as you are able.
- If you have been assaulted or raped, preserve physical evidence such as tissue and fluid samples, towels, sheets, clothing, etc. Avoid showering, bathing, urinating, etc., until you have been examined at your campus health center or hospital.
- Seek immediate medical attention if you are injured, or believe you may have been exposed to an STI/STD or potential pregnancy.

Contact any of the following for confidential assistance:

Kaua'i CC Confidential Resource, Jie Shen, Mental Health Counselor & Art Therapist

Library (LRC) Rm 120

Phone: (808) 245-8346

Email: jieshen@hawaii.edu

YWCA Confidential Advocate

One Stop Center, Rm 201E

Phone: (808) 278-3508, (808) 245-0120

24/7 Sexual Assault and Domestic Violence Crisis Hotline at (808) 245-6362

a. The Sex Abuse Treatment Center

24-hour hotline: (808) 245-4144

Website: <http://www.satchawaii.com>

b. The Domestic Violence Action Center

Toll free helpline: (800) 690-6200

Website: <https://domesticviolenceactioncenter.org/>

c. The National Domestic Violence Hotline

1-800-799-SAFE (7233)

Website: <http://www.thehotline.org>

1. Or contact any of the following if you wish to make a formal report

➤ **Kaua'i CC through any of the following:**

a. Isaiah Ka'auwai, Title IX Coordinator (limited confidentiality)

One Stop Center, Room 201C

Phone: (808) 245-8395

Email: ikaauwai@hawaii.edu

b. Margaret Sanchez, Deputy Title IX Coordinator for Students (limited confidentiality)

One Stop Center Room 201B

Phone: (808) 245-8274

Email: masanche@hawaii.edu

c. Calvin Shirai, Interim Deputy Title IX Coordinator for Employees (limited confidentiality)

One Stop Center, Room 205B

Phone: (808) 245-8355

Email: shiraic@hawaii.edu

d. Submit an online report to the Kaua'i CC Title IX Office <http://Kaua'i.hawaii.edu/title-ix-file-report>.

e. Kaua'i CC Campus Safety Department

Call (808) 245-8399 or x399 from any campus phone, 24 hours a day, 7 days a week.

If there is an electrical outage (which means that campus phones are out), call the CPSD cell phones directly at (808) 278-3107 or (808) 278-3108.

All reports of domestic violence, dating violence, sexual assault and stalking made to the Campus Public Safety Department will automatically be referred to the Title IX Coordinator, regardless of whether the complainant chooses to pursue criminal charges.

Note that campus officials may contact on-call staff from other departments when their offices are closed or they are otherwise unavailable to assist immediately.

- The Kaua'i PD if you wish to make a police report
 - a. Call 911 in an emergency
 - b. Or call the non-emergency number, (808) 241-1711
- 2. Because evidence of a sexual assault can deteriorate quickly, you may choose to seek a medical exam as soon as possible. Evidence collection should be completed within 120 hours of an assault, but fluids, hair samples, and DNA can be collected for a long time thereafter. Even if you have washed, evidence can often be obtained. After 120 hours, it may still be helpful to have medical attention, even if you are not trying to obtain evidence of an assault. If you are still wearing any clothes worn during the assault, wear them to the hospital, but bring a change of clothes, as the hospital will keep the clothes you are wearing as evidence. If you have changed clothes, bring the ones you were wearing during the assault to the hospital in a clean paper (not plastic) bag or wrapped in a clean sheet. Leave sheets/towels at the scene of the assault. Police will collect them. Typically, police will be called to the hospital to take custody of the rape kit, but it is up to you whether you wish to speak with them or file a criminal complaint.
- 3. Choose how to proceed. You have options and are encouraged to contact a **Confidential** Office:
 - a. Doing nothing until you are ready;
 - b. Pursuing resolution by the Kaua'i CC and/or
 - c. Initiating criminal proceedings, and/or
 - d. Initiating a civil process against the perpetrator.

Kaua'i CC Confidential Resource, Jie Shen, Mental Health Counselor

Library (LRC) Rm 120

Phone: (808) 245-8346

Email: jieshen@hawaii.edu

YWCA Confidential Advocate

One Stop Center, Rm 201E

Phone: (808) 278-3508, (808) 245-0120

24/7 Sexual Assault and Domestic Violence Crisis Hotline at (808) 245-6362

You may pursue whatever combination of options is best for you. If you wish to have an incident investigated and resolved by Kaua'i CC, contact the Title IX Coordinator. If you wish to have the incident handled criminally, contact Kaua'i CC Campus Public Safety Department for assistance or the Kaua'i PD directly. All reports made to the Kaua'i CC CPSD will automatically be referred to the Title IX Coordinator, regardless of whether the complainant chooses to pursue criminal charges. A campus official is available to accompany students in making reports to the Kaua'i PD, if desired. Contact the Title IX Coordinator or CPSD for more information.

These additional suggestions may guide you with preservation of evidence after an incident has occurred:

- To preserve evidence, it is recommended that you do not bathe, shower, douche, eat, drink, smoke, brush your teeth, urinate, defecate, or change clothes before receiving medical attention. Even if you have already taken any of these actions, you are still encouraged to have prompt medical care, and evidence may still be recoverable.
- Typically, if police are involved or will be involved, they will obtain evidence from the scene, and it is best to leave things undisturbed until their arrival. They will gather bedding, linens or unlaundered clothing, and any other pertinent articles that may be used for evidence. It is best to allow police to secure items in evidence containers, but if you are involved in transmission of items of evidence, such as to the hospital, secure them in a clean **paper** bag or clean sheet to avoid contamination.
- If you have physical injuries, photograph or have them photographed, with a date stamp on the photo.
- Record the names of any witnesses and their contact information. This information may be helpful as proof of a crime, to obtain an order of protection, or to offer proof of a campus policy violation.
- Try to memorize details (e.g., physical description, names, license plate number, car description, etc.), or even better, write notes to remind you of details, if you have time and the ability to do so.
- If you obtain external orders of protection (e.g., restraining orders, injunctions, protection from abuse), please notify Campus Public Safety and/or the campus Title IX Coordinator so that those orders can be observed on campus.

About Confidentiality

Confidential Reporting

If you wish that details of an incident be kept confidential, speak with Confidential Resource, Jie Shen, Mental Health Counselor at (808) 245-8346 or a YWCA Confidential Advocate at (808) 278-3508. Mental Health Counselors are available to help. Their service is free of charge.

Members of the clergy, chaplains, and off-campus rape crisis center staff can also maintain confidentiality. Local resources such as crisis centers are also confidential and have no duty to report your information to Kaua'i CC. Going to a Confidential Resource or Confidential Advocate will not put the University on notice of a specific allegation.

Mandated Reporting

"Responsible employees," such as executive, managerial staff and all faculty, are expected to report the details of which they are aware of an incident. They share this information with the Title IX Coordinator. Giving a responsible employee notice of an incident constitutes official notice to Kaua'i CC. Incidents of sexual misconduct will be investigated and resolved in a prompt and equitable manner under the Kaua'i CC resolution procedures, which are discussed later in this report.

You may request confidentiality and/or that the Title IX Coordinator provide you with remedies and resources without initiating a formal resolution process. The Title IX Coordinator will weigh requests for confidentiality against Kaua'i CC's need to address and remedy discrimination under Title IX. Generally, Kaua'i CC will be able to respect your wishes, unless it believes there is a threat to the community based on the use of weapons, violence, pattern, predation, or threatening conduct by the person being accused.

In cases where your request for confidentiality is granted, Kaua'i CC will offer you available resources, support, and remedies, but these may be limited when you remain confidential or anonymous. You are not obligated to pursue formal resolution in order to access the resources that are available. If Kaua'i CC decides

that it is obligated to pursue a formal resolution based on the notice you have given, you are not obligated to participate in the resolution process. However, the ability of Kaua'i CC to enforce its policies or provide some remedies may be limited if you do not participate.

Incidents Involving Minors

Please be aware that Kaua'i CC's duties with respect to minors (those under the age of 18) may require reporting sexual misconduct incidents to state agencies and/or local law enforcement. As a result, confidentiality cannot be guaranteed in sexual misconduct incidents involving minors

Your Rights

Kaua'i CC strives to provide members of the campus community with fair and equitable resolution processes that include both formal and informal options.

Reporting

- Reporting parties have the right to notify law enforcement of incidents and to receive assistance from campus personnel in doing so.
- Reporting parties may decline to report to law enforcement if they so wish.
- Reporting parties have the right to have their allegations investigated and resolved internally by the institution.

Fairness

- All members of the campus community have the right to have reported incidents addressed according to the published Kaua'i CC procedures.
- All parties have equal opportunities to have a support person of their choosing or offered by the institution present throughout all resolution proceedings (including intake, interviews, hearings, etc.). This person can be an advisor, advocate, attorney, family member, friend, faculty member, etc.
- All parties have the right to written notice of the outcome of sexual misconduct resolution proceedings in accordance with the published Kaua'i CC procedures.
- Everyone has a right to be free from retaliation.

Support

- Students have a right to be notified of their ability to access Kaua'i CC mental health counseling, health, and advocacy services.
- Students and employees have a right to be notified of on- and off-campus support services.
- All parties involved in sexual misconduct allegations will receive the information and assistance needed to effectively participate in all proceedings.
- Everyone has the right to seek orders of protection, no-contact orders, restraining orders, or similar lawful orders issued by criminal, or civil courts, and may seek the help of Kaua'i CC Campus Public Safety in requesting and/or enforcing such lawful orders.

Interim Measures

Kaua'i CC will work to ensure that all reporting parties health, physical safety, work and academic status are protected. Interim Measures are services, adjustments, or other assistance that Kaua'i CC puts in place on a temporary basis. Kaua'i CC may provide Interim Measures regardless of whether a reporting party seeks formal disciplinary action through Kaua'i CC's formal process, and appropriate Interim Measures will be available throughout all phases of an investigation.

Examples of interim measures include, but are not limited to:

- Issuing interim suspensions/leaves pending the outcome of an investigation.

- Referring to counseling and health services.
- Referring to the Employee Assistance Program.
- Providing education to the community.
- Altering work arrangements for employees.
- Providing campus escorts.
- Providing transportation assistance.
- Implementing limitations on contact between the parties.
- Offering adjustments to academic deadlines, course schedules, etc.

Additionally, personal identifiable information about the reporting party will be treated as confidential and only shared with persons with the need to know, i.e. those investigating/adjudicating the complaint or delivering resources or support services.

Option to Make a Formal Title IX Complaint to Kaua'i CC

Regardless of whether you report an incident to law enforcement or not, you always have the option to make a formal Title IX complaint to Kaua'i CC by contacting the Kaua'i CC Title IX Coordinator or a Deputy Title IX Coordinator, whose information is below, or by submitting an online report at

<http://kauai.hawaii.edu/title-ix-file-report>.²

Isaiah Ka'auwai, Title IX Coordinator

One Stop Center, Room 201C

Phone: (808) 245-8395

Email: ikaauwai@hawaii.edu

Margaret Sanchez, Deputy Title IX Coordinator for Students

One Stop Center Room 201B

Phone: (808) 245-8274

Email: masanche@hawaii.edu

Calvin Shirai, Interim Deputy Title IX Coordinator for Employees

One Stop Center, Room 205B

Phone: (808) 245-8355

Email: shiraic@hawaii.edu

Please note that while communicating directly with the appropriate Title IX Coordinator or related Deputy is recommended, it is also possible to report to any Responsible Employee, who will communicate the report to the Title IX Coordinator.

Responsible Employees include all Executive and Managerial employees, and those individuals/departments designated as Reporting Options. This includes, for example, the President, Vice Presidents, Associate Vice Presidents, Chancellors, Vice Chancellors, Associate and Assistant Vice Chancellors, Deans/ Directors, Associate and Assistant Deans/Directors, Human Resources Directors, Chief Personnel Officers, and the Public Safety Officers. In addition, pursuant to Act 208 of the 2016 Session Laws of Hawai'i, all members of the University's faculty are Responsible Employees effective July 1, 2016.

Responsible Employees will safeguard an individual's privacy, but will share all details about a complaint (including the known details of the incident (e.g., date, time, location), the names of the parties involved, a

² The Title IX Coordinator is regarded as a "Responsible Employee" under Title IX and also a "Campus Security Authority" under the Clery Act. Statistical information that does not contain a victim's identifying information will be provided to campus public safety for inclusion in the annual crime statistics, even if the victim chooses not to alert campus public safety personally.

brief description of the incident and if the incident has been previously reported) with the Title IX Coordinator, or the EEO/ AA Office, by telephone, electronically, or by email. Such reporting ensures timely support for all parties and enables an effective and consistent institutional response.

In response to a report, Kaua'i CC will provide resources to persons who have been subjected to sex discrimination, gender based-violence, sexual assault, domestic violence, dating violence, or stalking, and will take appropriate disciplinary action against those who violate its policies. Kaua'i CC has procedures in place that are intended to afford a prompt and equitable response to charges of sex discrimination, gender based-violence, sexual assault, domestic violence, dating violence, or stalking, and to impose appropriate sanctions on violators of its policies.

Kaua'i CC can offer Interim Measures including reasonable academic supports, transportation resources or modifications, escorts, no contact orders, counseling services access, and other supports and resources as needed. Kaua'i CC can also offer information about legal assistance, visa/immigration assistance, and student financial aid considerations.

Interim Measures are available regardless of whether a reporting party chooses to report to the police department and/or the campus public safety department or not, and irrespective of whether the reporting party pursues a formal complaint through the Kaua'i CC process.

Other Kaua'i CC Campus Safety Measures

The Kaua'i CC Campus Public Safety Department complies with Hawaii law in recognizing Temporary Restraining Orders (TRO), which places restrictions on a person's behavior, e.g. to have no contact. Having a restraining order assists the police to better respond to violations committed by the offender. There are two different types of restraining orders. District Court restraining orders are for persons who are not related by blood and who have never lived together. Family Court restraining orders are for persons who are family members or have or had a dating relationship. Click here for more information:

http://www.courts.state.hi.us/self-help/protective_orders/protective_orders

In order for Kaua'i CC Public Safety to provide assistance in regards to a TRO, you will need to present a clear copy of the document to the Kaua'i CC Public Safety Department. This will allow them to develop a better understanding of the situation and provide appropriate assistance, if needed. In addition to a copy of the TRO, please provide a current picture of the respondent, along with a description of any vehicle the subject may own or operate. For further information regarding TROs, contact the Campus Public Safety Office at (808) 245-8399. You can also contact the YWCA Confidential Advocate to request assistance by calling the Sexual Assault or Domestic Violence Crisis Hotline at (808) 245-6362.

Kaua'i CC CPSD personnel will meet with the complainant to develop means to ensure the complainant is safe while on, or when going to and from campus. This plan may include, but is not limited to escorts and/or special parking arrangements.

Kaua'i CC does not publish the names of crime victims, or any information able to be used to infer a victim's identity in the college's Daily Crime Log. Victims may request that student/employee directory information on file be removed from public access by submitting a written request to the Chief of Security. The Public Safety Chief can be contacted at (808) 245-8398 or via email at mahiain@hawaii.edu

Other Off Campus Resources

Community based counseling and/or support services outside Kaua'i CC include:

- Domestic Violence Action Center
<http://www.stoptheviolence.org>
Phone: (800) 690-6200 (toll free helpline)
- The National Domestic Violence Hotline
<http://www.thehotline.org>
Phone: 1-800-799-SAFE (7233)
- YMCA-Kaua'i (24 hour Hotline)
<http://www.ymcaKaua'i.org>
Phone: 808-245-6362
- National Sexual Assault Hotline
<https://rainn.org>
Phone: 1-800-656-HOPE(4673)
- The Sex Abuse Treatment Center
<http://www.satchawaii.com>
Phone: (808) 245-4144 (24-hour hotline for Kaua'i)
- Parents and Children Together (PACT)
<http://www.pacthawaii.org>
Phone: 808-847-3285
- Catholic Charities Hawai'i
<http://www.catholiccharitieshawaii.org>
Phone: 808-521-4357
- Wilcox Medical Center
<https://www.hawaiipacifichealth.org/wilcox/>
Phone: [808- 245-1100](tel:808-245-1100)
- Kaua'i Community Mental Health Center
<http://health.hawaii.gov/Kaua'i/community-mental-health-center-branch/>
Phone: [808-274-3190](tel:808-274-3190)
- Kaua'i United Way
<http://Kaua'iunitedway.org/>
Phone: [808- 245-2043](tel:808-245-2043)
- National Suicide Prevention Lifeline (24 hour hotline)
<https://suicidepreventionlifeline.org/>
Phone: 1-800-273-8255

G. Kaua'i CC Procedures for Addressing Sex Discrimination, Gender-Based Violence, Sexual Assault, Domestic Violence, Dating Violence, and Stalking

As a recipient of federal funds, Kaua'i CC is required to comply with Title IX of the Higher Education Amendments of 1972 ("Title IX") which prohibits discrimination on the basis of sex in education programs or activities. Sex discrimination and gender-based violence are broad terms which encompass forms of prohibited discrimination under Title IX and are prohibited under the University of Hawai'i's Interim EP 1.204, Policy and Procedure on Sexual Harassment. Prohibited sex discrimination and gender-based violence includes but not limited to the crimes of sexual assault, domestic violence, dating violence, and stalking. Click here for Interim EP 1.204: <https://www.hawaii.edu/policy/docs/temp/ep1.204.pdf>.

Kaua'i CC is committed to providing programs, activities, and a work and educational environment free from sex discrimination and gender-based violence.

Kaua'i CC also prohibits and will not tolerate retaliation, which consists of adverse actions taken against a person because of their good faith 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.

Title IX Resources

Kaua'i CC has designated a Title IX Coordinator, a Deputy Title IX Coordinator for Students, and a Deputy Title IX Coordinator for Employees. Kaua'i CC's Title IX Coordinators are responsible for ensuring that Kaua'i CC remains in compliance with the University of Hawai'i policies, state laws, and federal regulations. As such, coordinators share appropriate information between departments and may conduct joint investigations when necessary. Best practices, educational opportunities, and required programming are shared among the coordinators. **TIX Coordinators cannot promise confidentiality.** Their contact information is below:

Isaiah Ka'auwai, Title IX Coordinator
One Stop Center, Room 201C
Phone: (808) 245-8260
Email: ikaauwai@hawaii.edu

Margaret Sanchez, Deputy Title IX Coordinator for Students
One Stop Center, Room 201B
Phone: (808) 245-8274
Email: masanche@hawaii.edu

Calvin Shirai, Interim Deputy Title IX Coordinator for Employees
One Stop Center, Room 205B
Phone: (808) 245-8355
Email: shiraic@hawaii.edu

Kaua'i CC's Title IX resources also include the following Confidential Resources: Kaua'i CC Mental Health Counselor, Jie Shen and a YWCA Confidential Advocate. Confidential Resources support students and employees who seek assistance related to sex discrimination and gender-based violence in a confidential manner. Unless an imminent threat to life, legal obligation, e.g., suspected abuse or neglect of a minor, or

of bodily injury exists, Confidential Resources will not share information provided by a student or employee, without the student or employee's express written permission.

Confidential Resources can meet individually and provide counseling and consultation. Additionally, they can provide information, options, and specific support about student and employees' rights and resources under Interim EP 1.204, including answering questions on sexual assault and domestic violence, and assisting with and accompanying students or employees if they choose to report an incident to law enforcement.

Additionally, the Confidential Resources can also assist students and employees with filing Title IX complaints, should they desire to do so. Their contact information is below.

Jie 'Jaye' Shen, Mental Health Counselor, Registered Art Therapist

Library (LRC) 120

Phone: (808) 245-8346

Email: jjshen@hawaii.edu

LaRisa Nebre, Non-Clinical Case Manager

Library (LRC) 105

Phone: (808) 245-8397

Email: lnebre@hawaii.edu

Vanessa Visitacion, BSW Intern

Library (LRC) 120

Phone: (808) 245-8346

Email: hmalama@hawaii.edu

Anya Schumacher, MSW Intern

Library (LRC) 120

Phone: (808) 245-8346

Email: carekcc@hawaii.edu

Hale Malāma Center

Offices: Library (LRC) 120, 121, 105

Phone: (808) 245-8346

Email: carekcc@hawaii.edu

To reach a Confidential Advocate from YWCA Kaua'i:

Call (808) 278-3508 or call the YWCA's Domestic Violence or Sexual Assault Crisis Hotline at (808) 245-6362. The hotline is available 24 hours a day, 7 days a week

Filing a Title IX Complaint

An individual can choose to file a Title IX Complaint with Kaua'i CC at any time, regardless of whether the individual has reported an incident to law enforcement. The Kaua'i CC reporting process is separate and distinct from the criminal reporting process. Reports made to Kaua'i CC regarding prohibited behavior will not necessarily trigger a report to law enforcement. Should an individual wish to report allegations to law enforcement or initiate civil proceedings, they may do so at any time.

If an incident has already been reported to law enforcement, an individual has the right to file a Title IX

Complaint with Kaua'i CC Kaua'i CC at any time, regardless of what happens or has happened in the criminal case. Kaua'i CC proceedings under Interim EP 1.204 may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of Interim EP 1.204 has occurred. All reports of sex discrimination and gender-based violence, including domestic violence, dating violence, sexual assault and stalking, made to the Kaua'i CC Public Safety Department will automatically be referred to the Title IX Coordinator, regardless of whether the reporting party chooses to pursue criminal charges.

Additionally, anyone with knowledge about or who has witnessed sex discrimination, gender-based violence, retaliation, or the crimes of sexual assault, domestic violence, dating violence, and/or stalking, should report the incident immediately to the Title IX Coordinator or a Deputy Title IX Coordinator.

Filing a Title IX Complaint will:

- Ensure that a Reporting Party has an opportunity to access the necessary medical treatment and testing,
- Assure the Reporting Party is provided information regarding medical, counseling, and support services, and
- Allow for Kaua'i CC to provide the Reporting Party with interim protective measures
- Develop Interim Measures), such as "no-contact" orders between the parties, witnesses, and others as appropriate. Kaua'i CC may also assist the Reporting Party with changes in academic situations when available, appropriate, and requested by the Reporting Party. To the extent possible, all interim measures provided by Kaua'i CC will protect the identity of the Reporting Party.

A Title IX complaint or report can be filed with:

- Isaiah Ka'auwai, Title IX Coordinator
One Stop Center, Room 201C
Phone: (808) 245-8260
Email: ikaauwai@hawaii.edu
- Margaret Sanchez, Deputy Title IX Coordinator for Students
One Stop Center Room 201B
Phone: (808) 245-8260
Email: masanche@hawaii.edu
- Calvin Shirai, Interim Deputy Title IX Coordinator for Employees
One Stop Center, Room 205B
Phone: (808) 245-8355
Email: shiraic@hawaii.edu
- or by filing a report online at <https://report.system.hawaii.edu/student>
(Includes the option to make an anonymous report)

TIX Process After Receiving a TIX Complaint

Intake

A Kaua'i CC official will assist the parties with understanding their options and accessing resources. One option includes moving forward with a Kaua'i CC resolution through formal or informal proceedings, which can be concurrent. All resolutions will be conducted by campus officials who receive annual training on issues related to sexual harassment, domestic violence, dating violence, sexual assault, and stalking, and on how to conduct an investigation that protects everyone's safety, provides due process, and promotes accountability. The resolution process is confidential to the extent possible. The institution will protect the confidentiality of all participants, consistent with federal and state law.

Upon receiving notice of a complaint, the Title IX Coordinator will apprise the reporting party of their rights under the policy; conduct a safety assessment with the reporting party; provide the reporting party with a written explanation of the interim measures available on campus and any relevant community resources and ask the reporting party what measures they wish to seek; and document any interim measures implemented, any requests for Interim Measures, the rationale for accepting or rejecting a request for interim measures, and any other information related to implementing interim measures.

Requests for Interim Measures may be made by or on behalf of the reporting party to the Title IX Coordinator, who will determine which Interim Measures are appropriate on a case-by-case basis. If the reporting party identifies an Interim Measure that is not already provided by Kaua'i CC, the Title IX Coordinator will consider whether the request can be granted. In those instances where Interim Measures affect both the reporting party and responding party, Kaua'i CC will minimize the burden on the reporting party wherever appropriate. For employees covered by collective bargaining, the Kaua'i CC will ensure that Interim Measures are taken in accordance with the applicable collective bargaining agreement. Any Interim Measures will not disproportionately impact the reporting party.

Interim measures are initiated based on information gathered following a complaint and are not intended to be permanent resolutions; hence they may be amended or withdrawn as additional information is gathered.

Failure to comply with the terms of Interim Measures may be considered a separate violation of Interim EP 1.204, which may result in a separate investigation, findings, and determination.

Preliminary Inquiry

If a resolution is not pursued, an initial determination is made about the reporting party's allegations and whether to move forward to a formal investigation. This decision is made by the Title IX coordinator, which takes into account the nature of the allegations and the reporting party's wishes. In certain circumstances where the allegations involve a threat to the community based on the use of weapons, violence, pattern, predation, or threatening conduct by the person being accused, Kaua'i CC may initiate formal proceedings even without a request or agreement from the reporting party. Once formal proceedings are commenced, the Title IX Coordinator will assign investigators or fact-finders to conduct an investigation regarding the allegations.

When a formal investigation is performed by Kaua'i CC, all parties involved will be provided a notice of charge, containing a summary of the allegations; a copy of the complaint procedures; a confidentiality statement; a non-retaliation statement; a request that the responding party respond in writing to the allegations by a specified response deadline; and the named parties to the complaint, unless the reporting

party requests to remain anonymous for University-initiated investigations.

Investigations

An investigative model is used to resolve allegations. Trained investigators will provide an investigation that is prompt, thorough, reliable, equitable, fair, and impartial. They will interview reporting and responding parties and witnesses, and prepare reports with their findings.

The investigator will conduct a fact-finding investigation, which will include interviewing the reporting party, responding party, relevant witnesses, and individuals with unique knowledge pertinent to the notice of charge in order to gather and ascertain case facts and circumstances; and collecting all documents, notes and photographs of the incident sites, and materials relevant to the case.

Both the reporting party and responding party may have a union agent or an advisor of their choice accompany them to any meeting or related proceeding to advise them. Kaua'i CC's administrative investigatory process is dictated by the University, and therefore, the union agent or advisor cannot speak for the reporting or responding party nor dictate the line or rationale of questioning.

Decisions

A decision maker will be appointed to review the investigation or fact-finding report, render a decision regarding whether University policy has been violated, and impose sanctions as appropriate.

Standard of Evidence

Kaua'i CC uses a preponderance of evidence standard. Decision makers consider whether, given the available credible evidence, it is more likely than not that a violation of Kaua'i CC policy occurred.

Past History

The past sexual history or character of an individual is not considered unless it is determined to be highly relevant. All such information sought to be entered for consideration by a party or the University will be presumed irrelevant until evidence of its relevance is offered. The existence of a pattern of behavior by a responding party may be relevant to the finding and sanction imposed.

Final Determination

The parties will be informed in writing of the outcome of the investigation, without significant delay between the notifications to each party. This notice will include the procedures for appealing the decision, any change to the results that occurs prior to the time that such results become final, and when results are considered to be final.

The notice will be redacted of any personally identifiable information, as appropriate. While federal privacy laws limit disclosure of certain information in disciplinary proceedings, the following notifications are required by law and will be provided: both the reporting and responding party shall be informed in writing of the outcome of a formal investigation, including sanctions imposed that directly relate to the reporting party, as is required by Title IX; and in any formal investigation involving sexual violence, both parties shall be informed of the outcome and the sanctions imposed, as is required by the Clery Act.

Appeals

Both the reporting party and the responding party have equal rights to an impartial appeal. During the appeal process, all imposed restrictions and interim measures and disciplinary sanctions will remain in place pending the outcome of the appeal. If either party files an appeal, Kaua'i CC will notify the other party in writing. Employees who are reporting parties have rights to appeal equivalent to students' rights to appeal.

For all responding parties covered by collective bargaining, appeals of disciplinary actions shall be filed in accordance with the applicable collective bargaining agreement. For all responding parties who are not covered by a collective bargaining agreement, appeals of disciplinary actions shall be filed in accordance with the University's Administrative Procedure A9.110.

<https://www.hawaii.edu/policy/docs/temp/ap9.110.pdf>. During the appeal process, all imposed restrictions, interim measures, and disciplinary actions will remain in place pending the outcome of the appeal, and subject to the provisions of any applicable collective bargaining agreement.

Timing

Kaua'i CC will seek to complete the investigation and any resulting disciplinary process within sixty (60) calendar days from the date of receipt of the complaint; however, these timeframes may be extended for good cause - to ensure the integrity and completeness of the investigation, comply with a request by external law enforcement, accommodate the availability of witnesses, accommodate delays by the parties; or for other legitimate reasons, including the complexity of the investigation and the severity and extent of the alleged prohibited behavior. Kaua'i CC will notify the Reporting and Responding parties in writing of any extension of the timeframes for good cause, and the reason for the extension.

Retaliation

A retaliation complaint, allegation, or report will be reviewed as a separate offense under Interim EP 1.204. This means that a person can be found responsible for retaliation even if not found to be responsible for the underlying reported sex discrimination or gender-based violence. All complaints, allegations or reports of retaliation under Interim EP 1.204 will be processed under these same procedures.

Confidentiality

All complaints and case resolutions conducted by Kaua'i Community College are confidential. Information is shared internally between administrators on a need-to-know basis. Where information must be shared to permit the investigation to move forward, the person bringing the accusation will be informed. Privacy of the records specific to the investigation is maintained in accordance with Hawaii law and the Family Educational Rights & Privacy Act (FERPA) statute. Any public release of information needed to comply with the open crime logs or timely warning provisions of the Clery Act will not include the names of a victim or information that could easily lead to a victim's identification. Additionally, Kaua'i CC maintains privacy in relation to any protective Interim Measures afforded to a reporting party, except to the extent necessary. Typically, if faculty members or administrators are asked to provide accommodations for a specific student, they are told that such accommodations are necessary under Title IX or the Clery Act, but they are not given any details of the incident, or what kind of incident it is. Irrespective of state law or public records access provisions, information about victims is maintained privately in accordance with Title IX and FERPA.

Specific information on Kaua'i CC's procedure can be found at:

<https://www.hawaii.edu/policy/docs/temp/ep1.204.pdf>.

Sanctions

For offenses of sex discrimination, gender-based violence, sexual assault, sexual harassment, dating violence, domestic violence, stalking, and retaliation, if it is determined that a student violated Interim EP 1.204, sanctions for students can range from warning to expulsion. The following sanctions can be imposed on students, based on the severity of the prohibited behavior, and the student's past record: warning; disciplinary probation; suspension, with or without conditions, which could include restitution for damages, a formal apology, and/or counseling; withholding of degree; expulsion/discharge; censure; University housing restrictions; restrictions of access to space, resources, and activities; and/or other sanctions, such as essays, service to a University campus; counseling; participation in alcohol or other drug education

programs; restorative justice activities; or other assignments that the decision maker deems appropriate.

For offenses of sex discrimination, gender-based violence, sexual assault, sexual harassment, dating violence, domestic violence, stalking, and retaliation, if it is determined that an employee violated Interim EP 1.204, sanctions or appropriate administrative actions may be imposed in accordance with applicable collective bargaining agreements, and can include disciplinary action, up to and including recommending termination. Sanctions include oral reprimands, written reprimands, suspensions, demotions, or discharge, if authorized by the applicable collective bargaining agreement, when applicable.

H. Legal Sanctions

Kaua'i CC prohibits crimes involving dating violence, domestic violence, sexual assault, and stalking as those terms are defined in the Clery Act. For the purpose of community education and awareness, these crimes and related terms are defined in Hawai'i law as follows:

Dating Violence and Domestic Violence: In the Hawai'i Revised Statutes (HRS), Penal Code, the State of Hawai'i does not differentiate between "dating violence" and "domestic violence." Both crimes are prohibited in the same section as follows:

- **HRS § 709-706. Abuse of Family or Household Members**

"(1) It shall be unlawful for any person, singly or in concert, to physically abuse a family or household member or to refuse compliance with the lawful order of a police officer under subsection (4). The police, in investigating any complaint of abuse of a family or household member, upon request, may transport the abused person to a hospital or safe shelter."

"Family or household member:

(a) Means spouses or reciprocal beneficiaries, former spouses or reciprocal beneficiaries, persons in a dating relationship as defined under section 586-1, persons who have a child in common, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit; and

(b) Does not include those who are, or were, adult roommates or cohabitants only by virtue of an economic or contractual affiliation."

According to HRS § 586-1, a "'Dating relationship' means a romantic, courtship, or engagement relationship, often but not necessarily characterized by actions of an intimate or sexual nature, but does not include a casual acquaintanceship nor ordinary fraternization between persons in a business or social context."

Sexual Assault: As per HRS § 378-71: Definitions, "Sexual Assault" means any conduct proscribed by Chapter 707, Part V, which includes:

- Section 707-730 Sexual assault in the first degree.
- Section 707-731 Sexual assault in the second degree.
- Section 707-732 Sexual assault in the third degree.
- Section 707-733 Sexual assault in the fourth degree.
- Section 707-733.6 Continuous sexual assault of a minor under the age of fourteen years.
- Section 707-734 Indecent exposure.
- Section 707-741 Incest.

- **HRS § 707-730. Sexual assault in the first degree:**

“(1) A person commits the offense of sexual assault in the first degree if:

- (a) The person knowingly subjects another person to an act of sexual penetration by strong compulsion;
- (b) The person knowingly engages in sexual penetration with another person who is less than fourteen years old;
- (c) The person knowingly engages in sexual penetration with a person who is at least fourteen years old but less than sixteen years old; provided that:
 - (i) The person is not less than five years older than the minor; and
 - (ii) The person is not legally married to the minor;
- (d) The person knowingly subjects to sexual penetration another person who is mentally defective; or
- (e) The person knowingly subjects to sexual penetration another person who is mentally incapacitated or physically helpless as a result of the influence of a substance that the actor knowingly caused to be administered to the other person without the other person's consent.”

Paragraphs (b) and (c) shall not be construed to prohibit practitioners licensed under chapter 453 or 455 from performing any act within their respective practices.

- **HRS § 707-731. Sexual assault in the second degree:**

“1) A person commits the offense of sexual assault in the second degree if:

- (a) The person knowingly subjects another person to an act of sexual penetration by compulsion;
- (b) The person knowingly subjects to sexual penetration another person who is mentally incapacitated or physically helpless;
- (c) The person, while employed:
 - (i) In a state correctional facility;
 - (ii) By a private company providing services at a correctional facility;
 - (iii) By a private company providing community-based residential services to persons committed to the director of public safety and having received notice of this statute;
 - (iv) By a private correctional facility operating in the State of Hawai‘i; or
 - (v) As a law enforcement officer as defined in section 710-1000,

knowingly subjects to sexual penetration an imprisoned person, a person confined to a detention facility, a person committed to the director of public safety, a person residing in a private correctional facility operating in the State of Hawaii, or a person in custody; provided that paragraph (b) and this paragraph shall not be construed to prohibit practitioners licensed under chapter 453 or 455 from performing any act within their respective practices; and further provided that this paragraph shall not be construed to prohibit a law enforcement officer from performing a lawful search pursuant to a warrant or exception to the warrant clause; or

- (d) The person knowingly subjects to sexual penetration a minor who is at least sixteen years old and the person is contemporaneously acting in a professional capacity to instruct, advise, or supervise the minor; provided that:

- (i) The person is not less than five years older than the minor; and \
- (ii) The person is not legally married to the minor.”

- **HRS § 707-732. Sexual assault in the third degree:**

(1) A person commits the offense of sexual assault in the third degree if:

- (a) The person recklessly subjects another person to an act of sexual penetration by compulsion;

- (b) The person knowingly subjects to sexual contact another person who is less than fourteen years old or causes such a person to have sexual contact with the person;
- (c) The person knowingly engages in sexual contact with a person who is at least fourteen years old but less than sixteen years old or causes the minor to have sexual contact with the person; provided that:
 - (i) The person is not less than five years older than the minor; and
 - (ii) The person is not legally married to the minor;
- (d) The person knowingly subjects to sexual contact another person who is mentally defective, mentally incapacitated, or physically helpless, or causes such a person to have sexual contact with the actor;
- (e) The person, while employed:
 - (i) In a state correctional facility;
 - (ii) By a private company providing services at a correctional facility;
 - (iii) By a private company providing community-based residential services to persons committed to the director of public safety and having received notice of this statute;
 - (iv) By a private correctional facility operating in the State of Hawai'i; or
 - (v) As a law enforcement officer as defined in section [710-1000],
 knowingly subjects to sexual contact an imprisoned person, a person confined to a detention facility, a person committed to the director of public safety, a person residing in a private correctional facility operating in the State of Hawaii, or a person in custody, or causes the person to have sexual contact with the actor; or
- (f) The person knowingly, by strong compulsion, has sexual contact with another person or causes another person to have sexual contact with the actor.”

Paragraphs (b), (c), (d), and (e) shall not be construed to prohibit practitioners licensed under chapter 453 or 455 from performing any act within their respective practices; provided further that paragraph (e)(v) shall not be construed to prohibit a law enforcement officer from performing a lawful search pursuant to a warrant or an exception to the warrant clause.

- **HRS § 707-733. Sexual assault in the fourth degree:**

“(1) A person commits the offense of sexual assault in the fourth degree if:

- (a) The person knowingly subjects another person, not married to the actor, to sexual contact by compulsion or causes another person, not married to the actor, to have sexual contact with the actor by compulsion;
- (b) The person knowingly exposes the person's genitals to another person under circumstances in which the actor's conduct is likely to alarm the other person or put the other person in fear of bodily injury; or
- (c) The person knowingly trespasses on property for the purpose of subjecting another person to surreptitious surveillance for the sexual gratification of the actor.”

According to HRS 710-1000, as used in the preceding sections, “‘Law enforcement officer’ means any public servant, whether employed by the State or subdivisions thereof or by the United States, vested by law with a duty to maintain public order or, to make arrests for offenses or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses.”

- **HRS § 707-733.6 Continuous sexual assault of a minor under the age of fourteen years:**

“1. A person commits the offense of continuous sexual assault of a minor under the age of fourteen years if the person:

- a. Either resides in the same home with a minor under the age of fourteen years or has recurring access to the minor; and
- b. Engages in three or more acts of sexual penetration or sexual contact with the minor over a

period of time, while the minor is under the age of fourteen years.

2. To convict under this section, the trier of fact, if a jury, need unanimously agree only that the requisite number of acts have occurred; the jury need not agree on which acts constitute the requisite number.

3. No other felony sex offense involving the same victim may be charged in the same proceeding with a charge under this section, unless the other charged offense occurred outside the time frame of the offense charged under this section or the other offense is charged in the alternative. A defendant may be charged with only one count under this section unless more than one victim is involved, in which case a separate count may be charged for each victim.

4. Continuous sexual assault of a minor under the age of fourteen years is a class A felony.”

- **HRS § 707-734 Indecent Exposure:**

“1. A person commits the offense of indecent exposure if, the person intentionally exposes the person's genitals to a person to whom the person is not married under circumstances in which the actor's conduct is likely to cause affront.

2. Indecent exposure is a petty misdemeanor.”

- **HRS § 707-741 Incest:**

“1. A person commits the offense of incest if the person commits an act of sexual penetration with another who is within the degrees of consanguinity or affinity within which marriage is prohibited.

2. Incest is a class C felony.”

Stalking: Hawai‘i law defines “stalking” as a form of harassment, according to the HRS:

- **HRS § 378-71 Definitions**

"Stalking" means engaging in a course of conduct directed at a specifically targeted person that would cause a reasonable person to suffer substantial emotional distress or to fear bodily injury, sexual assault, or death to the person or to the person's spouse, parent, child, or any other person who regularly resides in the person's household, and where the conduct does cause the targeted person to have such distress or fear.

- **HRS § 711-1106.5. Harassment by stalking**

“(1) A person commits the offense of harassment by stalking if, with intent to harass, annoy, or alarm another person, or in reckless disregard of the risk thereof, that person engages in a course of conduct involving pursuit, surveillance, or nonconsensual contact upon the other person on more than one occasion without legitimate purpose.

...

(3) For purposes of this section, “nonconsensual contact” means any contact that occurs without that individual's consent or in disregard of that person's express desire that the contact be avoided or discontinued. NonConsensual contact includes direct personal visual or oral contact and contact via telephone, facsimile, or any form of electronic communication, as defined in section 711-1111(2), including electronic mail transmission.”

According to HRS 711-1111(2), “Electronic communication” means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system.”

- **HRS § 711-1106.4 Hawaii Revised Statutes: Aggravated Harassment by Stalking**

“(1) A person commits the offense of aggravated harassment by stalking if that person commits the offense of harassment by stalking as provided in section 711-1106.5 and has been convicted previously of

harassment by stalking under section 711-1106.5 within five years of the instant offense.

(2) Aggravated harassment by stalking is a class C felony.”

Consent: Because the Hawai‘i Penal Code does not define “consent” with regard to sexual activity, the following definition has been developed in Hawai‘i courts: “Consent signifies voluntary agreement or concurrence...and may be express or implied.”³

With regard to sexual assault crimes, Hawai‘i law has defined what constitutes “ineffective consent” in HRS § 702-235: “Unless otherwise provided by this Code or by the law defining the offense, consent does not constitute a defense if:

- (1) It is given by a person who is legally incompetent to authorize the conduct alleged;
- (2) It is given by a person who by reason of youth, mental disease, disorder, or defect, or intoxication is manifestly unable or known by the defendant to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct alleged;
- (3) It is given by a person whose improvident consent is sought to be prevented by the law defining the offense; or
- (4) It is induced by force, duress or deception.”

“Consent” is defined in Interim EP 1.204 as “affirmative, conscious, and voluntary agreement to engage in agreed upon forms of sexual contact. A person cannot give Consent if the person is under the age of consent for sexual contact, the person is developmentally or intellectually disabled, or the person is mentally incapacitated or physically helpless. Lack of protest or resistance cannot be interpreted as Consent. Silence cannot be interpreted as Consent. Consent must be ongoing throughout any sexual contact and can be revoked at any time. The existence of a dating relationship, domestic partnership or marriage between the persons involved, or the existence of past sexual relations between the persons involved, is never by itself an indicator of Consent.”

Sexual Harassment: Defined in Interim EP 1.204 as “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- a. 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;
- b. 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
- c. 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:
 - i. Severe or pervasive; and
 - ii. 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

Hawai‘i Victims Bill of Rights

Hawaii also has a Basic Bill of Rights for Victims and Witnesses, found in HRS Chapter 801D, “to ensure that all victims and witnesses of crimes are treated with dignity, respect, courtesy, and sensitivity and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants.”

³ State v. Adams, 10 Haw. App. 593, 605, 880 P.2d 226, 234 (1994) and recently reiterated in State v. McFadden, 136 Haw.190, 358 P.3d 759 (2015)

Per HRS § 801D-4,

“(a) Upon written request, victims and surviving immediate family members of crime shall have the following rights:

- (1) To be informed by the police and the prosecuting attorney of the final disposition of the case. If the crime charged is a felony, the victim or a surviving immediate family member shall be notified of major developments in the case and whenever the defendant or perpetrator is released from custody. The victim or a surviving immediate family member shall also be consulted and advised about plea bargaining by the prosecuting attorney;
 - (2) To be notified by the prosecuting attorney if a court proceeding to which they have been subpoenaed will not proceed as scheduled;
 - (3) To receive protection from threats or harm;
 - (4) To be informed by the police, victim/witness counselor, or other criminal justice personnel, of financial assistance and other social services available as a result of being a witness to or a victim of crime, including information on how to apply for the assistance and services;
 - (5) To be provided by the court, whenever possible, with a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants;
 - (6) To have any stolen or other personal property expeditiously returned by law enforcement agencies when the property is no longer needed as evidence. If feasible, all the property, except weapons, currency, contraband, property subject to evidentiary analysis, and property, the ownership of which is disputed, shall be returned to the person within ten days of being taken; and
 - (7) To be informed by the department of public safety of changes planned by the department in the custodial status of the offender that allows or results in the release of the offender into the community, including escape, furlough, work release, placement on supervised release, release on parole, release on bail bond, release on appeal bond, and final discharge at the end of the prison term.
- (b) Upon written request, the victim or the parent or guardian of a minor or incapacitated victim of an offense under [section 707-730](#), [707-731](#), or [707-732\(1\)\(a\)](#) shall have the right to be informed of the human immunodeficiency virus (HIV) status of the person who has been convicted or a juvenile who has been adjudicated under that section and to receive counseling regarding HIV. The testing shall be performed according to the protocols set forth in [section 325-17](#). Upon request of the victim, or the parent or guardian of a minor or incapacitated victim, the department of health shall provide counseling.
- (c) Notwithstanding any law to the contrary, the department of public safety, the Hawaii paroling authority, the judiciary probation divisions and branches, and the department of the attorney general shall make good faith efforts to notify the victim of a crime, or surviving immediate family members of a victim, of income received by a person imprisoned for that crime when the imprisoned person has received a civil judgment that exceeds \$10,000, a civil settlement that exceeds \$10,000, or any income that exceeds \$10,000 in one fiscal year, whenever the income is known to the agency, and, in addition, the department of public safety shall make good faith efforts to notify the victim of a crime or surviving immediate family members of a victim, whenever it is known to the agency that a person imprisoned for that crime has a financial account, of which the department of public safety is aware, of a value exceeding \$10,000.
- (d) Notwithstanding any law to the contrary, payment of restitution and judgments to victims, or surviving immediate family members of a victim, shall be a precondition for release on parole for any imprisoned person whom the Hawaii paroling authority determines has the financial ability to make complete or partial restitution payments or complete or partial judgment payments to the victim of the person's crime, or to the surviving immediate family members of a victim.
- (e) Notwithstanding any law to the contrary, the State of Hawaii, any political subdivision of the State of Hawaii, any department or agency of the State, any officer of the State, and any employee of the State shall be immune from damages in any lawsuit based on noncompliance with subsection (c) or (d). Nothing in this subsection shall be construed to prevent disciplinary action against any employee of the State who

intentionally fails to comply with subsection (c) or (d) after being warned that compliance is required.”

I. **Federal Clery Act Definitions of Domestic Violence, Dating Violence, Sexual Assault and Stalking**

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

- **Domestic Violence:**

- i. Felony or misdemeanor crime of violence committed
 - a. By a current or former spouse or intimate partner of the victim;
 - b. By a person with whom the victim shares a child in common;
 - c. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - d. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
 - e. By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- ii. For the purposes of complying with the requirements of this section and §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

- **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

- i. The existence of such a relationship shall be 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.
- ii. For the purposes of this definition
 - a. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - b. Dating violence does not include acts covered under the definition of domestic violence.
- iii. For the purposes of complying with the requirements of this section and §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

- **Sexual Assault:** An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s Uniform Crime Reporting (UCR) program. Per the National Incident-Based Reporting System User Manual from the FBI UCR Program, a sex offense is “any sexual act directed against another person, without the consent of the victim, including instances where the victim if incapable of giving consent.”

- i. Rape is defined as the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- ii. Fondling is defined as the touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- iii. Incest is defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

- iv. Statutory Rape is defined as sexual intercourse with a person who is under the statutory age of consent.
- **Stalking:**
 - i. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to
 - a. Fear for the person's safety or the safety of others; or
 - b. Suffer substantial emotional distress.
 - ii. For the purposes of this definition
 - a. Course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device or means; follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.
 - b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
 - c. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
 - iii. For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

X. SEX OFFENDER REGISTRY

The federal Campus Sex Crimes Prevention Act, enacted on October 28, 2000, requires institutions of higher education to issue a statement informing the campus community of where registered sex offender information may be obtained. It also requires registered sex offenders to provide notice, as required under State law, to each institution of higher education within the state at which they are employed, carry a vocation, volunteer services, or is a student.

In Hawaii, convicted sex offenders must register with the Hawaii Criminal Justice Data Center, which is an agency of the Department of Attorney General. The agency is responsible for the statewide criminal history record information system (CJIS-Hawaii), the statewide Automated Fingerprint Identification System (AFIS), the statewide [Sex Offender and Other Covered Offender Registry](#), and the [Adult Criminal Conviction Information Web Site \(eCrim\)](#).

As defined by the Clery Act

