



Employees are required to adhere to the requirements of this policy. Failure to adhere to this policy may result in disciplinary action as listed in the section [Disciplinary Sanctions](#). The University of Hawai'i, Office of the Vice President for Administration is responsible for EP 11.201. Please contact the UH System Director of Human Resources at 808-956-6855 with any questions.

Currently Enrolled Students

Currently enrolled students are required to abide by the [University of Hawai'i - West O'ahu Student Code of Conduct](#) ("the Code"). Per Article III(B)(11) & (12), the following is prohibited:

- “11. Use, possession, manufacturing, distribution/sale, or being under the influence of marijuana, methamphetamine, opioids, heroin, narcotics, or other controlled substances (except as expressly permitted by state and federal law) while on any UH West O'ahu premises or at any UH West O'ahu sponsored event or ancillary site. Possession of drug paraphernalia is also prohibited on UH West O'ahu premises.
12. Use, possession, manufacturing, distribution/sale, or being under the influence of alcoholic beverages (except as expressly permitted by UH System Policies, state or federal law), or public intoxication while on any UH West O'ahu premises or at any UH West O'ahu sponsored event or ancillary site. Alcoholic beverages may not, in any circumstances, be used, possessed, or distributed to any person under twenty-one (21) years of age.”

Students found responsible for a violation(s) of the code may be subject to the sanctions listed in the section [Disciplinary Sanctions](#).

Disciplinary Sanctions

Employees

The introductory language of Section III of the University of Hawai'i's system policy, entitled [Illegal Drugs, Alcohol, and Substance Abuse](#) (EP 11.201) Section III states: “The University can best achieve its mission by creating a supportive working environment in which individuals encourage one another to pursue excellence in their professional and personal lives. Students, faculty and staff share a responsibility to help one another by learning to recognize the signs and behaviors associated with substance abuse and addiction, and by encouraging those with such problems to seek appropriate help and rehabilitation. Once an individual has undergone treatment for substance abuse or addiction, the University should extend support and encouragement during the recovery phase.”

Section III(F)(4) of EP 11.201 states:

“Within thirty days after receiving notice from an employee of a conviction under subparagraph F.2. above, the University shall (a) take appropriate personnel action



against such an employee, up to and including termination; or (b) require such employee to satisfactorily participate in a drug abuse or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.”

Furthermore, as a condition of continued employment, any employee who is convicted for a violation occurring in the workplace of any state or federal criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance shall notify the UH West O'ahu Human Resources Office of the conviction no later than five (5) working days after such conviction. Failure to timely report such conviction shall subject an employee to disciplinary action, up to and including discharge. Any employee who is convicted as described above shall be subject to (1) participation in a drug abuse assistance or rehabilitation program as a condition of continued employment; and/or (2) disciplinary action, up to and including discharge.”

Currently Enrolled Students

Violations of the [UH System Code of Conduct](#) are taken very seriously. When a currently enrolled student violates the Code, the following language in Article V of the Code applies. It states:

“Authority to hear and decide on whether or not alleged violations of the student conduct code have occurred as well as to determine subsequent disciplinary sanctions is delegated to senior student affairs officers, student conduct administrators, student conduct board, or appellate boards as described in this policy.”

Given this broad delegation of authority, UH West O'ahu has developed its own [Student Code of Conduct](#) and the following sanctions⁴ may be imposed for a violation:

- a. **Written Warning** – A notice in writing to the student that the student is violating or has violated institutional regulations and a copy of the warning letter is placed in the student's disciplinary file.
- b. **Probation** – Probation is for a designated period of time (which may include the remainder of their enrollment at UH West O'ahu) and includes the probability of more severe disciplinary sanctions if the student is found to violate any institutional regulation(s) during the probationary period. This sanction may require the student to meet with the Vice Chancellor of Student Affairs (or his or her designee) upon request.
- c. **Loss of Privileges** – Denial of specified privileges for a designated period of time.
- d. **Restitution** – Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
- e. **Discretionary Sanctions** – Work assignments, essays, service to UH West O'ahu,

⁴ UH West O'ahu Student Code of Conduct, IV.B.1.



Community Service or other related discretionary or educational related assignments.

- f. **No contact orders** – Between the Responding Party and the Complainant, and others (such as witnesses) when appropriate.
- g. **Suspension** – Separation of the student from UH West O'ahu for a definite period of time (usually 1 year or less) after which the student is eligible to return. Conditions for readmission may be specified. Suspensions may be effective immediately or deferred.
- h. **Dismissal** – Separation of the student from UH West O'ahu for more than 1 year. The student may be eligible for return. Conditions for readmission may be specified. Dismissals will be effective immediately.
- i. **Expulsion** – Separation of the student from UH West O'ahu permanently. Expulsions will be effective immediately.
- j. **Revocation of Admission and/or Degree** – Admission to or a degree awarded from UH West O'ahu may be revoked for fraud, misrepresentation, or other violation of UH West O'ahu standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.

Sanctions are administered on a case by case basis, taking into consideration the unique facts and/or mitigating or aggravating circumstances presented. One or more of the listed sanctions may be imposed for any violation of the Code. The ultimate goal of the sanctions is to reinforce UH West O'ahu's commitment to a positive and safe learning environment consistent with acceptable social standards, and in accordance with federal, state and local laws. To achieve this goal, one or more of the sanctions listed above may be assigned.

Furthermore, when applicable, the Director of Compliance will work closely with Campus Security when a student has also violated the law. Campus Security will seek assistance from local law enforcement regarding drug and alcohol related offenses that occur on the UH West O'ahu campus and involve currently enrolled students when warranted.

Legal Sanctions

Federal

Federal law provides criminal and civil penalties for unlawful possession or distribution/sale of a controlled substance. Under the Controlled Substance Act⁵ as well as other related federal laws, the penalties for controlled substance violations include, but are not limited to, incarceration, fines, potential for the forfeiture of property used in possession or to facilitate possession of a controlled substance (which may include homes, vehicles, boats, aircrafts and any other personal or real property), ineligibility to possess a firearm, and potential ineligibility to receive federal benefits (such as student loans and grants).

⁵ [21 USC §801](#), *et seq.*



State

Hawai'i state law prohibits unauthorized possession and distribution/sale of various controlled substances.⁶ If an individual is found guilty of a violation of the state law, they may be subject to large fines and/or imprisonment depending on the dangerousness of the substance and other factors.

Further, Hawai'i state law prohibits any person under the age of 21 from possessing alcohol: "No [person under the age of 21] shall consume or purchase liquor and no [person under the age of 21] shall consume or have liquor in [their] possession or custody in any public place, public gathering, or public amusement, at any public beach or public park, or in any motor vehicle on a public highway" except according to certain specific exceptions (possession related to employment, religious services, or assistance with police).⁷

City and County of Honolulu

The Revised Ordinances of the City and County of Honolulu 1990 (ROH 1990) regulate alcohol and controlled substances in various ways that impact UH West O'ahu. For example, one may not possess alcohol in an open container on public property (with narrow exceptions), or possess GHB (a date-rape drug) at any time.⁸ Certain organic solvents and ephedrine are also regulated.⁹ Penalties for violations of these ordinances may include jail, probation, and fines.

Health Risks

According to the National Institute of Drug Abuse (NIDA), the following are risks associated with drugs and alcohol abuse.

Drug Abuse

See [Appendix B](#) for the most commonly abused drugs, listed with their associated risks and associated categories, per NIDA.

Drug and Alcohol Programs

Employees

WorkLife Hawai'i, an employee assistance program, is available for employees at UH West O'ahu. Information regarding this program is available at <http://www.worklifehawaii.org/>. However, employees may also find additional assistance and resources from community based organizations listed below.

⁶ [HRS 712-1240](#), *et seq.*

⁷ [HRS 281-101.5](#)

⁸ [ROH 1990, Sec. 40-1.1-40-1.3; Sec. 40-14.1-40-14.3.](#)

⁹ [ROH 1990, Sec. 40-5.1-40-5.6; Sec. 40-13.1-40-13.3.](#)



Substance abuse needs may also be covered by an employee's medical benefits.

Currently Enrolled Students

The following programs are available to currently enrolled students at UH West O'ahu:

- Individual counseling by UH West O'ahu Counseling Services for students who need assistance with substance and/or alcohol abuse issues
- Informational booths on substance and alcohol abuse at various student events
- Mental Health Moments are periodic communications via email from UH West O'ahu Counseling Services, regarding alcohol and drug awareness

Other Counseling, Treatment, and Rehabilitation Programs Available for Students and Employees

Hina Mauka

Waipahu Outreach Office

Substance Abuse Outpatient Program

94-830 Hikimoe Street

Waipahu, HI 96797

Ph. (808) 671-6900

<http://www.hinamauka.org>

Wai'anae Coast Comprehensive Health Center

Malama Recovery Services

Substance Abuse Outpatient Program

86-260 Farrington Hwy

Wai'anae, HI 96792

Ph. (808) 697-3722

<http://www.wcchc.com>

Action with Aloha

Substance Abuse Outpatient Program and

Individual Counseling

98-1256 Ka'ahumanu Street Suite #E301

Aiea, HI 96701

Ph. (808) 484-4489

<http://www.actionwithaloha.com>

Ho'omau Ke Ola

Substance Abuse Outpatient and

Inpatient Program

85-761 Farrington Highway

Waianae, HI 96792

Ph. (808) 696-4266

<http://www.hoomaukeola.org>



Annual Notification of the Drug and Alcohol Prevention Program (DAAPP) and Biennial Report

Notification

Notification of the information contained in the DAAPP will be distributed to all currently enrolled students and current employees of UH West O'ahu via email on or before September 25th of each year by the UH System Office of Human Resources.

Oversight Responsibility

The Director of Compliance shall have oversight responsibility of the DAAPP including, but not limited to: updates, coordination of information required in the DAAPP, and coordination of the annual notification to employees and students.

Biennial Report

Every two years, UH West O'ahu reviews its drug and alcohol prevention programs to determine the effectiveness of the programs and implement necessary changes; to determine the number of drug and alcohol related issues reported to UH West O'ahu officials that occur on campus or at UH West O'ahu activities; to determine the number and types of sanctions imposed by UH West O'ahu as a result of drug and alcohol related violations and fatalities on campus or at any UH West O'ahu activities; to ensure that sanctions imposed by UH West O'ahu for drug and alcohol violations are consistently enforced.

The current published Biennial Report can be found at [UH West O'ahu 2018 Biennial Review](#).

Nondiscrimination Policy

UH West O'ahu is committed to maintaining a fair and respectful environment for work and study and to protect students and prospective students, and employees and prospective employees from prohibited discrimination or harassment, consistent with federal, state and local law, other policies adopted by the Board of Regents, and rules and standards of conduct adopted by UH West O'ahu.

UH West O'ahu prohibits any member of the UH West O'ahu Community (including students, employees, staff, faculty, supervisors, administrators, officials, volunteers, guests, vendors, contractors and visitors) from discriminating against or harassing any other member of the UH West O'ahu Community on the basis of the member's race, sex, gender, sexual orientation, age, religion, color, national origin, ancestry, disability, domestic violence, marital status, arrest and court record, and veteran status. Prohibited discrimination occurs when one of these factors is the basis for treating a person worse than other people who are "similarly situated."

University of Hawai'i Board of Regents' [Policy on Nondiscrimination and Affirmative Action RP 1.205](#) applies to all students, employees, staff, faculty, supervisors, administrators, officials, volunteers, guests, vendors, contractors and visitors to campus. The Policy applies to all UH



West O'ahu programs and activities, including all academic, educational, extracurricular, athletic, social and other programs and activities related to UH West O'ahu. Application of the Policy is not limited to the UH West O'ahu campus, or to facilities or premises at which any UH West O'ahu-related programs or activities occur.

Sex/Gender Based Discrimination (Title IX)

As a recipient of Federal funds, UH West O'ahu is required to comply with Title IX of the Higher Education Amendments of 1972¹⁰ ("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. Examples of prohibited conduct include various types of sexual harassment: quid pro quo, hostile environment, and other sex based offenses such as sexual assault, dating violence, domestic violence, and stalking.

UH West O'ahu is committed to providing programs, activities, and a work and educational environment free from sexual harassment, sex discrimination and gender-based violence.

In accordance with the Title IX federal regulations, UH West O'ahu has designated the following individual as the campus Title IX Coordinator. For more information regarding Title IX, please contact:

Beverly Baligad, J.D.
Director of Compliance/Title IX Coordinator
Email: bbaligad@hawaii.edu or uhwot9c@hawaii.edu
Tel.: 808.689.2934

This individual, as well as any designated Investigators, Decision-makers and Informal Resolution Officers, has received formal and appropriate Title IX training through the Association of Title IX Administrators (ATIXA), Thompson Coburn, LLC and Academic Impressions. These organizations are nationally recognized in providing Title IX compliance training. For more information regarding UH West O'ahu's Title IX Coordinator, information and resources, please visit: <https://westoahu.hawaii.edu/compliance/title-ix/>.

UH West O'ahu utilizes the UH System Title IX Interim Executive Policy [EP 1.204: Interim Policy on Title IX Sexual Harassment](#) ("policy"). The policy identifies "sexual harassment" which includes sexual assault, domestic violence, dating violence and stalking as prohibited conduct. The UH System Interim Administrative Procedure [AP 1.204: Interim Title IX Sexual Harassment Grievance Process](#) ("grievance process") is the process the campus follows once a written formal complaint has been submitted to the campus Title IX Coordinator.

¹⁰ [20 U.S.C. Section 1681](#) et seq.



Under the grievance process, reports regarding sexual assault, domestic violence dating violence or stalking may be submitted to the campus' Title IX Coordinator. Once a written formal complaint has been filed, the Title IX Coordinator will make an initial determination formal complaint is sufficient to move forward under EP 1.204. If the formal complaint is sufficient, the Title IX Coordinator will initiate the Grievance Process by appointing a neutral investigator(s), who has no conflict of interest or bias for or against any of the parties, to conduct an investigation. Under certain circumstances, UH West O'ahu may initiate an investigation even absent a written formal complaint or if the formal complaint has been withdrawn.

Under specific circumstances, the Title IX Coordinator **must** dismiss a formal complaint, or any allegations, if at any time during the grievance process it is determined that: the conduct alleged in the formal complaint would not constitute sexual harassment as defined under the policy, even if proved; and/or the conduct did not occur in an educational program or activity controlled by the University (including buildings or property owned or controlled by recognized student organizations); and/or the University does not have control of the Respondent; and/or the conduct did not occur against a person in the United States; and/or at the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the University. In certain circumstances, UH West O'ahu **may** also dismiss a formal complaint or any allegations at any time during the grievance process.

Any time after a formal complaint has been submitted, and prior to reaching a determination following a hearing, the Complainant and Respondent may agree to informally resolve the complaint through an alternate resolution mechanism.

The UH West O'ahu Title IX Coordinator, Investigators, Adjudicators, and Informal Resolution Officers who are associated with the implementation of the Interim Policy, are required to receive annual training in addition to periodic subject-matter specific training to ensure and protect the safety of victims and to promote integrity and accountability within the process.

As a public institution, UH West O'ahu must provide an equitable process to both a Complainant and a Respondent. This includes conducting a prompt and impartial investigation and resolution. For example, both the Complainant and the Respondent must have the same opportunities to present information/witnesses during the Grievance Process and will be allowed the opportunity to select and be accompanied by an advisor of their choice at any meeting or proceeding relating to the charge(s). However, the role of the advisor will be limited as allowed under the Interim Process.

Information regarding the policies, and timely notification of meetings and hearings will be given to all participants. Deadlines and other time frames may be extended for good cause. Both parties will have an opportunity to review the investigatory materials used in the decision making process. In addition, both the Complainant and the Respondent will be simultaneously informed of the final outcome of any institutional disciplinary proceeding involving prohibited conduct, including any specific sanction imposed against the Respondent that is reasonable given the facts and the circumstances of each case, and does not violate FERPA requirements regarding



educational records. Both parties will also be given information about how to appeal the outcome of their case, and when results become final.

The standard of review required for all sexual harassment cases is the “preponderance of the evidence” standard. In other words, a determination will be made (based on all the evidence presented) as to “whether more likely than not” a Respondent has engaged in prohibited behavior defined under the Interim Policy.

If UH West O'ahu determines that a Respondent engaged in prohibited behavior as defined by the Interim Policy, the possible disciplinary action and sanctions may include a warning, disciplinary probation, suspension (with or without conditions), withholding of degree, expulsion/discharge, censure, housing restrictions, restriction of access to space, resources, and activities, other sanctions such as work assignments, essays, and/or service to a university campus, counseling, participation in an alcohol or other drug education programs, restorative justice activities, or other assignments as appropriate. Both parties may appeal the decision of a Decision Maker for specific reasons.

In addition, UH West O'ahu is also required and committed to upholding the First Amendment of the United States Constitution as well as any other constitution based protections for all of its students. Compliance with the provisions of Violence Against Women Act (VAWA) Reauthorization 2013 and the Campus Sexual Violence Elimination Act (Campus SaVE Act) does not constitute a violation of section 444 of the General Education Provisions Act¹¹ commonly known as the [Family Educational Rights and Privacy Act of 1974 \(FERPA\)](#).

Finally, UH West O'ahu has a Confidential Advocate (Complainant /Victim Resources), Leslie Cabingbang, who can assist complainants/victims when requested. She is available on Tuesdays and Thursdays on the UH West O'ahu campus, by appointment only. Leslie may be reached directly via email at lcabingqa@hawaii.edu.

The Confidential Advocate also serves as a member of the Chancellor's Compliance Hui (which provides programming and awareness events on campus) and attends regular Hui meetings and events.

Dating Violence, Domestic Violence, Sexual Assault, Stalking, and Related Terms

UH West O'ahu prohibits crimes involving dating violence, domestic violence, sexual assault, and stalking as those terms are defined in Section 304 of the Violence Against Women's Act (VAWA), known as the Campus Sexual Violence Elimination Act (“Campus SaVE Act”). For the purpose of community education and awareness, these crimes and related terms are defined in

¹¹ [20 U.S.C.1232g](#)



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 709-906. Abuse of Family or Household Members¹²

- (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 586-1¹³, a “Dating relationship’ means a romantic, courtship, or engagement relationship, often but not necessarily characterized by the 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

Hawai'i state law divides the crime of sexual assault into four categories, as stated in the HRS:

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;

¹² [HRS 709-906](#)

¹³ [HRS 586-1](#)



- (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 of 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 an 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 degree¹⁴

(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 with 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;

¹⁴ [HRS 707-732](#)



- (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 degree¹⁵

- (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.

¹⁵ [HRS 707-733](#)



- (d) The person knowingly engages in or causes sexual contact with 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.”

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.”

Stalking

Hawai'i state law defines “stalking” as a form of harassment, as stated in the HRS:

HRS 711-1106.5. Harassment by stalking¹⁶

- (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 non consensual contact upon the other person on more than one occasion without legitimate purpose.
- ...
- (3) For purposes of this section, “non consensual contact” means any contact that occurs without that individual's consent or in disregard of that person's expressed desire that the contact be avoided or discontinued. Non consensual 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.”

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 expressed or implied.”¹⁷

¹⁶ [HRS 711-1106.5](#)

¹⁷ *State v. Adams*, 10 Haw.App. 593, 605, 880 P.2d 226, 234 (1994) and recently reiterated in *State v. McFadden*, 136 Hawaii 190, 358 P.3d 759 (2015)



With regard to sexual assault crimes, Hawai'i law has defined what constitutes “ineffective consent” in HRS 702-235¹⁸:

“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.”

UH West O'ahu defines “consent” as “Consent is 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.”

Campus Compliance Hui (Programming, Training and Awareness)

The Chancellor of UH West O'ahu has created a Campus Compliance Hui (CCH), which consists of student and staff representatives from across the campus: Faculty, Campus Security, Communications, Counseling, Health Services, Human Resources, Student Affairs, Student Life, and Compliance.

UH West O'ahu's CCH identifies and coordinates the campus-wide effort to provide programming via awareness campaigns and events throughout the year. Last year, UH West O'ahu's programming activities included the following scheduled awareness campaigns and events:

- February: Letis in Waiting, February 13, 2019 (LGBTQ+ Awareness)
- February: One Billion Rising, Feb 14, 2019 (Gender-based Violence Awareness)

¹⁸ [HRS 702-235](#)



- February: Safe Zone Training, February 11, 2019 (LGBTQ+ Awareness)
- February: Safe Zone Training, February 15, 2019 (LGBTQ+ Awareness)
- April: Safe Zone Training, April 11, 2019 (LGBTQ+ Awareness)
- October: Safe Zone Training, October 23, 2019 (LGBTQ+ Awareness)
- October: Creepy - E - Quality, October 31, 2019 (Included Sexual Assault Awareness (Healing soles), Pride & History, Alcohol and Drug Awareness, Suicide Awareness)
- October: Safe Zone Training, Oct 11, 2019 (LGBTQ+ Awareness)
- November: Safe Zone Training, November 1, 2019 (LGBTQ+ Awareness)
- November: E Ola Pono, November 12 - 12, 2019 (Health and Wellness Week)

The CCH's programming and awareness efforts include, but are not limited to:

- a. Awareness programs.** "Awareness programs" refers to programs, campaigns, or initiatives that increase audience knowledge of the issues of sexual assault, domestic violence, dating violence and stalking and share information and resources to prevent interpersonal violence, promote safety, and reduce perpetration.

Campus "awareness programming" included informational poster/social media campaigns and educational programming that focuses on sharing resources and information about sexual assault, domestic/dating violence and stalking. CCH also sponsored the following events: "One Billion Rising" event aimed at building awareness on dating and domestic violence in our community; and "Healing Soles: Step Up Against Sexual Violence" to build awareness about sexual assault and other forms of sexual violence.

In addition to information provided during various on campus events, the campus community can also build awareness surrounding issues regarding intimate partner violence by visiting the CDC Preventing Intimate Partner Violence webpage <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/fastfact.html> or by viewing the CDC information video on sexual violence <https://youtu.be/LWctQH4C0P8>.

- b. Bystander intervention.** "Bystander intervention" refers to safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene in situations of potential harm when there is a risk of domestic violence, dating violence, sexual assault, or stalking.

UH West O'ahu's programming activities include social media campaigns, pamphlets, and handouts, and roundtable discussions with various audiences. UH West O'ahu held



“What’s Love” workshops (“Safe Zone Training Program for allies of LGBTQ people”; “Sexual Violence – Tools for Response and Prevention”; and “Mentors in Violence Prevention”) as a part of Sexual Violence Prevention and Awareness Workshops. UH West O’ahu also has a well-trained Behavior Intervention Team (BIT). Information may be submitted to the BIT anonymously on the BIT webpage at https://cm.maxient.com/reportingform.php?UHWestOahu&layout_id=2

In addition to the resources provided during on-campus events, the campus community is encouraged to use the “C-A-R-E”¹⁹ method to help individuals safely intervene and possibly prevent sexual assault, when/if necessary:

Create a distraction

Do what you can to interrupt the situation. A distraction can give the person at risk a chance to get to a safe place.

- Cut off the conversation with a diversion like, “Let’s get pizza, I’m starving,” or “This party is lame. Let’s try somewhere else.”
- Bring out fresh food or drinks and offer them to everyone at the party, including the people you are concerned about.
- Start an activity that draws other people in, like a game, a debate, or a dance party.

Ask directly

Talk directly to the person who might be in trouble.

- Ask questions like “Who did you come here with?” or “Would you like me to stay with you?”

Refer to an authority

Sometimes the safest way to intervene is to refer to a neutral party with the authority to change the situation, like an RA or security guard.

- Talk to a security guard, bartender, or another employee about your concerns. It’s in their best interest to ensure that their patrons are safe, and they will usually be willing to step in.

¹⁹ Rape, Abuse and Incest National Network (RAINN) <https://www.rainn.org/articles/steps-you-can-take-prevent-sexual-assault>



- Don't hesitate to call 911 if you are concerned for someone else's safety.

Enlist others

It can be intimidating to approach a situation alone. Enlist another person to support you.

- Ask someone to come with you to approach the person at risk. When it comes to expressing concern, sometimes there is power in numbers.
- Ask someone to intervene in your place. For example, you could ask someone who knows the person at risk to escort them to the bathroom.
- Enlist the friend of the person you're concerned about. "Your friend looks like they've had a lot to drink. Can you check on them?"

- c. Ongoing prevention and awareness campaigns.** "Ongoing awareness and prevention campaigns" refers to campaigns that are sustained over time focusing on increasing awareness or understanding of topics relevant to sexual assault, domestic/dating violence and stalking. These programs occur at different levels throughout the institution, they utilize a range of strategies and target the entire UH West O'ahu population, to include faculty, staff, new employees, athletics, incoming students, and continuing students).

UH West O'ahu's "ongoing prevention and awareness campaigns" included social media campaigns, pamphlets, and handouts, and/or roundtable discussions with various audiences. The campus also hosts "E Ola Kākou," an annual spring health and wellness fair, that includes suicide prevention, sexual harassment, dating/domestic violence and stalking awareness information and tables, and "E Ola Pono," an annual fall health and wellness fair, which includes a variety of wellness and awareness tables that provide information about sex/gender harassment, sexual assault, domestic/dating violence and stalking and Consent Loco Moco video available on the campus Title IX Training webpage.

The campus also sponsors "What's Love" workshops ("Safe Zone Training Program for allies of LGBTQ people"; "Sexual Violence – Tools for Response and Prevention"; and "Mentors in Violence Prevention") as a part of Sexual Violence Prevention and Awareness Workshops.

- d. Primary prevention programs.** "Primary prevention" refers to programming, initiatives and strategies intended to stop domestic violence, dating violence, sexual assault, or stalking before it occurs to prevent initial perpetration or victimization through the promotion of positive and healthy behaviors and beliefs.

UH West O'ahu's primary prevention program includes several presentations by



CAPT. Roy Nafarrete of the U.S. Navy called “Change the Culture.”

The program promotes “primary prevention” of destructive behaviors and events by:

1. Defining Culture
2. Examining society's role in the development of our personal behaviors.
3. Challenging individuals to assess their own behavior.
4. Emphasizing that "change starts with the individual" #checkyourself
5. Re-defining and executing new social norms derived from individual behavior change

This program is aimed at preventing destructive behaviors and destructive events, attacking the root cause.

- e. Risk reduction.** “Risk reduction” refers to approaches that seek to mitigate risk factors that may increase the likelihood of perpetration, victimization, or bystander inaction.

UH West O'ahu's risk-reduction activities include the creation and implementation of the campus' Behavior Intervention Team (BIT), implementation of Maxient (the online campus reporting), and general crime prevention education information.

Responding to Sex Offenses

Under Title IX, UH West O'ahu is required to have grievance procedures that appropriately addresses complaints regarding sexual harassment, sex discrimination and gender-based violence when reported to the institution (see section under [Sex/Gender Based Discrimination \(Title IX\)](#)).

UH West O'ahu highly encourages victims of sexual assault, domestic violence, dating violence, and/or stalking to timely report incidents to a Title IX Coordinator, Deputy Title IX Coordinator, the UH West O'ahu Campus Security Department, and/or other Campus Security Authority (CSA).

Filing a report with a UH West O'ahu Campus Security Department officer, or other CSA, will not obligate the Complainant to participate in a criminal investigation or prosecution, nor will it subject the Complainant to scrutiny or judgmental opinions from officers. Filing a report will:

- Ensure that a Complainant has an opportunity to access the necessary medical treatment and testing;
- Provide the opportunity for collection of evidence helpful in prosecution, which cannot be obtained later (ideally a Complainant of an alleged sexual assault should not wash,



- douche, use the toilet, or change clothing prior to a medical/legal exam);
- Assure the Complainant is provided information regarding free confidential counseling from community or campus counselors specifically trained in the area of sexual assault crisis intervention.
- Allow for UH West O'ahu to provide the Complainant with supportive measures, such as “no-contact” orders between the parties, witnesses, and others as appropriate. UH West O'ahu may also assist the Complainant and/or Respondent with changes in academic and living situations when available, appropriate, and requested by the Complainant or Respondent. To the extent possible, all supportive measures provided by UH West O'ahu will protect the identity of the Complainant.

When a Complainant contacts Campus Security, other UH West O'ahu officials (such as the Title IX Coordinator, the Deputy Title IX Coordinators, or Title IX Process Advisors) may be contacted to ensure compliance with federal and state law, when appropriate, to assist the Complainant and/or provide information regarding UH West O'ahu's Title IX grievance procedures. Please refer to the [Sex/Gender Based Discrimination \(Title IX\)](#) section of this document for more detailed process information.

UH West O'ahu has a Confidential Advocate (Complainant /Victim Resources), Leslie Cabingbang, who can assist complainants/victims when requested. She is available on Tuesdays and Thursdays on the UH West O'ahu campus, by appointment only. Leslie may be reached directly via email at lcabinga@hawaii.edu.

The Confidential Advocate will provide a written notification to victims about options for available assistance on how to request changes to academic schedules and/or other protective measures. If the requested accommodations or supportive measures are reasonably available, the institution will provide reasonable accommodations regardless if the victim chooses to report the crime to campus security or local law enforcement. Furthermore, when a student or employee reports that they have been a victim dating violence, domestic violence, sexual assault or stalking, whether the offense occurred on or off campus, the institution will provide the victim with a written explanation of the student's or employee's rights and options.

The Confidential Advocate also serves as a member of the Chancellor's Compliance Hui (which provides programming and awareness events on campus) and attends regular Hui meetings and events. UH West O'ahu also provides on-campus counseling. To find out more information regarding available campus counseling services, visit <https://westoahu.hawaii.edu/current-students/health-and-wellness/>.

UH West O'ahu provides written notification and information to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigrant assistance, student financial aid, and other services available for victims, both within and in the community when requested.

Community based counseling and support services outside UH West O'ahu include:



Hawai'i Domestic Violence Action Center

Ph. Toll Free: 1-800-690-6200

Helpline: (808) 531-3771

<http://www.stoptheviolence.org>

The Sex Abuse Treatment Center

Ph. (808) 524-7273

<http://www.satchawaii.com>

Parents and Children Together (PACT)

Ph. (808) 832-0855

<http://www.pacthawaii.org>

Catholic Charities Hawai'i

Ph. (808) 521-4357

<http://www.catholiccharitieshawaii.org>

Child and Family Service

Ph. (808) 681-3500

<http://www.childandfamilyservices.org>

National Sexual Assault Hotline

Ph. (800) 656-HOPE(4673)

<https://rainn.org>

The National Domestic Violence Hotline

Ph. (800) 799-safe (7233)

<http://www.thehotline.org>

Confidential Advocate (Complainant/Victim Resources):

UH Confidential Advocacy

Leslie Cabingbang, MSW Senior Confidential Advocate

Ph. (808) 348-0432

leslie.cabingbang@hawaii.edu

Sex Offender Registration Information

Campus Sex Crimes Prevention Act of 2000, which amends the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, the Clery Act and the Family Educational Rights and Privacy Act of 1974 (FERPA), requires institutions of higher education to issue a statement advising the campus community where law enforcement information provided by a state concerning registered sex offenders may be obtained. It also requires sex offenders already required to register in a state, to provide notice of each institution of higher education in the state at which the person is employed, carries a vocation, or is a student. In the State of Hawai'i, certain convicted sex offenders must register with the Sex Offender Registration Act



maintained by the Attorney General of Hawai'i.

The Hawai'i law requiring sex offenders and other covered offenders to register with the Attorney General can be found here: http://www.capitol.hawaii.gov/hrscurrent/Vol14_Ch0701-0853/HRS0846E/

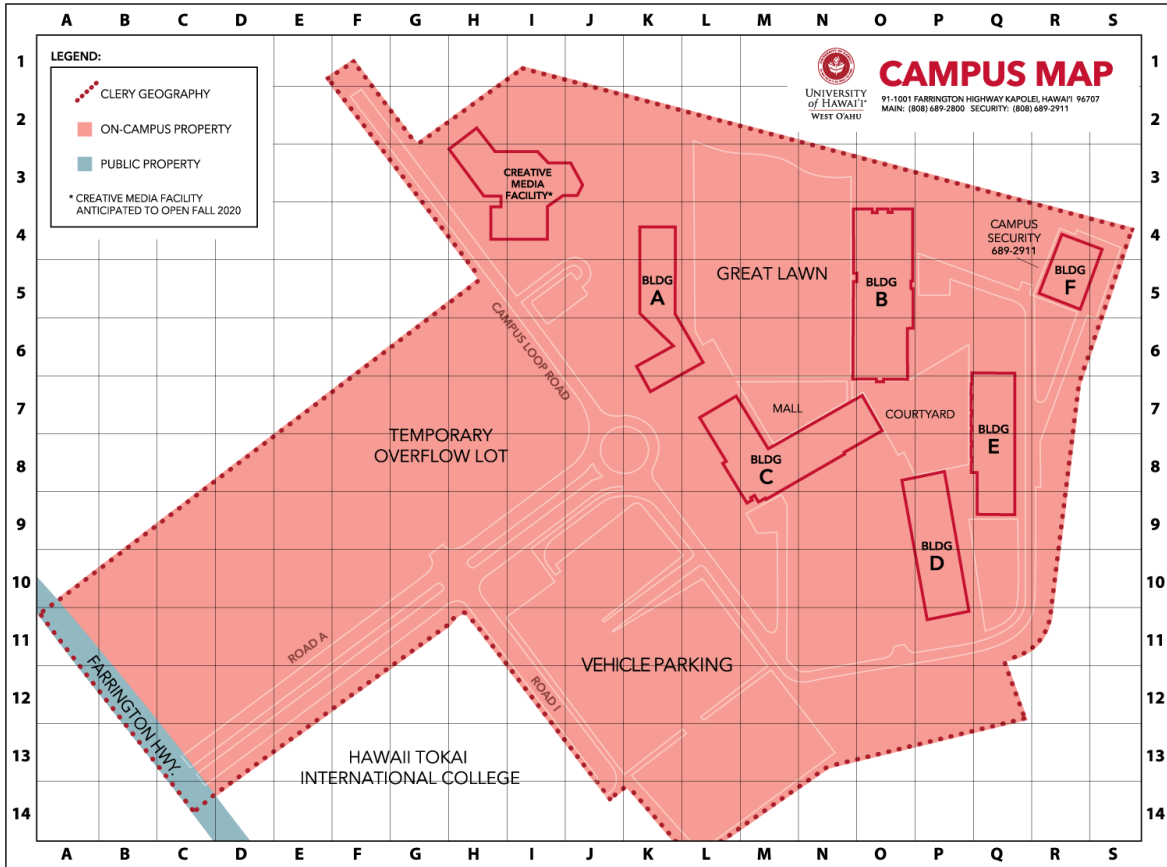
The Hawai'i Sex Offender (and other covered offender) Registry can be searched here: <http://sexoffenders.ehawaii.gov/sexoffender/welcome.html>

Registry information provided under this section shall be used for the purpose of the administration of criminal justice, screening of current or prospective employees, volunteers or otherwise for the protection of the public in general and children in particular.



Appendix A:

APPENDIX A





Appendix B:

Ayahuasca

A hallucinogenic tea made in the Amazon from a DMT-containing plant (*Psychotria viridis* or *Diplopterys cabrerana* or other) along with another vine (*Banisteriopsis caapi*) that contains an MAO Inhibitor preventing the natural breakdown of DMT in the digestive system, thereby facilitating a prolonged hallucinatory experience. It was used historically in Amazonian religious and healing rituals and is increasingly used by tourists.

Commercial names: None.

Street names: Aya, Yagé, Hoasca.

Common forms: Brewed as tea.

Short-term effects: Strong hallucinations including altered visual and auditory perceptions; increased heart rate and blood pressure; nausea; burning sensation in the stomach; tingling sensations and increased skin sensitivity.

Long-term effects: Possible changes to the serotonergic and immune systems, although more research is needed.

Other health risks: Unknown.

Central Nervous System Depressants

Medications that slow brain activity, which makes them useful for treating anxiety and sleep problems.

Commercial names: Barbiturates: pentobarbital (Nembutal), phenobarbital (Luminal).

Street names: Barbs, Phennies, Red Birds, Reds, Tooies, Yellow Jackets, Yellows. **Common forms:** Pill, capsule, liquid.

Commercial names: Benzodiazepines: alprazolam (Xanax), chlorodiazepoxide (Limbitrol), diazepam (Valium), lorazepam (Ativan), triazolam (Halicon), Klonopin (Clonazepam).

Street names: Candy, Downers, Sleeping Pills, Tranks.

Common forms: Pill, capsule, liquid.

Commercial names: Sleep Medications: eszopiclone (Lunesta), zaleplon (Sonata), zolpidem (Ambien).

Street names: Forget-me Pill, Mexican Valium, R2, Roche, Roofies, Roofinol, Rope, Rophies.

Common forms: Pill, capsule, liquid.

Short-term effects: Drowsiness, slurred speech, poor concentration, confusion, dizziness, problems with movement and memory, lowered blood pressure, slowed breathing.

Long-term effects: Unknown.

Other health risks: Sleep medications are sometimes used as date rape drugs. Risk of HIV, hepatitis, and other infectious diseases from shared needles.

Cocaine

A powerfully addictive stimulant drug made from the leaves of the coca plant native to South



America.

Commercial names: Cocaine hydrochloride topical solution (anesthetic rarely used in medical procedures).

Street names: Blow, Bump, C, Candy, Charlie, Coke, Crack, Flake, Rock, Snow, Toot.

Common forms: White powder, whitish rock crystal.

Short-term effects: Narrowed blood vessels; enlarged pupils; increased body temperature, heart rate, and blood pressure; headache; abdominal pain and nausea; euphoria; increased energy, alertness; insomnia, restlessness; anxiety; erratic and violent behavior, panic attacks, paranoia, psychosis; heart rhythm problems, heart attack; stroke, seizure, coma.

Long-term effects: Loss of sense of smell, nosebleeds, nasal damage and trouble swallowing from snorting; infection and death of bowel tissue from decreased blood flow; poor nutrition and weight loss from decreased appetite; lung damage from smoking.

Other health risks: Pregnancy: premature delivery, low birth weight, deficits in self-regulation and attention in school-aged children prenatally exposed. Risk of HIV, hepatitis, and other infectious diseases from shared needles.

DMT

A synthetic drug producing intense but relatively short-lived hallucinogenic experiences; also naturally occurring in some South American plants (See Ayahuasca).

Commercial names: None.

Street names: DMT, Dimitri.

Common forms: White or yellow crystalline powder.

Short-term effects: Intense visual hallucinations, depersonalization, auditory distortions, and an altered perception of time and body image, peaking in about 30 minutes when drunk as tea. Physical effects include hypertension, increased heart rate, agitation, seizures, dilated pupils.

Long-term effects: Unknown.

Other health risks: At high doses, coma and respiratory arrest have occurred.

GHB

A depressant approved for use in the treatment of narcolepsy, a disorder that causes daytime "sleep attacks."

Commercial names: Gamma-hydroxybutyrate or sodium oxybate (Xyrem).

Street names: G, Georgia Home Boy, Goop, Grievous Bodily Harm, Liquid Ecstasy, Liquid X, Soap, Scoop.

Common forms: Colorless liquid, white powder.

Short-term effects: Euphoria, drowsiness, nausea, vomiting, confusion, memory loss, unconsciousness, slowed heart rate and breathing, lower body temperature, seizures, coma, death.

Long-term effects: Unknown.

Other health risks: Sometimes used as a date rape drug.



condition that affects nearly 16 million people in the United States. (See “What Is Alcohol Use Disorder?”) The Centers for Disease Control and Prevention estimates that alcohol misuse, including AUD, costs the United States \$249 billion per year due to health care expenses, lost workplace productivity, crime, property damage, and other outcomes.”²⁰

²⁰ <https://www.niaaa.nih.gov/strategic-plan/introduction> (last visited 11/4/20)