

Title IX Presentation for Fall 2022 Convocation

Kaua'i Community College

August 16, 2022

Isaiah Ka'auwai, Title IX Coordinator

Agenda

- ▶ Brief History of Title IX
- ▶ What is Title IX?
- ▶ Interim EP 1.204 UH Policy & Procedure on Sexual Harassment
- ▶ VAWA 1994
- ▶ Clery Act 1990
- ▶ FERPA
- ▶ Responsible Employees
- ▶ Other UH Employees
- ▶ Resources
 - ▶ Title IX Confidential Advocate & Confidential Resource
 - ▶ Title IX Coordinator & Deputies
 - ▶ Campus Security & Kaua‘i Police Dept
 - ▶ Employee Trainings
 - ▶ Title IX Websites

- ▶ Amber Barbieri, YWCA Director of Crisis Services

Note: This presentation does not replace the online TIX trainings that are required by the University of Hawai‘i.

Brief History of TIX

- ▶ Title IX is a landmark federal civil rights law that states, "**No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.**" 20 U.S.C. § 1681 & 34 C.F.R. Part 106 (1972)
- ▶ The U.S. Department of Education's Office for Civil Rights (OCR) is the division of the federal government charged with enforcing compliance with TIX.
- ▶ June 23, 2022 was the celebration date of the 50th Anniversary of TIX. The late Congresswoman Patsy Mink of Maui coauthored this legislation. This year, this law has been renamed the Patsy T. Mink Equal Opportunity in Education Act in her honor.

What is Title IX?

- ▶ Title IX
 - ▶ prohibits sex-based discrimination in all educational or school-sponsored programs that are federally-funded,
 - ▶ covers sexual harassment and violence, and gender-based discrimination.
 - ▶ Sexual violence includes attempted or completed rape or sexual assault, as well as sexual harassment, stalking, voyeurism, exhibitionism, verbal or physical sexuality-based threats or abuse, and intimate partner violence.
 - ▶ is not only about sports equity,
 - ▶ protects any person:
 - ▶ female, male, transgender, and gender non-conforming students, and
 - ▶ faculty, staff, and students.
 - ▶ covers discrimination against pregnant and parenting students,
 - ▶ protects women in STEM (science, technology, engineering, and math) programs.
- ▶ Update: The Biden administration is reviewing this federal regulation and taking public comments until Sep 12, 2022. website: <https://www.regulations.gov/document/ED-2021-OCR-0166-0001>

UH Interim EP 1.204 Policy & Procedures for Sexual Harassment

Sexual harassment is defined as conduct on the basis of sex that satisfies one or more of the following:

- ▶ A. An employee of the UH conditions the provision of an aid, benefit, or service of the University on an individual's participation in **unwelcome sexual conduct**;
- ▶ B. **Unwelcome conduct determined by a reasonable person, to be so severe, and pervasive, and objectively offensive, that it effectively denies a person equal access to the University's education program or activity**;
- ▶ C. Sexual Assault, including: (1) Sex Offenses, Forcible, (2) Forcible Rape, (3) Forcible Sodomy; (4) Sexual Assault with an Object; (5) Forcible Fondling and (6) Sex Offenses, Non-forcible: (a) Incest and (b) Statutory Rape,
- ▶ D. Dating Violence,
- ▶ E. Domestic Violence, and
- ▶ F. Stalking.

Interim EP 1.204 Policy & Procedures for Sexual Harassment (cont.)

- ▶ The current Interim Policy has been in effect since Aug 14, 2020:
 - ▶ Jurisdiction applies to:
 - ▶ persons in an educational program(s) or activities that receive Federal financial assistance in the U.S. only. It does not cover students who travel internationally.
 - ▶ education programs or activities that *includes locations (on or off campus), events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurred and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution (e.g. fraternity or sorority house).*
 - ▶ Live Hearings with Cross Examination in “real time” are required for sexual harassment-type cases in post-secondary institutions.
 - ▶ Advisers to the parties (school employee, student, friend, lawyer, union representative, etc.) If a party does not have an adviser, the school must provide one with no fee or charge to that party.
 - ▶ Decision-makers (one person or a panel)
 - ▶ Live hearings may be conducted with all parties at the same geographic location or at the school’s discretion, virtually.

VAWA (1994)

- ▶ Violence Against Women's Act 1994 – Federal Law
- ▶ Protection for victims of Domestic Violence, Sexual Assault, Dating Violence and Stalking
- ▶ Provides grants for community violence programs, funding for victim assistance services such as rape crisis centers and hotlines, etc.

Clery Act (1990)

- ▶ “Jeanne Clery was 19 years old when she was raped and murdered in her college dormitory. Her parents could not have known the danger she was in: standards for campus crime reporting simply did not exist.” (clerycenter.org)
- ▶ Requires:
 - ▶ colleges and universities that receive federal funding to **disseminate a public Annual Security Report (ASR) to their community every Oct 1** that includes statistics of campus crimes for the preceding 3 calendar years and efforts taken to improve campus safety.
 - ▶ **protocols to notify, known as TIMELY WARNING, the campus community in the event of an emergency or threat to campus.**
 - ▶ **Crime Categories include (some examples):**
 - ▶ Criminal Offenses: murder & non-negligent manslaughter; negligent manslaughter, rape, fondling, statutory rape, incest; robbery, burglary, arson, etc.
 - ▶ Hate Crimes (any of the above-mentioned offenses, and any incidents of) larceny-theft, simple assault, intimidation, destruction/damage/vandalism of property
 - ▶ VAWA Offenses: sexual assault, domestic violence, dating violence, stalking
 - ▶ Arrests and Referrals for Disciplinary Action: weapons law arrests & violations, liquor law violations, drug law violations
 - ▶ **Prevention education and resources**

FERPA – Family Educational Rights & Privacy Act

Eligible students are afforded certain rights with respect to their education records which includes

- ▶ The right to inspect and review the student's education records after submitting a request to the college (registrar, vice chancellor, academic dept, or other appropriate official).
- ▶ The right to request the amendment of the student's education records that the student believes is inaccurate, misleading, or other in violation of FERPA.
- ▶ The right to provide written consent before the school discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent.
- ▶ Parents and spouses of students are advised that information contained in education records, with the exception of directory information, will not be disclosed to them without the prior written consent of the student.
 - ▶ Directory information includes name of student, major field of study, class (freshman, sophomore, etc.), past and present participation in officially recognized activities, past and present participation in officially recognized sports, weight and height of members of athletic teams, dates of attendance, previous institution(s) attended, full or part-time status, degree(s) conferred including dates and honors and awards including dean's list.
- ▶ Students are advised that institutional policy and procedures required under FERPA have been established as Administrative Procedure AP 7.022, Procedures Relating to Protection of the Education Rights and Privacy of Students.
- ▶ The right to file a complaint with the U.S> Depart of Education concerning alleged failures by Kauai Community College to comply with the requirements of FERPA.

Responsible Employee

- ▶ All faculty members, except those who are designated as confidential advocates, are Responsible Employees under Hawaii Revised Statutes §304A-120. Under the University's Executive Policy on Title IX Sexual Harassment, Interim EP 1.204, A Responsible Employee is synonymous with the term, Mandated reporter, under 34 CFR (Code of Federal Regulations) Part 106.
- ▶ All employees of the University who are considered Responsible Employees under State law include
 - ▶ faculty members except those who are designated as confidential advocates or mental health counselors,
 - ▶ University Managerial and Executive employees,
 - ▶ University of Hawaii Office of Institutional Equity,
 - ▶ University of Hawaii Community College System Office of Compliance,
 - ▶ Campus Security/Public Safety Departments, and
 - ▶ Human Resources Offices.
- ▶ Responsible Employees must promptly share all details of behaviors under this policy to the Title IX Coordinator or Deputies that they observe or have knowledge of, even if not reported to them by a complainant or third-party within three (3) calendar days of receiving the report.*
- ▶ Failure of a responsible employee, as described above in this section, to report an incident of Title IX sexual harassment of which they become aware is a violation of University policy and can be subject to disciplinary action.
- ▶ *Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as marches or speak-outs do not provide notice that must be reported to the Title IX Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or seek a specific response from the University. Supportive measures may be offered as the result of such disclosures without formal action.

Responsible Employee

- ▶ What You Can Do:
 - ▶ **Report** the incident to the TIX Coordinator or TIX Deputies if a student or another employee tells you directly that they are a victim of sexual harassment.
 - ▶ In many instances, the victim is upset, traumatized, and or triggered and will tell you about her or his sexual harassment incident, please contact the TIX Coordinator or TIX Deputies.
 - ▶ However, students may need to “just talk” with someone but won’t tell you that they may be a victim of sexual harassment. Please direct or “walk with them if possible” to either the Mental Health Counselors or YWCA Confidential Advocate **FIRST**, the college **WILL NOT** be put on notice. This allows the student time to process and decide next steps including other services that may be available. **The student still has the option to file a formal complaint with the TIX Coordinator and Deputies and/or Kaua‘i Police Dept. at a later time.**
- ▶ Care for Employees: If you need to talk to someone to debrief a report on a sexual harassment referral, you may speak with the YWCA Confidential Advocate.
- ▶ You may also contact the Employee Assistance of the Pacific at 808-597-8222 for confidential assistance. Website: www.EAPacific.com.

All Other UH Employees

You are **not** required to report on TIX incidents to the TIX Coordinator or TIX Deputies; however,

- ▶ You and students have the option to file a complaint online: <https://report.system.hawaii.edu/student>
- ▶ At minimum, when assisting a student, please provide info for the YWCA Confidential Advocate including the YWCA's Hotline: 808-245-6362 or Hale Mālama information, 808-245-8346 in the Library (LRC).
- ▶ Consider “walking with the student” if they are willing to speak with a confidential advocate/resource.
- ▶ You and students can also file a report with Kaua‘i Police Department at 808-241-1679 or if an emergency 9-1-1. You and students have the option to file a complaint with the college and police dept.
- ▶ As an employee, you may speak with the YWCA Confidential Advocate.
- ▶ Or you may contact the **Employee Assistance of the Pacific** at 808-597-8222 for confidential assistance. Website: www.EAPacific.com

Title IX Confidential Advocate & Resources

- ▶ **(Melia Schneck, In-Training)**, YWCA Crisis Intervention Specialist & Confidential Advocate

- ▶ **TENTATIVE**

- ▶ **Phone: 808-245-6362**
- ▶ **If you or a student needs to speak to someone in person, please inform the worker of your request.**
- ▶ **Offices: One Stop Center, Room 201E**

YWCA – 3904 ‘Elua St., Līhu‘e 96766

YWCA website: www.ywcakauai.org

<https://www.kauai.hawaii.edu/our-team>

- ▶ **Jie “Jaye” Shen**, ATR-P, MHP & Confidential Resource
 - ▶ **Phone: 808-245-8346**
 - ▶ **Email: jieshen@hawaii.edu**
 - ▶ **Office: LRC 120**

Title IX Coordinator & Deputies

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

- ▶ Calvin Shirai, Interim Deputy TIX Coordinator for Employees
 - ▶ Phone: (808) 245-8355
 - ▶ Email: shiraic@hawaii.edu
 - ▶ Office: OCET, Room 102D

- ▶ Margaret Sanchez, Deputy TIX Coordinator for Students
 - ▶ Phone: (808) 245-8274
 - ▶ Email: masanche@hawaii.edu
 - ▶ Office: One Stop Center, Room 201A

Training for Employees

Title IX - Preventing Harassment & Discrimination

approximately 2 hours

and

Workplace Non-Violence Training -

Code of Conduct: Workplace Conduct

approximately 30 minutes

<https://www.hawaii.edu/titleix/training/online-training-employees>

Trainings need to be completed by Aug 31, 2023 except if you are a new employee, you have 30 days from your hire date to complete the trainings.

Login to the website above with your UH username and password if you'd like to check whether you completed your trainings.

Campus Public Safety

- ▶ a.k.a. Campus Security
- ▶ 808-245-8399 or x399 from campus phone

- ▶ Mahi'ai Naihe, Safety & Security Manager
- ▶ Robert Moura
- ▶ Clarence Visaya
- ▶ Ryan Tehada
- ▶ William Ka'auwai
- ▶ Moe Alaiafune

Kaua'i Police Dept.

- ▶ Phone: 808-241-1711 or 9-1-1
- ▶ Address: 3990 Ka'ana St., Suite 200, Līhu'e 96766

Title IX Websites

Kauai Community College

<https://kauai.hawaii.edu/title-ix>

UH System

<https://www.hawaii.edu/titleix/>

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Mahalo nui loa
&
have a great semester!

Next

Amber Barbieri
Director of Crisis Services at the YWCA