2022
BRIGHAM YOUNG UNIVERSITY–HAWAII
ANNUAL SECURITY AND
FIRE SAFETY REPORTS
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### BYU–Hawaii | 2022 Annual Security and Fire Safety Reports
**RESOURCE PHONE NUMBERS**

Note: When dialing an emergency 911 number from a campus phone, you must first dial 9 to get an outside line, then dial 911 to be connected to an emergency dispatcher.

**POLICE AND SECURITY**

Honolulu Police Department – Main Station ................................................................................. 911 or 808-529-3111
Honolulu Police Department – Kahuku Substation ....................................................................... 911 or 808-723-8650
BYUH Campus Safety & Security .................................................................................................. 808-675-3911 or 5-3911 from a campus phone

**FIRE**

Honolulu Fire Department – Kahuku Fire Station 13 ..................................................................... 911 or 808-293-5005
Honolulu Fire Department – Hau’ula Station 15 ........................................................................... 911 or 808-293-5677

**ALCOHOL AND DRUG ABUSE COUNSELING**

Department of Health (Alcohol and Drug Abuse Division) ............................................................... 808-692-7506
Coalition for a Drug Free Hawaii (https://www.drugfriehawaii.org/) ........................................... 808-545-3228 (Ext. 21)
Hawaii Prevention Resource Center (https://www.hiprc808.org/) ............................................ 808-545-3228 (Ext. 34)

**COUNSELING AND VICTIM ASSISTANCE**

BYU–Hawaii Counseling Services ............................................................................................... 808-675-3518 or 5-3518 from a campus phone
24-hour Crisis Hotline ...................................................................................................................... 1-800-753-6879 or text 741-741
Ko’olauloa Health Center ............................................................................................................... 808-293-9231 (Kahuku)/ (808)293-9216 (Hau’ula)
Family Services .................................................................................................................................. 808-945-3690

**TITLE IX REPORTS (SEXUAL HARASSMENT)**

Title IX Office ............................................................................................................................... 808-675-4585 or 5-4585 from a campus phone
You may also report through the university’s Report a Concern web page at https://reportaconcern.byuh.edu/; or, through EthicsPoint, the university’s 24-hour hotline provider, by telephone at 888-238-1062, or by submitting information online at https://secure.ethicspoint.com/domain/media/en/gui/17652/index.html.

**HEALTH CARE**

BYU–Hawaii Health Services ......................................................................................................... 808-675-3510 or 5-3510 from a campus phone
Adventist Health Castle (Kailua) ..................................................................................................... 808-263-5500
Kahuku Medical Center .................................................................................................................. 808-293-9221
Ko’olauloa Health Center ............................................................................................................... 808-293-9231 (Kahuku)/ (808)293-9216 (Hau’ula)

**REPORTING HAZARDS**

BYU–Hawaii Campus Safety & Security .. 808-675-3911 (5-3911 from campus phone) or 808-675-3503 (5-3503 from campus phone)
BYU–Hawaii Residential Life ........................................................................................................... 808-675-3534
Facilities Management Service Center ........................................................................................................... 808-675-3400
MESSAGE FROM PRESIDENT KAUWE

Compliance with federal and institutional guidelines protects each of us and the resources with which we are entrusted. BYU–Hawaii is committed to establishing and maintaining a culture of consistent compliance. I invite you to learn compliance requirements that are part of your responsibilities and make them a natural part of your daily work.

Sincerely,

John S.K. Kauwe III

University President, BYU–Hawaii
WHAT IS THE CLERY ACT?

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act—known as the Clery Act—is named for Jeanne Clery, a 19-year-old Lehigh University student who was raped and killed in her dorm room in 1986. The law was originally enacted in 1990 as the Crime Awareness and Campus Security Act (Title II of Public Law 101–542), which amended the Higher Education Act of 1965.

The Clery Act is intended to provide students and their families, as higher education consumers, with accurate, complete, and timely information about safety on campus so that they can make informed decisions about where to attend school. The act requires all postsecondary educational institutions participating in Title IV student financial aid programs to disclose campus crime statistics and security information. Among other requirements, higher education institutions subject to the law must do the following:

- Collect, report, and disseminate crime data.
- Develop policy statements regarding campus safety.
- Provide educational programs and campaigns on campus safety and crime prevention.
- Prepare and distribute an annual security report.
- Issue campus timely warnings and emergency notifications to the campus community.
- Submit crime statistics to the U.S. Department of Education.

CLERY ACT ANNUAL SECURITY REPORT PREPARATION

This document is designed to provide students and employees with information concerning personal safety and university policies and to comply with federal law. The university Clery Act compliance coordinator prepares and publishes the report annually by compiling updated policy information and relevant crime data maintained by BYU–Hawaii Campus Safety & Security, reported by campus security authorities, and provided by local law enforcement. The university’s Office of Compliance & Ethics provides statutory and regulatory compliance oversight of the report’s contents. For additional information or to submit changes and corrections to this report, please contact the Clery Act compliance coordinator, Anthony Pickard, Director, Campus Safety & Security at (808) 675-3501 or email to anthony.pickard@byuh.edu.

COLLECTING CRIME DATA AND REPORTING PROCEDURES

The Clery Act requires universities to annually disclose statistics for certain reported crimes in certain areas and categorize them based on the following criteria: the person who received the crime report, the type of crime reported, the year in which the crime was reported, and the geographic location where the reported crimes occurred. For purposes of the Clery Act, relevant geographic locations include campus, public property within or immediately adjacent to campus, and non-campus buildings or property that are owned or controlled by BYU–Hawaii (Clery Geography). A map of campus is included as Appendix A.

REPORTED CRIME STATISTICS

Statistics are collected from the following sources:

- Campus Safety & Security,
- Campus security authorities (CSAs),
- Dean of Students,
- Department of Human Resources,
• Residential Housing Office,
• Title IX Office,
• EthicsPoint compliance hotline (BYU–Hawaii’s anonymous hotline operated by a third party),
• Report a Concern (BYU–Hawaii’s internal reporting facility), and
• Honolulu Police Department.

The crime statistics in the following tables, which are categorized using the Federal Bureau of Investigation’s (FBI’s) National Incident-Based Reporting System (NIBRS) definitions, contain the number of crimes reported for each category of criminal offenses for a three-year period. These categories include hate crimes, Violence Against Women Act (VAWA) offenses, arrests, and disciplinary referrals. Together the crimes in these four categories are referred to as Clery Act Crimes. Appendix B contains the definitions for all Clery Act Crimes.

Although the Clery Act requires institutions to use the NIBRS for defining and classifying crimes, it does not require Clery Act crime reporting to meet all NIBRS standards. The reported crime statistics may or may not reflect the number of crimes actually committed on campus; however, they do accurately record the number of crimes reported to CSAs and to local law enforcement.

CRIME LOG

In addition to requiring the disclosure of crime statistics in the annual security report, the Clery Act also requires the university to record all criminal incidents and alleged criminal incidents that are reported to Campus Safety & Security. To comply with this requirement, Campus Safety & Security maintains a daily crime log of reported incidents that includes the nature, date, time, general location, and disposition, if known, of crimes that occur within the Clery Geography. This log is provided and maintained by Campus Safety & Security and is available online at https://safetyandsecurity.byuh.edu/daily-crime-log. Criminal activity reported to Campus Safety & Security is entered in the crime log within two business days of receiving a report. To ensure the confidentiality of victims, the crime log does not include personally identifiable information.

More information about Campus Safety & Security, reporting a crime, preventing crimes, criminal situations, emergencies, notifications, procedures, safety considerations, and victim resources can be found throughout this report.

The following pages contain data tables describing the reported Clery Act Crimes for BYU–Hawaii’s Clery Geography for the period from January 2019 through December 2021. Clery Act reported crime information is confidential. Crimes included in the annual security report statistics are anonymous and do not contain any personally identifiable information. For questions regarding the reported data, please contact the Clery Act compliance coordinator.
### 2019 – 2021 REPORTED CRIME STATISTICS

#### CRIMINAL OFFENSES

<table>
<thead>
<tr>
<th></th>
<th>Campus and Residence Hall Totals</th>
<th>Non-Campus Property</th>
<th>Public Property</th>
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<tbody>
<tr>
<td>RH*</td>
<td>Total</td>
<td>RH</td>
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<tr>
<td>Murder/Non-Negligent Manslaughter</td>
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<tr>
<td>Rape</td>
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</tr>
<tr>
<td>Fondling</td>
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<tr>
<td>Incest</td>
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</tr>
<tr>
<td>Statutory Rape</td>
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</tr>
<tr>
<td>Robbery</td>
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<tr>
<td>Aggravated Assault</td>
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<tr>
<td>Burglary</td>
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<tr>
<td>Motor Vehicle Theft</td>
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<tr>
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#### HATE CRIMES**

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<th>Campus and Residence Hall Totals</th>
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<tr>
<td>Murder/Non-Negligent Manslaughter</td>
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<tr>
<td>Incest</td>
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<tr>
<td>Statutory Rape</td>
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<tr>
<td>Robbery</td>
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<tr>
<td>Aggravated Assault</td>
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<td>Motor Vehicle Theft</td>
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<tr>
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<tr>
<td>Intimidation</td>
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*RH=Residence Hall  
**Hate Crime Categories of Prejudice: Disability (D), Ethnicity (E), Gender Identity (Gl), Gender (G), National Origin (N), Race (Ra), Religion (Re), Sexual Orientation (S)
### VAWA OFFENSES

<table>
<thead>
<tr>
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<th>Campus and Residence Hall Totals</th>
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<tbody>
<tr>
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### ARRESTS

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<td></td>
<td>Total</td>
<td>RH</td>
<td>Total</td>
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<tr>
<td>Illegal Weapons Possession</td>
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<tr>
<td>Drug Law Violations</td>
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<tr>
<td>Liquor Law Violations</td>
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### DISCIPLINARY REFERRALS

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<td>Illegal Weapons Possession</td>
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<tr>
<td>Drug Law Violations</td>
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<tr>
<td>Liquor Law Violations</td>
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</tr>
</tbody>
</table>

*RH=Residence Hall

**Hate Crime Categories of Prejudice: Disability (D), Ethnicity (E), Gender Identity (GI), Gender (G), National Origin (N), Race (Ra), Religion (Re), Sexual Orientation (S)
BYU–HAWAII CAMPUS LAW ENFORCEMENT: CAMPUS SAFETY & SECURITY

CAMPUS SAFETY & SECURITY AUTHORITY AND JURISDICTION

BYU–Hawaii Campus Safety & Security provides security services to the university community, which include approximately 3,000 students, faculty, and staff, as well as security coverage for the Polynesian Cultural Center. Campus Safety & Security consists of eight full-time employees, and sufficient part-time temporary workers and student employees to cover all shifts 24 hours a day, 7 days a week.

COOPERATION WITH OTHER LAW ENFORCEMENT

Campus Safety & Security officers derive their authority to prevent and investigate crime and to enforce campus regulations and policies from the BYU–Hawaii President’s Council. They are not sworn law enforcement officers. Criminal activity on campus may also be investigated by the Honolulu Police Department.

DISPATCH RESPONSE

Campus Safety & Security dispatch is staffed with student and part time dispatchers who receive calls 24 hours a day, 7 days a week. All criminal and emergency calls received by Campus Safety & Security dispatchers are sent to the supervisor on duty. Campus Safety & Security also maintains the university’s security system, which includes an integrated electronic card access system, intrusion detection, and camera security system that encompasses the majority of campus facilities and key outdoor areas. The system is composed of hundreds of alarm points, card-access-equipped doors, and cameras.

OFFICER TRAINING

All personnel in Campus Safety & Security are trained to be first responders in an emergency. Such responders may include department administrators, shift supervisors, officers, and dispatchers. Moreover, officers receive specialized and ongoing training on crime prevention and awareness, defensive tactics, legal regulation updates, evidence gathering, and traffic control.

PATROL

Campus Safety & Security officers are responsible for providing a full range of public safety services to the BYU–Hawaii campus community. This includes the response to and recording of reported crimes; follow-up investigations; traffic accident investigation; medical and fire emergencies; and any other matters requiring security presence or assistance.

Activities and incidents addressed by officers and staff in the department are captured in the department’s electronic tracking software program, Spillman Nova. Dispatchers provide 24/7 coverage with detailed logs of all daily activities occurring on campus and at the Polynesian Cultural Center.

INVESTIGATION

Campus Safety & Security dedicates officers to investigate crimes and incidents reported on campus. Investigative reports are maintained on the department’s Spillman records management system and receive a case number, once filed with the department. Criminal investigations may also be conducted by the Honolulu Police Department.
ASSISTANCE FOR SEXUAL VIOLENCE VICTIMS

A victim of a Clery-reportable sexual violence crime may submit a written request for a report describing the disciplinary actions taken by BYU–Hawaii against the perpetrator of the crime. Please see the Sexual Harassment Grievance Procedures (Title IX) (Appendix D) and Sexual Harassment Grievance Procedures (Non-Title IX Sexual Violence) (Appendix E) for information regarding victim’s rights and notifications in an investigation of alleged dating violence, domestic violence, sexual assault, or stalking. If a victim wishes to know the outcome of an investigation and action taken by BYU–Hawaii in response to the crime committed against the victim, the victim should contact the Title IX Coordinator. The next of kin of a deceased victim may request this information on the behalf of the victim.

REPORTING CRIMES AND EMERGENCIES

WHO DO I CONTACT?

BYU–Hawaii Campus Safety & Security officers have jurisdiction over all security-related issues occurring on BYU–Hawaii’s properties and at the Polynesian Cultural Center. Any suspicious activities, suspected crimes, or emergencies, should be reported immediately to an officer or dispatcher on duty.

BYU–Hawaii encourages the accurate and prompt reporting of all crimes and emergency situations. Students and employees should immediately report all emergency criminal incidents to Campus Safety & Security, or other law enforcement agencies as appropriate, even if the victim of a crime does not or is unable to report the crime. Immediate reporting allows Campus Safety & Security to provide assistance, initiate investigations, and identify crimes and situations that pose an immediate or ongoing threat to the campus so that the university can issue a timely warning if needed.

Contact information for Campus Safety & Security is listed on page 7 above. Additional contact information for the Campus Safety & Security Department can be found on their website at https://safetyandsecurity.byuh.edu/. Individuals wishing to report information or meet with an officer in person are invited to visit the Campus Safety & Security office at McKay Classroom Building Room 148.

LOCAL LAW ENFORCEMENT AUTHORITIES

The Honolulu Police Department has jurisdiction over law enforcement issues within Laie and is an important partner in student safety. Students who experience crime while off campus, including those residing in off-campus housing, should promptly report those crimes and emergency situations to the Honolulu Police Department (dial 911).

BYU–HAWAII CAMPUS SAFETY & SECURITY

Campus crimes may be reported to BYU–Hawaii Campus Safety & Security or to Honolulu Police. Campus Safety & Security is responsible to provide security within campus buildings, to respond to non-criminal reports on campus, to provide parking enforcement, and to respond to alarms and suspicious circumstances. It also operates the Aloha Late Night Shuttle Service and patrols in buildings and around campus. If a security officer becomes aware of a crime or a dangerous situation, the security officer will notify BYU–Hawaii Dispatch immediately, and the Honolulu Police Department will be asked to respond to the reported incident.

Security at special events, such as sporting activities and other large gatherings, may be provided through a combination of BYU–Hawaii Security, other personnel from BYU–Hawaii or the community, and the Honolulu Police Department. Emergency situations at special events should be reported by calling 911. Non-emergency situations and
crimes occurring at BYU–Hawaii events should be reported to the nearest event security staff or to dispatch (808-675-3911).

## CRIME REPORTING CONTACTS

**Campus Safety & Security McKay 148**

Emergency Phone Line: (808) 675-3911 (5-3911 from campus phones) (Note: You may call this number for any desired assistance, emergency or otherwise)

Dispatcher: 808-675-3503 (5-3503 from campus phones)

Email: security@byuh.edu

## HONOLULU POLICE DEPARTMENT

Emergency: From campus phones: 9-911# or off-campus and cell: 911

Non-emergencies: Kahuku Station: 808-723-8650

56-470 Kamehameha Hwy Kahuku, HI 96731

## PASTORAL AND PROFESSIONAL COUNSELORS

A pastoral counselor is 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. A professional counselor is a person whose official responsibilities include providing mental health counseling to members of the campus 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 university employees but are under contract to provide counseling to the campus community.

Generally, pastoral counselors and professional counselors are not required to report crimes they learn of in their roles as counselors. The pastoral or professional counselor exemption is intended to encourage individuals to seek counseling services without concerns that the counselor will disclose confidential information. This is similar to the privilege provided under certain circumstances to doctors and attorneys. However, all legally recognized privileges contain some exemptions, and there are certain situations in which counselors are under a legal obligation to report crimes.

To be exempt from disclosing reported offenses, pastoral or professional counselors must be acting in the role of pastoral or professional counselors. An individual who is not yet licensed or certified as a counselor, but who is acting in that role under the supervision of an individual who meets the definition of a pastoral or professional counselor, is considered to be a counselor for purposes of the Clery Act. For example, a BYU–Hawaii PhD counselor-trainee acting under the supervision of a professional counselor is acting as a professional counselor. University professional counselors and ecclesiastical counselors are encouraged to make individuals aware of the EthicsPoint compliance hotline as a confidential and anonymous means to report a crime.

Not all university employees qualify for the professional counselor exemption. For example, a dean of students who has a professional counselor’s license, but who is employed by the university only as a dean and not as a counselor, is not exempt from reporting. If that same dean is employed by BYU–Hawaii as both a professional counselor and an academic counselor, and the dean learns of a criminal incident while engaged in academic counseling, the dean is not exempt from reporting that incident. If an individual has dual roles, one as a professional or pastoral counselor and the other as an official who qualifies as a campus security authority (CSA), and the roles cannot be separated, that individual is considered a CSA and is obligated to report Clery Crimes of which they are aware.
An individual who is counseling students and/or employees, but who does not meet the Clery Act definition of a pastoral or professional counselor, and who has been designated a CSA is not exempt from CSA reporting obligations. This includes positions such as director of the Student Health Center, director of Counseling Services, etc.

**CAMPUS SECURITY AUTHORITIES**

BYU–Hawaii Campus Safety & Security is the preferred contact for reporting campus crimes. However, students and employees may also report criminal incidents to campus security authorities (CSAs), who are individuals who have responsibility for campus security, the authority to institute corrective measures for Title IX purposes, or significant responsibility for student and campus activities, including student housing, student discipline, and campus judicial proceedings. The individuals, departments, and organizations listed below are currently designated as CSAs for BYU–Hawaii. CSA designations may change from year to year as individual responsibilities are modified.

CSAs are responsible for reporting to Campus Safety & Security and the Clery Act compliance coordinator all allegations of Clery Act crimes that are reported to them while they are acting in their role as a BYU–Hawaii CSA. CSAs are not responsible for reporting crimes they hear about indirectly or in a classroom setting. Likewise, faculty members who are CSAs due to responsibilities outside the classroom only act in the role of a CSA while fulfilling those responsibilities, such as acting as a faculty advisor to a club.

**BYU–HAWAII CSAs**

- All personnel in the BYU–Hawaii Campus Safety & Security Department;
- All personnel in BYU–Hawaii Facilities Management;
- All personnel in Housing and Residential Life, including Residential Advisor Mentors (RAs) and Residential Coordinators;
- All personnel in Human Resources;
- All personnel in the Office of Honor;
- All personnel in Student Leadership, Activities, and Service;
- All personnel in Counseling and Disability Services;
- The following specific individuals:
  - Title IX Coordinator,
  - Title IX Deputy Coordinator,
  - Dean of Students,
  - Administrative Vice President,
  - Director of Food Services,
  - Chief Compliance Officer,
  - Senior Manager, International Student Services,
  - Director of the Student Health Center,
  - Manager, Alumni & Career Services,
  - Director-David O. McKay Center for Intercultural Understanding,
  - Manager of Seasider Sports & Student Activities,
  - Advisors to Campus Clubs and Societies, and
  - Director of Human Resources at the Polynesian Cultural Center.

**ON-CAMPUS HALL ADVISORS OR MANAGERS**

Residents of campus housing are encouraged to report hazardous conditions or safety concerns to a hall advisor or housing administration manager.

**ETHICSPOINT COMPLIANCE HOTLINE**
Crimes may be reported anonymously and confidentially through the EthicsPoint compliance hotline. The university contracts with a third party to provide the EthicsPoint hotline for reporting nonemergency incidents on a voluntary and confidential basis, either by phone or online. The hotline is a way to report reasonable suspicion of noncompliance with law or policy, particularly when other methods of reporting may be unavailable or otherwise inappropriate or ineffective under the circumstances.

The EthicsPoint compliance hotline should be used if individuals are uncomfortable reporting suspected compliance violations through normal reporting lines, have a concern over retaliation, or if other direct internal resolution mechanisms have not resolved a compliance issue. Individuals should not use the hotline to report a crime in progress, an emergency, or any other event presenting an immediate threat to a person or property. The hotline does not replace other channels for reporting concerns that can be directed to a particular office. For example, sexual violence may be reported directly to the Title IX Office. Those who use the hotline to make a report should explain the issue in detail. After a report is submitted, the person who created the report should follow up regularly, either by internet or phone, to answer any posted questions.

**EMERGENCY ALERTS**

**TIMELY WARNINGS**

In the event of a Clery Act crime that represents an ongoing threat to the safety of students or employees at BYU–Hawaii, BYU–Hawaii Campus Safety & Security is responsible for confirming facts that would indicate that timely warnings are appropriate. Subsequently, Campus Safety & Security will create and transmit the warning message in a timely manner using an appropriate means that may include the university’s emergency notification system, emails, posters, broadcast announcements, local news media, or other appropriate means.

If time permits, Campus Safety & Security will notify the President, a Vice President, or the assigned Duty-officer prior to making the timely warning.

The Director of Campus Safety & Security or designee reviews reports of violent crimes, on a case-by-case basis, that may impact the safety of students, employees or visitors, and makes appropriate notification to the university community taking into account the nature of the crime, the continuing danger to the campus community, and the possible risk of compromising law enforcement efforts. The timely warning notification should include all information that would promote safety and aid in the prevention of similar crimes. The timely warning notification should be issued in a format likely to reach the entire campus community where appropriate, as noted above.

**EMERGENCY NOTIFICATIONS**

Upon confirmation of any significant emergency or dangerous situation involving an imminent threat to the health or safety of the campus community, the BYU–Hawaii Campus Safety & Security Director, Manager, or on-duty Supervisor, in consultation with the university administration where possible, but without delay, and taking into account the safety of the community, will determine the content of the notification and initiate the emergency notification system and will notify appropriate police and fire authorities, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency. Campus Safety & Security officers will, throughout the emergency as appropriate, identify and provide notifications to the appropriate segments of the campus including evacuation and/or shelter-in-place alert directions and, as time permits, the state of emergency and actions required to preserve personal safety.

Campus Safety & Security and Risk Management personnel will continually evaluate the situation and assess the need to provide additional informative notification to the campus population.

Emergency notification may be made, where appropriate, through the campus emergency alert system (Everbridge), campus loudspeaker system, text, email, or other means appropriate to the emergency. Notification to
the local community will be through the Everbridge system, which includes registered community members and members of the Laie Emergency Planning Committee.

**EMAIL**

One way BYU–Hawaii communicates with individuals in an emergency is through emails and IP phone messages. Any student or employee who has provided an email address as part of their contact information will receive an emergency email alert.

**IP PHONES**

In an emergency, the emergency alert system will send an audio recording and text message through the telephone servers to all IP phones (usually desk phones) on campus. Once an alert has been issued, the LCD screen will display a text message alert and each individual IP phone handset will ring with a call that has an automated voice message alert. If an individual is using the phone when the emergency alert is issued, the text message will appear on the LCD screen, and the call will still ring through the handset. Both individuals on the phone will hear a beep, and the message will play through the headset without the owner of the phone answering the call. The owner of the phone will hear the voice message, but the individual on the other end of the call will not.

**TEXTS**

To receive emergency alert messages by way of text messaging and email, campus members must register their information online via their personal account profile. Select “myBYUH Student,” “Student Center,” or “Personal Information;” select “Contact Information;” select “Phone;” under “Phone Type” select “Add a Phone Number;” add “Campus Alert” from the drop-down menu, and insert the desired notification phone number, select “Save.”

**TESTING**

On a semiannual basis, the university will test the mass notification system. The test may be announced or unannounced and will send the campus community a text message that is similar to the following: “This is a test of BYU–Hawaii’s emergency notification system.” In the event of a real emergency, the alert message will tell you what the emergency is and what to do. A record is made of each test, including a description, the date and time of the test, and whether it was announced or unannounced.

**EVACUATIONS AND EVACUATION DRILLS**

In the event a situation results in evacuation of a building, a segment of campus, or all of campus, building alarms will alert building occupants to evacuate the building. The emergency alert system may also be activated to provide instructions to the campus community.

Under the direction of Campus Safety & Security, the university conducts evacuation drills on an annual or more frequent basis. A record is made for each drill. These records include the description, location, date, and time of the drill as well as whether the drill was announced or unannounced.

**COVID-19 RESPONSE**

COVID-19 was identified as a threat to student safety in March 2020. As the pandemic unfolded in 2020, BYU–Hawaii took steps to protect students and employees from its spread, including requiring masks on campus, quarantining infected and exposed individuals, and moving to remote work and instruction. Many of these efforts continued through 2021, as they did for other universities throughout the United States. Due to the pandemic and
changing state and local health restrictions, some of the events and safety programs described in this report were modified to meet current health advisories.

Although BYU–Hawaii has returned to pre-pandemic methods of providing its training and safety programs, future state and local health advisories may result in the modification or cancellation of these programs and events. Please contact program coordinators for scheduling information about training and safety programs. For up-to-date information about BYU’s efforts to combat COVID-19, please visit https://www.byuh.edu/covid19. In the event a situation related or similar to COVID-19 warrants emergency notification to some or all of the campus community, the university will follow its established emergency notification procedures described in this report.

SECURITY OF CAMPUS FACILITIES, ON-CAMPUS HOUSING, AND THE POLYNESIAN CULTURAL CENTER

Facilities Management maintains university buildings, grounds, and housing facilities with a focus on safety and security. They regularly inspect these facilities and promptly make appropriate repairs. They also respond 24 hours a day to reports from the public or BYU–Hawaii Campus Safety & Security of potential safety and security hazards. Representatives from Campus Safety & Security and Facilities Management periodically inspect the entire campus to review lighting and environmental safety concerns.

BYU–Hawaii is an open campus with restrictions, meaning that most university facilities are open to the public during the day and evening hours when classes are in session. When buildings have been secured for the night or for holidays, only employees and authorized students with proper identification are admitted. Access may also be restricted during a safety or emergency situation. The majority of campus buildings are equipped with an electronic card-access security system. Many areas of campus are also monitored using a security camera surveillance system, and the campus is patrolled by Campus Safety & Security officers.

Campus Safety & Security officers also ensure that the Polynesian Cultural Center is secure and report crimes, suspicious activities, or other hazardous situations or emergencies as needed 24 hours a day, seven days a week.

ON-CAMPUS HOUSING

The residence halls or “hales” for unmarried students on campus are two-story and three-story buildings. The Temple View apartments (TVA) are for married students and their families located on campus.

BYU–Hawaii Residential Life supports a safe environment for student residents. Campus Safety & Security officers regularly patrol on-campus housing and work closely with the Residential Life staff and residents to promote safety and security. Campus Safety & Security offers crime awareness and prevention orientations to Residential Life staff and residents. After hours, residence halls are restricted to persons who live and work there. All building entrances are locked for security, with crash bars provided for emergency exits. Hall security is monitored in each area by full-time Residential Coordinators and Residential Advisor Mentors. No privately owned housing, fraternities, or student organization housing exists on campus.

To enhance personal security, students and residents in housing facilities are advised to

- Lock doors to individual rooms,
- Report strangers and suspicious individuals to Campus Safety & Security Operations Center or Residential Coordinator or Residential Advisor Mentor,
- Never prop open secured entrances, and
- Be sure visitors are accompanied by a resident, even when the halls are open and unlocked (residents are responsible for their guests’ actions).

FRATERNITIES AND OFF-CAMPUS STUDENT ORGANIZATIONS
BYU–Hawaii does not recognize off-campus student organizations or fraternities. Campus Safety & Security do not patrol or respond to crimes occurring in off-campus housing. Local law enforcement agencies are responsible for policing off-campus student residences.

**REPORTING A HAZARD**

Students and employees are encouraged to assist by reporting any potentially unsafe area, facility, or hazardous situation as follows:

- Housing areas, call the housing office at (808) 675-3534;
- General campus areas or buildings, call Facilities Management at (808) 675-3400; and,
- After business hours (5:00 pm) call the Security Operations Center at (808) 675-3503 or (808) 675-3911.

**OFF-CAMPUS STUDENT HOUSING**

Generally, all single students under the age of twenty-five years who reside off campus must reside in university-approved housing. In order to meet the housing need, there are numerous privately-owned rental units off campus in which students may reside. The university approves these off-campus living units based on agreed-to minimum living standards. Landlords, owners, or property managers sign a contract that requires them to make reasonable efforts to maintain rental facilities in good repair, including properly functioning locks on doors and windows. Although housing representatives are required to make annual inspections of all their university-approved rental units, the university cannot and does not guarantee or represent that owners and managers always meet health or safety standards established by BYU–Hawaii, the city, county, or state. Thus, students are individually responsible to choose carefully a safe and secure off-campus apartment.

Crime prevention and campus awareness programs emphasizing security and what residents can do for their own safety and well-being are provided for students who reside off campus. These programs and other crime prevention materials are free and available upon request by calling Campus Safety & Security at (808) 675-3911.

**MISSING STUDENT NOTIFICATION POLICY AND PROCEDURE**

Annually, the university will inform every student who lives in on-campus student housing of the opportunity to provide the name and contact information of one or more individuals to serve as a contact for missing persons purposes (Missing Persons Contact). The Missing Persons Contact may be different from the student’s general emergency contact. Students may designate their Missing Persons Contacts on the myBYUH Student tab. Log on to myBYUH Student, select Student Center. Under Contact Information select Phone, then Add a Phone Number. Select the drop-down menu and select Missing Person Contact. Enter your missing person contact phone number, then select Save. The Missing Persons Contact will be registered confidentially, will be accessible only to authorized campus officials, and will not be disclosed except to law enforcement personnel in furtherance of a missing person investigation.

Students, employees, or other individuals who have reason to believe that a student in on-campus housing has been missing from campus for 24 hours should immediately alert one of the following:

- Campus Safety & Security – (808) 675-3911, 148 McKay;
- A Residence Life Hale Coordinator;
- A Resident Advisor;
- Director of Campus Life (808) 675-3311 Aloha Center 166.
- Dean of Students – (808) 675-4586, LSB 121

Reports of missing students may also be made to the Honolulu Police Department by calling 9-1-1.
Any report of a student missing from on-campus housing, including reports from individuals not affiliated with the university, must be immediately referred to BYU–Hawaii Campus Safety & Security (808-675-3911) regardless of how long the student is believed to have been missing.

If BYU–Campus Safety & Security has not previously made a determination that a student is missing, the Office of Housing and Residential Life will notify BYU–Campus Safety & Security within 24 hours of its determination that a student residing in on-campus housing is missing. Within 24 hours after BYU–Campus Safety & Security has determined that a student residing in on-campus housing is missing, the university will notify the student’s Missing Persons Contacts and, if the student is under the age of 18, the student’s parent or guardian. The Honolulu Police Department will be notified when BYU–Campus Safety & Security has made a determination that a student residing in on-campus housing has been missing for 24 hours. The university has established a policy (see Appendix J) and procedures to assist in locating students residing in on-campus housing when, based upon facts and circumstances, Campus Safety & Security has determined a student to be missing.

**CRIME PREVENTION AND CAMPUS SECURITY PROGRAMS**

BYU–Hawaii typically experiences lower crime rates than many other educational institutions of similar size. However, BYU–Hawaii is not immune to criminal activity. BYU–Hawaii’s crime prevention programs and measures, though effective, are not substitutes for each person’s responsibility to practice good safety habits. Preventing and reducing crime requires a community effort.

To promote the security of the campus community, BYU–Hawaii offers programs designed to do the following:

- inform students and employees about campus security procedures and practices,
- encourage students and employees to be responsible for their own security and the security of others, and
- inform students and employees about the prevention of crimes.

Due to the pandemic and changing state and local health restrictions, some of the anticipated events described below were modified to take place virtually or canceled because they did not comply with current health advisories. As BYU–Hawaii transitioned to normal operations for Fall semester 2021, most of these safety programs were recommenced. Please contact program coordinators for information about the programs described.

**PROGRAMS ON CAMPUS SECURITY PROCEDURES**

**HOUSING LECTURES**

Annually, housing supervisors, Residential Coordinators, and Residential Advisor Coordinators, are taught how to help prevent crime and assist students to avoid becoming victims of crime.

**NEW STUDENT ORIENTATION**

At the beginning of a new semester, Campus Safety & Security provides an information booth to familiarize students with services and to distribute crime prevention materials. Students are also given safety tips and information to make them aware of crime and ways to avoid becoming victimized by it.

**TAKING RESPONSIBILITY FOR SECURITY PROGRAMS**

**FAMILY HEALTH AND SAFETY FAIR**

Annually, a health and wellness fair is held for all faculty, administration, staff, and students. During this fair, an information booth is staffed to distribute crime prevention materials.

**CRIME PREVENTION PROGRAMS**
BYU–HAWAII CAMPUS CRIME PREVENTION AND PERSONAL SAFETY SEMINARS

- **Group Presentations:** The Director, Manager, or Shift Supervisors in Campus Safety & Security are available upon request to make safety and security presentations to campus groups.

- **Building Security:** Most academic buildings are unlocked until evening unless there are evening classes or special events. However, when the campus is officially closed, buildings are locked and only employees and authorized students with proper ID are admitted. Custodians are also instructed to report any suspicious situations to Campus Safety & Security.

- **Campus Safety Awareness Open House:** Campus Safety & Security sponsors an open house twice a year to provide students with information about campus safety and awareness and to introduce students to personnel in the department.

- **Crime Awareness and Crime Prevention Education Aids:** Free literature is available in Campus Safety & Security Operation Center and on its website: [https://safetyandsecurity.byuh.edu/](https://safetyandsecurity.byuh.edu/). Faculty, administration, staff, and students are encouraged to avail themselves of these materials.

- **Sexual Assault Seminars:** Throughout the school year, seminars are held in campus residence halls and elsewhere to familiarize students and employees with how to avoid or minimize the possibility of becoming a victim of sexual assault.

CAMPUS SAFETY & SECURITY FACEBOOK PAGE

Campus Safety & Security has a Facebook page that is regularly updated with information about crime prevention and responses: [https://www.facebook.com/BYUHPublicSafety](https://www.facebook.com/BYUHPublicSafety).

LITERATURE

- Pamphlets on various topics are available from Campus Safety & Security regarding crime prevention, campus safety, rape awareness, alcohol awareness, sexual harassment, and family violence. There is also information on emergency procedures and contact information. The university paper, Ke Alaka’i, is also utilized, when needed, to inform and educate the campus about safety and security issues.

- **Operation Identification:** Students and employees are encouraged to borrow an engraver from Campus Safety & Security for engraving identifying numbers on personal property and to maintain an accurate inventory of their belongings.

- **Public Information:** Crime information is reported in the Crime Log, which is posted on Campus Safety & Security website [https://safetyandsecurity.byuh.edu/daily-crime-log](https://safetyandsecurity.byuh.edu/daily-crime-log) Also, a Campus Crime Log is posted in the Campus Safety & Security office and is available for public view, 24 hours a day. According to 34 CFR §668.46(f)(2)-(4), the daily crime log will not reflect personal information or an incident that may jeopardize an investigation or the safety of the victim until after the investigation is closed.

TRANSPORTATION PROGRAMS

- **Aloha Late Night Shuttle:** Campus Safety & Security provides the Aloha Late Night Shuttle Service for all students free of charge. Campus Safety & Security will transport students from campus to their off-campus home in Laie, Hauula, Punaluu, and Kahuku. This service is provided Monday through Saturday at 10:00 p.m. and 12:00 a.m. (midnight) while school is in session. This is not provided to students during school breaks.

SEE SOMETHING—SAY SOMETHING

“If You See Something, Say Something” is a national campaign launched by the U.S. Department of Homeland Security that raises public awareness of the indicators of terrorism and terrorism-related crime, as well as the importance of reporting suspicious activity to state and local law enforcement.
SITE SECURITY SURVEYS

On an as-needed basis, site security surveys are conducted to create a safe living and learning environment for specific campus locations by identifying and countering security risks and improving security measures.

PERSONAL SAFETY TIPS

Personal safety is everyone’s responsibility. The following information may help deter criminal activity:

- Always be aware of your surroundings.
- Know where you are going and the safest way to get there.
- Walk in well-traveled, well-lit areas.
- Walk with confidence.
- Know where the nearest police or fire station is located.
- Carry a whistle, a small flashlight, and a cell phone.
- Unless you are properly trained, pepper spray or mace is not recommended.
- Take special care when jogging or biking. Take a friend and vary your route.
- Avoid isolated areas and do not wear headphones.
- Do not stand too close to a driver when asking for directions.
- If you are being followed, show that you are suspicious. Turn your head and look.
- If someone is following you on foot, change directions.

CRIMES AND OTHER SITUATIONS

ACTIVE SHOOTER

For information on what to do during an active shooter incident, individuals can watch a short video called Run, Hide, Fight on the BYU–Hawaii Campus Safety & Security website (https://safetyandsecurity.byuh.edu/publicsafety/active-shooter).

To survive an active shooter incident, you must develop a survival mindset and a course of action. A survival mindset is a protective shield with three components: awareness, preparation, and rehearsal. A course of action may include any or all of the following:

- Assess the current situation;
- Silence your phone;
- RUN to a safer area if possible;
- Call 911 for a police response;
- HIDE if you are unable to get out;
- Keep out the shooter by locking doors, blocking doorways, etc.;
- Spread out (do not huddle together) and quietly develop a plan of action; and
- In the event the shooter enters your area, FIGHT to disable the shooter. Assume the shooter’s intentions are lethal and be prepared to do whatever it takes (survival mindset) to neutralize the threat.

THEFT

Theft is the most frequently committed crime on campus. This is because so many personnel and students carelessly leave doors unlocked and valuables unprotected. As with crimes against the person, your best defense against theft is vigilance. Recognize that danger exists and take precautions. Here are a few suggestions:

- In a public setting, NEVER leave personal belongings unattended, even for a minute.
- Keep doors and windows locked.
- Do not keep large amounts of money in your room or on your person.
- Lock your bicycle with a quality “U” style lock.
• Register your bike with City and County of Honolulu and the Campus Safety & Security department.
• Do not lend your keys or credit cards to anyone.
• Do not attach ID to your keys.
• Engrave ID numbers on personal property.
• Keep records of your property including description, make, model, and serial number.
• Do not leave your laundry unattended in shared laundry facilities.
• Always lock your car. Do not leave valuables inside.

ASSAULT

Avoid circumstances that may make you vulnerable to assault. These include jogging at night and walking near dense shrubbery where assailants might hide. You should always stay near well-lighted paths and walkways at night, carry a cell phone and a whistle to summon help, and let friends or family know where you are going and when you will return. Keep windows and doors locked, and keep drapes and blinds closed while dressing.

DOMESTIC VIOLENCE

Domestic violence is a crime in which a person intentionally or knowingly causes or attempts to cause a cohabitant physical harm or intentionally or knowingly places a cohabitant in reasonable fear of imminent physical harm.

Any of the following crimes committed against a cohabitant constitute the crime of domestic violence:

• Aggravated assault;
• Assault;
• Criminal homicide;
• Harassment;
• Telephone harassment;
• Kidnapping, child kidnapping, or aggravated kidnapping;
• Mayhem;
• Sexual offenses;
• Stalking;
• Unlawful detention;
• Violation of a protective order or ex parte protective order;
• Any offense against property;
• Possession of a deadly weapon with intent to assault;
• Discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building or vehicle, and
• Child abuse.

CHILD ABUSE

Child Abuse or Neglect includes any acts or omissions of any person that have resulted in the physical or psychological health or welfare of a child to be harmed, or to be subject to any reasonably foreseeable, substantial risk of being harmed. This includes sex trafficking or severe forms of trafficking in persons.

The university is committed to maintaining a safe environment for all children on campus or who are participating in university-sponsored activities. Consistent with this objective and with Hawaii state law, university employees and officers are mandated reporters and have a legal duty to immediately report to the Honolulu Police Department (808-723-8650) or the State of Hawaii Department of Human Services (808-832-5300) any situation, whether on or off campus, in which they “have reason to believe that child abuse or neglect has occurred or that there exists a substantial risk that child abuse or neglect may occur in the reasonably foreseeable future.”

Reporters must also immediately notify the responsible university vice president or a member of the university’s administration of

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1 Hawaii Revised Statutes §350-1.1(a)(2)  
2 Id. at (a).
the report\(^3\) and must follow up with a written report to the State of Hawaii Department of Human Services. For questions about this reporting obligation, including how to make a report, or for questions about any other provision of this policy, please call the university’s Event Services & Outreach Department (808-675-3780), Office of Compliance & Ethics (808-675-3368), or Office of the General Counsel at (801-422-3089.) In case of immediate threat of violence call the police at 911.

Incidents of sexual abuse or sexual exploitation of children on campus or in any university-sponsored activity should also be reported to the university’s Title IX coordinator, who should ensure that university policies and procedures for investigating such complaints are followed and, if appropriate, disciplinary procedures are initiated.

For more information, see the university’s Protection of Minors policy.

### SEXUAL VIOLENCE AWARENESS AND RISK REDUCTION

**RISK REDUCTION**

No victim is responsible for the actions of an attacker. However, individuals can take steps to reduce the risk of dating violence, domestic violence, sexual assault, and stalking (Sexual Violence).

- Avoid jogging alone, and avoid jogging or walking near dense shrubbery where assailants might hide. Always stay near well-lighted paths and walkways at night, carry a cell phone to summon help, and let friends or family know where you are going and when you will return.
- Lock windows and doors, and close drapes and blinds while dressing.
- Be extremely cautious when responding to personal classified ads or using social media and dating apps to meet new people. Furthermore, remain cautious when deciding to meet someone you have only connected with online or over the phone.
- Reconsider what information you make available on social media, such as contact information and details about where you have been and where you currently are. Consider whether you would give the information to a stranger, and if not, then it is likely not safe to post the information on social media.
- If you are meeting a date for the first time, consider taking a friend with you. At the very least, tell your roommates or family members where you are going and with whom you are meeting.
- Do not accept a ride from someone you do not know, including a blind date. Consider providing your own transportation to and from dates. Be independent and aware in social settings. Express opinions on where to go and appropriate places to meet.
- Carry your cell phone with you and keep it charged. Save emergency contact numbers into your phone and have the most important emergency contact phone numbers memorized just in case you need to make a call and you don’t have your cell phone with you.
- If you are dating or getting to know someone, remember that it takes time to build healthy relationships and to truly get to know an individual. Arrange group or double dates to give you time to get to know someone well.
- Lock your home and car doors to reduce the risk of having unwanted visitors.

### EDUCATIONAL PROGRAMS AND CAMPAIGNS

BYU–Hawaii offers programs and conducts campaigns to educate the campus community about Sexual Violence. These events, campaigns, and trainings are sensitive, consistent with campus values, culturally relevant, responsive to the needs of the campus community, inclusive of diverse communities and identities on campus, sustainable,

\(^3\) Id at (b).
and assessed for value and effectiveness. The university provides the following educational programs and campaigns.

Additional resources can be found by visiting https://titleix.byuh.edu/. Additionally, online training modules for students are available at https://titleix.byuh.edu/title-ix/training-for-students

**NEW STUDENT ORIENTATION**

Information about the Title IX Office and on-campus resources for individuals who have experienced Sexual Violence are included as part of BYU–Hawaii’s new student orientation.

**DOMESTIC VIOLENCE AWARENESS MONTH**

This campus-wide poster campaign promotes awareness of domestic violence and directs individuals experiencing domestic violence to resources. It occurs annually in October as part of National Domestic Violence Awareness Month.

**SEXUAL ASSAULT SEMINARS**

Throughout the school year, seminars are held in campus residence halls and elsewhere to familiarize students and employees with how to avoid or minimize the possibility of becoming a victim of sexual assault.

**Bystander Intervention**

The only person responsible for an act of Sexual Violence is the perpetrator, but every member of the campus community has the ability—and responsibility—to look out for the safety of others. The university encourages all members of the campus community to be engaged bystanders—persons who intervene in a positive way before, during, or after a situation or event involving Sexual Violence—and supports the use of safe and positive options for bystander intervention, such as the C.A.R.E. Model. The C.A.R.E Model of bystander intervention helps individuals be aware of the following options to prevent Sexual Violence. Although there is no single “right” way to intervene, the following are 4 basic steps to take to be an engaged bystander.

- Create a Distraction. Act reasonably to interrupt the situation.
- Ask Questions. Talk directly to the person who might be in trouble.
- Refer to an Authority. Contact a neutral party with the authority to change the situation, like a resident assistant, security guard, or another employee.
- Enlist Others. Enlist the assistance of another person to help.

More information about being an engaged bystander and supporting survivors of Sexual Violence can be found on the BYU–Hawaii Title IX website.

**How Can I Help?**

You may not witness the event during which harm was caused, but you can be an engaged bystander. You can intervene by helping and supporting a victim. If an individual is a victim of Sexual Violence, remember that these behaviors are crimes and the victim is NOT at fault, nor are they responsible for another person’s criminal behavior.

- Listen. Be there. Communicate without judgment.
- Encourage a victim to seek medical attention immediately if the circumstances warrant it.
- Encourage the victim to seek professional help such as counseling or therapy.
- Remind the victim that they have the option of informing the police.
- Report instances of sexual harassment to the university Title IX Coordinator, who will be able to help victims access additional resources: BYU–Hawaii Title IX Office: http://titleix.byuh.edu.
INFORMATION AND RESOURCES FOR VICTIMS OF SEXUAL VIOLENCE

SEXUAL HARASSMENT POLICY AND RELATED PROCEDURES

The university prohibits sexual harassment, which includes Sexual Violence, by its personnel and students in its education programs and activities. It has adopted a Sexual Harassment Policy, which includes the definitions of the terms “consent,” “dating violence,” “domestic violence,” “sexual assault,” and “stalking,” and describes prohibited conduct. It has also adopted Sexual Harassment Grievance Procedures (Title IX) and Sexual Harassment Grievance Procedures (Non-Title IX Sexual Violence) that establish the university’s response to reports of sexual harassment, including Sexual Violence. The policy and procedures are attached as Appendix C, Appendix D, and Appendix E. They are also available online at https://policies.byuh.edu/sexual-harassment-policy.

The university will, upon written request, disclose to an alleged victim of a crime of violence (as that term is defined in section 16 of title 18, United States Code) or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by BYU–Hawaii against a student who is the alleged perpetrator of the crime or offense. If the alleged victim is deceased as a result of such crime or offense, the victim’s next of kin will be treated as the alleged victim.

CONFIDENTIALITY AND AMNESTY

Being a victim of Sexual Violence is never a violation of the Church Educational System Honor Code. The university strongly encourages the reporting of all incidents of Sexual Violence to the Title IX Coordinator so that supportive measures can be offered to victims and Sexual Violence can be prevented and addressed.

The university recognizes that victims or witnesses of Sexual Violence may be hesitant to report an incident to university officials if they fear the discovery of honor code violations. To help address this concern and to encourage the reporting of Sexual Violence, the Title IX Office will not share the identity of a victim or witness with the Honor Code Office unless requested by such person or a person’s health or safety is at risk.

Anyone who reports an incident of Sexual Violence will not be disciplined by the university for any related honor code violation arising out of the same facts or circumstances as the report unless a person’s health or safety is at risk. See the university’s Sexual Harassment Policy in Appendix C for more information.

CAMPUS AND COMMUNITY RESOURCES

The university has many resources available to help individuals who have experienced Sexual Violence. Victims can receive confidential assistance by contacting the Title IX Office. When a student or employees reports an incident of Sexual Violence, whether the offense occurred on or off campus, the university will provide a written explanation of the student’s or employee’s rights and options. The Title IX Office will provide written notification about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, academic and housing accommodations, and other services available for victims, both within the institution and in the community. In addition, the Title IX Office will provide written information to students and employees about options for available assistance and how to request changes to academic, living, transportation, and working situations or protective orders. Accommodations and measures will remain confidential to the extent that maintaining confidentiality will not impair the university’s ability to provide them. These resources are available regardless of where the situation occurred and regardless of whether the victim choses to report to Campus Safety & Security or local law enforcement. Individuals reporting crimes to Campus Safety & Security will be given information about available resources, including the Title IX Office. Those living in on-campus housing can also work with Residence Life to make changes to housing accommodations, if applicable. To contact the Title IX Office please visit https://titleix.byuh.edu/. For information regarding institutional policies and procedures for disciplinary action in response to allegations of Sexual Violence, please see the universities Sexual Harassment Policy and corresponding procedures in Appendices C, D, and E.
In addition to the resource phone numbers listed at the beginning of this report, BYU–Hawaii also publishes a list and description of victim resources that can be found both on and off campus at https://titleix.byuh.edu/. Additional resources and information about how to respond to and prevent sexual assault on college and university campuses can be found on the “Center for Changing Our Campus Culture” website at http://changingourcampus.org/.

In a crisis situation, or after hours, please contact BYU–Hawaii Campus Safety & Security at (808) 675-3911 or call 911 if you are off campus. You can also call the 24-hour crisis hotline at 1-800-753-6879 or contact the Crisis Text Line at 741-741.”

### PROCEDURES TO FOLLOW AFTER AN INCIDENT OF SEXUAL VIOLENCE

#### SEEK MEDICAL ATTENTION IMMEDIATELY

If you are a victim of sexual violence or sexual assault, seek medical attention immediately. You can request a free sexual assault examination by contacting the police or by visiting any hospital emergency room or the BYU–Hawaii Health Services Center during its regular business hours. The exam provides care to minimize the risk of sexually transmitted diseases and preserves evidence that will be important if you decide to pursue criminal charges or wish to obtain a protective order against the person who assaulted you. In Hawaii, a forensic exam is provided at no cost to sexual assault victims, by a health care professional, with advocates who will help the victim understand the exam and criminal justice process.

#### PRESERVE EVIDENCE

Do not bathe, shower, or use toothpaste or mouthwash after an incident of sexual assault. Do not wash clothing, bed sheets, pillows, or other potential evidence. However, if you do, you should still seek medical attention as soon as possible—even if some time has passed since the assault. Preserving evidence may assist in proving that a criminal offense occurred and may be helpful in obtaining a protective order and in a criminal investigation.

#### SEEK SUPPORT

Please do not feel you need to deal with this situation alone. Call a friend, family member, or someone with whom you feel you can talk. Confidential counselors at BYU–Hawaii Counseling Services are available. Contact them by calling (808) 675-3518. After hours, call (808) 675-3911. You can also email them at counselingservices@byuh.edu or visit them at McKay, Room 181. You may also contact the Title IX Coordinator at (808) 675-4819.

#### REPORT THE CRIME

Deciding whether to report Sexual Violence may be difficult. Making a report to law enforcement is a decision left entirely up to the victim, and victims always have the right to decline to notify law enforcement. For those who want to notify law enforcement, Campus Safety & Security and the Title IX Office are available to assist with this notification.

Crimes that occur on BYU–Hawaii property should be reported to Campus Safety & Security. Crimes occurring off campus, such as an off-campus apartment, should be reported to the Honolulu Police Department. Reports made to the university (such as to the Title IX Office) are confidential. When a crime is reported to Campus Safety & Security, the reporting party will be contacted by a security office who will make a report about the crime, contact the investigations division, and connect the victim to resources such as the Title IX Office. Publicly available information, such as BYU–Hawaii’s crime log and this Annual Security Report, do not contain any personally identifiable information. Crimes reported to a campus security authority can also be reported to law enforcement confidentially at the victim’s request.

Law enforcement can help obtain orders of protection and restraining orders, and the Title IX Office can assist with “no contact” orders. General information about the different types of court orders is available at...
https://www.womenslaw.org/laws/hi/restraining-orders/all. Please note that BYU–Hawaii cannot represent individuals in legal proceedings; see the list of resources at https://titleix.byuh.edu/ for legal resources and other information. Please see https://titleix.byuh.edu/title-ix/report-a-concern for more information about university response to a report of Sexual Violence.

REGISTERED SEX OFFENDERS

In accordance with federal and state laws, the university provides notice of any employees and students who are registered sex offenders. This information is available through Campus Safety & Security. Information regarding registered sex offenders residing within a specific Hawaii geographic location can be accessed via the Hawaii Criminal Justice Data Center website (http://sexoffenders.ehawaii.gov/sexoffender/search.html).

LOCAL POLICE AUTHORITIES

Emergency: 911
Honolulu Police Department – Main Station  911 or 808-529-3111
Honolulu Police Department – Kahuku Substation   911 or 808-723-8650
BYUH Security   808-675-3911

ALCOHOL, TOBACCO, AND DRUGS

BYU–Hawaii encourages and sustains an environment that promotes the health, safety, and welfare of all university members. It is the long-standing policy of the university that employees and students completely abstain, whether on or off campus, from the use of alcohol or tobacco; from the possession, use, or distribution of any illegal drug; and from the use of any controlled legal substance without specific medical authorization. In addition to violating university policy, the possession, use, or distribution of alcohol by or to anyone under the age of 21 is also a violation of state law. Personnel or students known to be possessing, using, or distributing illegal drugs or possessing and using alcohol or tobacco are subject to university disciplinary action and, if appropriate, to legal sanctions pursuant to local, state, and federal law. Visitors are prohibited from possessing or consuming illegal drugs, alcoholic beverages, or tobacco on campus. This report includes the university’s Drug-Free School Policy and Drug-Free Workplace Policy, which each describe university and legal sanctions for inappropriate drug use; this report also details the known health risks associated with drug use.

DRUG AND ALCOHOL ABUSE EDUCATION PROGRAMS

The university supports personnel and student participation in programs to prevent the abuse of drugs, controlled substances, tobacco, and alcohol. The university’s Substance Abuse Prevention Services provides confidential assistance with drug and alcohol abuse problems. Persons aware of university students or employees who are experiencing substance abuse problems are encouraged to consult with a BYU–Hawaii counselor or security officer. Educational training programs, health information, preliminary evaluations, and counseling for possible referral for outside medical assistance are available.

DRUG-FREE SCHOOL POLICY

A copy of the university’s Drug-Free School Policy is attached as Appendix F. It is also available online at https://policies.byuh.edu/drug-free-school.

DRUG-FREE WORKPLACE POLICY

A copy of the university’s Drug-Free Workplace Policy is attached as Appendix G. It is also available online at https://policies.byuh.edu/drug-free-workplace.
SANCTIONS AND HEALTH RISKS

Appendix H contains tables outlining the federal and state sanctions for the unlawful possession, distribution, or consumption of drugs or alcohol. Known health risks associated with drug and alcohol use are also set forth. Information about the consumption of alcohol, including an interactive human body tool, and alcohol addiction resources are available at https://www.collegedrinkingprevention.gov/SpecialFeatures/Default.aspx.

DRUG OR ALCOHOL ASSISTANCE

For assistance with drug or alcohol abuse, you may contact

• BYU–Hawaii Counseling Services, located in the McKay Building Room 181 (808-675-3518),
• Family Services (808-945-3690), and the
• Office of Honor ((808) 675-3493).

The following outside services are available. These resources are independent off-campus entities not affiliated with the university or its sponsor, The Church of Jesus Christ of Latter-day Saints.

Hawaii Department of Health (Alcohol and Drug Abuse Division) ...................................................... 808-692-7506
Coalition for a Drug Free Hawaii (https://www.drugfreehawaii.org/) ........................................ 808-545-3228 (Ext. 21)
Hawaii Prevention Resource Center (https://www.hipr808.org/) ..................................................... 808-545-3228 (Ext. 34)
Ko‘olauloa Health Center ........................................ 808-293-9231 (Kahuku)/ (808)293-9216 (Hau’ula)
FIRE SAFETY REPORT

In 2008, Congress passed the College Opportunity and Affordability Act, which requires institutions that provide on-campus student housing to prepare an annual fire safety report. BYU–Hawaii’s report contains the following:

- tables showing fire data for campus housing for 2019-2021,
- the causes of fires for each year,
- fire safety information,
- student housing fire safety policies,
- fire safety education and training,
- on-campus housing fire safety systems, and
- fire evacuation and reporting procedures.

BYU–Hawaii maintains ten on-campus housing facilities (Hales) and twenty-three married student housing facilities (Temple View Apartments).
### 2019–2021 REPORTED FIRE STATISTICS

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<th>Building</th>
<th>Location</th>
<th>Total Fires</th>
<th>Fire $ Loss */Cause</th>
<th>Fire Alarm Pull Stations</th>
<th>Sprinkler System</th>
<th>Smoke Detectors</th>
<th>Fire Extinguishers</th>
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⁴ Note: Residents who will need special assistance are pre-identified so that arrangements can be made in advance to meet their needs.

⁵ This category was corrected as of October 1, 2018, from “Yes” based on an internal audit.

⁶ This category was corrected as of October 1, 2018, from “Yes” based on an internal audit.

⁷ This category was corrected as of October 1, 2018, from “Yes” in all cases based on an internal audit.
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<th>Building</th>
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<th>Total Fires</th>
<th>Fire $ Loss*/Cause</th>
<th>Fire Alarm Pull Stations</th>
<th>Sprinkler System</th>
<th>Smoke Detectors</th>
<th>Fire Extinguishers</th>
<th>Fire Drills‡</th>
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* This category was corrected as of October 1, 2018, from “Yes” based on an internal audit.

§ This category was corrected as of October 1, 2018, from “Yes” based on an internal audit.
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<th>Fire Extinguishers</th>
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*Fire $ Loss (Property Damage) Key: A=$0-$99, B=$100-$999, C=$1000-$9,999, D=$10,000-$24,999, E=$25,000-$49,999, F=$50,000-$99,999, G=$100,000-$249,999, H=$250,000-$499,999, I=$500,000-$999,999, J= > $1,000,000
STUDENT HOUSING FIRE SAFETY POLICIES

PORTABLE ELECTRICAL APPLIANCES
Small portable appliances and space heaters are not allowed in the bedrooms of student housing, with the exception of personal refrigerators meeting university requirements. The university recommends that only UL approved irons and popcorn poppers be used in designated areas.

SMOKING
BYU-Hawaii is a non-smoking university. Smoking is not allowed in any BYU-Hawaii housing facility.

OPEN FLAMES AND FIREWORKS
Incense, candles, and open flames are not allowed in any housing facility. Barbecues are permitted only in designated areas. University policy strictly prohibits the possession and/or discharge of fireworks or any type of explosive device in or around all housing facilities.

FIRE SAFETY EDUCATION AND TRAINING
Fire drills are conducted in the hales each semester and Resident Advisors are trained on how to operate fire extinguishers. Emergency guidelines and policies are posted in all hale apartments. Fire extinguisher hands-on training is provided to students, faculty, and staff through the year upon request.

REPORTING FIRES
For immediate fire response, call 911 or 808-675-3911 (Campus Safety & Security), 808-293-5005 (Honolulu Fire Dept. – Kahuku Station) or 808-293-5677 (Honolulu Fire Dept. – Hau’ula Station). For record keeping and statistical reporting, all fires discovered by students or employees must be reported to Campus Safety & Security.

FIRE LOG
Federal law requires universities to provide notice throughout the year about fires occurring in on-campus housing. BYU-Hawaii maintains a daily fire log of reported fires. This log is combined with the crime log and is provided and maintained by Campus Safety & Security and is available at https://safetyandsecurity.byuh.edu/daily-crime-log. On-campus housing fires reported to Campus Safety & Security are included in the fire log within two business days of a report.

FIRE DRILLS
During the 2021 calendar year, two fire drills were held in single student on-campus housing facilities as follows: March – Hales 2-6 and 8; October – all Hales 1-10.

FIRE EVACUATION AND REPORTING PROCEDURES
When a fire alarm sounds, residents should take the following steps:

- Close windows and doors.
- Walk or crawl to the nearest exit. (Exit routes are posted in the rooms and throughout the buildings.)
- Do not use elevators.
- Assemble in a pre-designated area where hall advisors will attempt to take a head count.
- Do not re-enter the building until cleared to do so by the hall advisor, a fire officer, or a police officer.

When residents discover a fire, they should:
• Activate the fire alarm system and then leave the building, shouting and knocking on doors as they leave.
• Only attempt to rescue others if they can do so safely.
• Not attempt fighting a serious fire.

**WHO TO CALL**

Emergency: 911
808-675-3911 (Campus Safety & Security),
808-293-5005 (Honolulu Fire Dept. – Kahuku Station)
808-293-5677 (Honolulu Fire Dept. – Hau’ula Station).
APPENDIX A: CAMPUS MAP–CLERY GEOGRAPHY

Border indicates Clery geography for reporting purposes.
APPENDIX B: CRIME DEFINITIONS

CLERY CRIME CLASSIFICATIONS AND DEFINITIONS

PRIMARY CRIMES

MURDER AND NON-NEGligENT MANSLAUGHTER: The willful (non-negligent) killing of one human being by another.

MANSLAUGHTER BY NEGLIGENCE: The killing of another person through gross negligence.

ROBBERY: The taking or attempting to take anything from value of 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. It is not necessary that injury result from an aggravated assault when a gun, knife or other weapon is used which could or probably would result in a serious potential injury if the crime were successfully completed.

BURGLARY: The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes unlawful entry with intent to commit a larceny or a felony, breaking and entering with intent to commit a larceny, housebreaking, safecracking and all attempts to commit any of the aforementioned.

MOTOR VEHICLE THEFT: The theft or attempted theft of any self-propelled vehicle that runs on land and not on rails. Including cars, trucks, motorcycles, buses, scooters, golf carts, mopeds, trail bikes, snowmobiles, and motorized wheelchairs. (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access, even though the vehicles are later abandoned – including joy riding)

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

SEX OFFENSES: Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. The Clery Act has four defined sex offenses for which crime statistics must be collected on Clery geography:

- RAPE: 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, including instances in which the victim is incapable of giving consent.

- FONDLING: The touching of the private body parts of another person for the purpose of sexual gratification, 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 because of his/her youth or because of his/her temporary or permanent mental incapacity.

- INCEST: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

- STATUTORY RAPE: Nonforcible sexual intercourse with a person who is under the statutory age of consent.

NOTE: The above listed crime definitions are from the Uniform Crime Reporting Handbook, 2013 Revised UCR definition of Rape, as prescribed by 2014 VAWA Negotiated Rulemaking Final Consensus Language.

ALCOHOL, DRUG, AND WEAPON VIOLATIONS

WEAPON LAW VIOLATIONS: The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as manufacture, sale or possession of deadly weapons; carrying deadly weapons, concealed or openly;
furnishing deadly weapons to minors; aliens possessing deadly weapons; all attempts to commit any of the aforementioned.

**DRUG ABUSE VIOLATIONS**: Violations of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadones); and dangerous non-narcotic drugs (barbiturates, Benzedrine).

**LIQUOR LAW VIOLATIONS**: The violation of laws or ordinance prohibiting the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; all attempts to commit any of the aforementioned. (Drunkenness and driving under the influence are not included in this definition.)

*NOTE: The above listed crime definitions are from the Uniform Crime Reporting Handbook.*

**HATE CRIMES**

Under the Clery Act, the university is required to report statistics for hate (bias) related crimes by the type of bias as defined below for the following classifications: murder/non-negligent manslaughter, negligent manslaughter, sex offenses (forcible and non-forcible), robbery, aggravated assault, burglary, motor vehicle theft, arson (see definitions above) and larceny, vandalism, intimidation and simple assault (see definitions below).

**LARCENY**: The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another.

**VANDALISM**: To willfully or maliciously destroy, injure, disfigure, or deface any public or private property, real or personal, without the consent of the owner or person having custody or control by cutting, tearing, breaking, marking, painting, drawing, covering with filth, or any other such means as may be specified by local law.

**INTIMIDATION**: To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

**SIMPLE ASSAULT**: An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration or loss of consciousness.

If a hate crime occurs where there is an incident involving intimidation, vandalism, larceny, simple assault or other bodily injury, the law requires that the statistic be reported as a hate crime even though there is no requirement to report the crime classification in any other area of the compliance document.

A hate or bias related crime is not a separate, distinct crime, but is the commission of a criminal offense which was motivated by the offender’s bias. For example, a subject assaults a victim, which is a crime. If the facts of the case indicate that the offender was motivated to commit the offense because of his bias against the victim’s race, sexual orientation, etc., the assault is then also classified as a hate/bias crime.

*Note: The Hate crime definitions are from 34 C.F.R. §668 Appendix A to Subpart D in accordance with the FBI’s Uniform Crime Reporting Program.*

**VIOLENCE AGAINST WOMEN ACT (2013) CRIMES**

**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.

1. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship.
2. For the purpose of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse and does not include acts covered under the definition of domestic violence.

**DOMESTIC VIOLENCE**: A felony or misdemeanor crime of violence committed:

1. By a current or former spouse or intimate partner of the victim.
2. By a person with whom the victim shares a child in common.
3. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner.
4. 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.
5. 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.

**STALKING**: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

1. Fear for the person’s safety or the safety of others; or
2. Suffer substantial emotional distress.
3. For the purpose of this definition, “course of conduct” means two or more acts including, but not limited to, acts in 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. “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling. “Reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim.
4. Report the location as to where a perpetrator engaged in the stalking course of conduct or where a victim first became aware of the stalking.
5. Report any additional behaviors that meet the above definition of Stalking if they occur or continue to occur after an official intervention has been put in place including, but not limited to, an institutional disciplinary action or the issuance of a no contact order, restraining order or any warning by the institution or a court.

Note: VAWA definitions above are from 34 C.F.R. §668.46.
APPENDIX C: SEXUAL HARASSMENT POLICY

SEXUAL HARASSMENT POLICY

1. PURPOSE

Brigham Young University–Hawaii (“BYU–Hawaii” or “university”) is committed to fostering an environment in which all members of the campus community are safe, secure, and free from sexual harassment in any form. To this end, this policy helps the university ensure the safety of our campus community as well as comply with federal law (e.g., Title IX of the Education Amendments of 1972 and the Violence Against Women Act of 1994).

2. POLICY

All forms of sexual harassment, including sexual assault, dating violence, domestic violence, and stalking are contrary to the teachings of The Church of Jesus Christ of Latter-day Saints and the Church Educational System Honor Code. Brigham Young University–Hawaii prohibits sexual harassment by its personnel and students and in all of its education programs or activities.

3. IMPLEMENTATION

3.1. DEFINITIONS

COMPLAINANT means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.

CONSENT means a voluntary agreement or concurrence to engage in sexual activity and is determined by all the relevant facts and circumstances. Consent may be express or implied. An act is without consent of the Complainant under any of the following circumstances:

1. the Complainant expresses lack of consent to sexual activity through words or conduct;
2. the Respondent subjects a Complainant to sexual activity through force, duress, or deception;
3. the Respondent subjects the Complainant to sexual activity by compulsion, which is a threat, express or implied, that places a person in fear of public humiliation, property damage, or financial loss;
4. the Complainant suffers from a disease, disorder, or defect that renders the Complainant incapable of appraising his or her conduct and the Respondent is aware of the Complainant’s disease, disorder, or defect;
5. the Complainant is mentally incapacitated, which means the Complainant is rendered temporarily incapable of appraising or controlling his or her conduct as a result of the influence of a substance administered without his or her consent;
6. the Complainant is physically helpless, which means the Complainant is unconscious or for any other reason is unable to communicate unwillingness to sexual activity;
7. the Complainant is under the age of 14;
8. the Complainant is at least 14 years old but less than 16 years old and the Respondent is not less than 5 years older than the Complainant and the Respondent and Complainant are not married;
9. the Complainant is a minor who is at least 16 years old and the Respondent is a person contemporaneously acting in a professional capacity to instruct, advise, or supervise the Complainant, provided that the Respondent is not less than 5 years older than the Complainant and the Respondent and Complainant are not married.

Consent to any sexual act or prior consensual activity between or with any person does not necessarily constitute consent to any other sexual act. Consent may be initially given but may be withdrawn through words or conduct at any time prior to or during sexual activity.
DATING VIOLENCE means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship will be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

DOMESTIC VIOLENCE means a violent act committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person similarly situated to a spouse of the Complainant, or by any other person against a victim who is protected from that person’s acts under state domestic or family violence laws.

EDUCATION PROGRAM OR ACTIVITY means all of a school’s operations, and BYU–Hawaii’s Education Program or Activity includes all locations, events, or circumstances over which the university exercised substantial control over both the Respondent and the context in which the Sexual Harassment occurred.

Locations include both on-campus locations and off-campus buildings owned or controlled by BYU–Hawaii. Off-campus locations that are not subject to substantial control of the university are not within BYU–Hawaii’s Education Program or Activity. However, BYU–Hawaii will consider factors such as whether the university funded, promoted, or sponsored the event or circumstance in which the alleged off-campus Sexual Harassment occurred in determining whether it occurred in a BYU–Hawaii Education Program or Activity.

FORMAL COMPLAINT means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that BYU–Hawaii investigate the Sexual Harassment allegation.

PARTY means a Complainant or a Respondent.

RESPONDENT means an individual who is alleged to be the perpetrator of conduct that could constitute Sexual Harassment.

SEXUAL ASSAULT means any sexual act directed against the Complainant without the Complainant’s Consent. Sexual Assault includes fondling, incest, rape, sexual assault with an object, sodomy, and statutory rape.

SEXUAL HARASSMENT means conduct on the basis of sex that satisfies one or more of the following:
1. A BYU–Hawaii employee or faculty member conditions the provision of an aid, benefit, or service of BYU–Hawaii on an individual’s participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to BYU–Hawaii’s Education Program or Activity; or
3. Sexual Assault, Dating Violence, Domestic Violence, or Stalking.

SEXUAL VIOLENCE means Sexual Assault, Dating Violence, Domestic Violence, or Stalking.

STALKING means engaging in a course of conduct (two or more acts) directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or to suffer substantial emotional distress. Both in-person and electronic stalking are prohibited.

SUPPORTIVE MEASURES means non-disciplinary, non-punitive, individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Supportive Measures are measures designed to restore or preserve equal access to BYU–Hawaii’s Education Program or Activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the university’s educational environment, or deter Sexual Harassment. Supportive Measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

TITLE IX COORDINATOR means the person authorized by BYU–Hawaii to coordinate the university’s efforts to comply with its responsibilities under Title IX and to institute corrective measures on behalf of the university.
3.2. REPORTING

A Sexual Harassment report may be made by any person who believes that Sexual Harassment may have occurred that requires BYU–Hawaii’s response under this policy. The person reporting need not be the Complainant.

3.2.1. MANDATORY REPORTERS

University employees in the following positions who become aware of Sexual Harassment committed by university personnel or students or occurring in BYU–Hawaii’s Education program or activity must report all relevant information to the Title IX Coordinator: president, vice president, assistant to the president, associate vice president, dean, faculty member, director, assistant director, senior manager, manager, assistant manager, supervisor, lead, and Title IX Office employees.

Any of these employees who receive a report of Sexual Harassment committed by university personnel or students or occurring in BYU–Hawaii’s Education program or Activity should inform the reporting individual that the employee must report the incident to the Title IX Coordinator, and the employee must then promptly make the report. Any employee who knowingly fails to report relevant information to the Title IX Coordinator as required by this paragraph may be subject to disciplinary action. An employee who receives the information as part of a confidential communication in the context of a professional or otherwise privileged relationship (e.g., the employee was the reporting person’s physician, therapist, lawyer, ecclesiastical leader, or spouse) does not have a reporting obligation under this policy.

3.2.2. WHERE TO REPORT

To ensure that the university has the information necessary to respond appropriately to complaints, reports of Sexual Harassment must be made to the Title IX Coordinator. BYU–Hawaii has actual knowledge of alleged Sexual Harassment only when its Title IX Coordinator receives a report. Reports may be made in person, by mail, by telephone, or by electronic mail, at the following locations:

BYU–Hawaii Title IX Office
LSB 241
55-220 Kulanui Street #1976
Laie, HI 96762-1293
(808) 675-4819
titleix@byuh.edu

This information is also located on the Title IX Office’s website: https://titleix.byuh.edu/. Reports may be made at any time, including during non-business hours, although in-person reports may be made only during regular business hours. In addition, individuals may submit reports, including anonymous reports, through the university’s Report a Concern web page at https://reportaconcern.byuh.edu/ or, through EthicsPoint, the university’s 24-hour hotline provider, by telephone at (888) 238-1062, or by submitting information online at EthicsPoint Compliance Hotline.

3.2.3. TIMING

Reports of Sexual Harassment should be made to the Title IX Coordinator as soon as possible. However, Supportive Measures are available to Complainants regardless of when a report is made.

3.3. FORMAL COMPLAINTS OF SEXUAL HARASSMENT

Unless a Formal Complaint is filed, a report of Sexual Harassment will not initiate any type of grievance process or result in any disciplinary action against an individual who is alleged to be the perpetrator of Sexual Harassment (Respondent) under this policy. Only a filed Formal Complaint will initiate a process that could result in discipline against a Respondent.

The grievance process is initiated by (1) a Complainant filing a Formal Complaint document with the Title IX Coordinator alleging Sexual Harassment by a Respondent and requesting that BYU–Hawaii investigate the Sexual Harassment allegation or (2) the Title IX Coordinator signing and issuing a Formal Complaint.
A Formal Complaint should clearly and concisely describe the incident(s), including the identities of the Parties involved in the incident(s), if known; the conduct allegedly constituting Sexual Harassment; and the date and location of each alleged incident constituting Sexual Harassment, if known.

3.3.1. FILED BY COMPLAINANTS

Unlike a report of Sexual Harassment, Formal Complaints may not be filed anonymously. A Complainant’s Formal Complaint must contain the Complainant’s physical or electronic signature or otherwise indicate that the Complainant is the person filing the Formal Complaint.

3.3.2. SIGNED BY TITLE IX COORDINATOR

Generally, the university will honor a Complainant’s request that the university not conduct an investigation. However, if the Complainant is unwilling to file a Formal Complaint and the Title IX Coordinator determines that a failure to investigate would prevent the university from meeting its responsibility to provide students and employees with an environment free from Sexual Harassment, the Title IX Coordinator may initiate an investigation by signing a Formal Complaint. The Title IX Coordinator will inform the Complainant prior to signing a Formal Complaint, and the university will provide the Complainant with all notices required under the applicable procedures, but the Complainant is not required to respond or participate in any manner.

When the Title IX Coordinator initiates a grievance by signing a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a Party to the grievance and must comply with the impartiality requirements and all other standards required of individuals involved in administering processes under this policy.

3.4. UNIVERSITY RESPONSE TO SEXUAL HARASSMENT

Upon receiving a report of Sexual Harassment, the Title IX Coordinator will promptly contact the Complainant identified in the report to discuss and provide written information about the availability of Supportive Measures; consider the Complainant’s wishes with respect to Supportive Measures; inform the Complainant that Supportive Measures are available with or without the filing of a Formal Complaint; and explain the process for filing a Formal Complaint, including possible sanctions the university may impose after determining the Respondent’s responsibility for Sexual Harassment.

If the report includes allegations of Sexual Violence, the Title IX Coordinator will also provide the Complainant with written information about the following:

- the importance of preserving evidence that may be necessary to prove a crime or obtain a protective order;
- law enforcement options, including the Complainant’s options to
  - notify BYU-Hawaii Security or Honolulu Police, with the assistance of the Title IX Office if the Complainant so chooses, or
  - decline to notify law enforcement authorities;
- the Complainant’s rights regarding protective orders or similar orders issued by a criminal or civil court; and,
- existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on campus and in the community.

3.4.1. SUPPORTIVE MEASURES

As part of the university’s response to any report of Sexual Harassment, the Title IX Coordinator will promptly contact the Complainant to discuss and provide written notice of the availability of Supportive Measures, with or without the filing of a Formal Complaint, and will discuss and provide written notice of the Formal Complaint process. The university will maintain as confidential any Supportive Measures provided to the Complainant, to the extent that maintaining such confidentiality would not impair the ability of the university to provide the Supportive Measures. The Title IX Coordinator is responsible for coordinating the effective implementation of Supportive Measures for the Complainant and, as appropriate, for the Respondent.

Supportive Measures will be offered to both the Complainant and the Respondent as the Title IX Coordinator deems appropriate and as such measures are reasonably available.
The university may remove a Respondent from BYU–Hawaii’s Education Program or Activity on an emergency basis if it determines that an immediate threat to the physical health or safety of any student or other individual arising from the Sexual Harassment allegations justifies immediate removal pending further investigation and disposition. In such cases, the university will conduct an individualized safety and risk analysis and will provide the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

Human Resource Services may also place a staff or administrative non-student employee Respondent on administrative leave, and Faculty Relations may place a faculty or athletic professional Respondent on administrative leave, during the pendency of a formal or informal grievance process under these procedures.

3.4.2. NOTICE OF APPLICABLE PROCEDURES

If the Complainant elects to file a Formal Complaint against a Respondent, the Title IX Coordinator will also notify the Respondent and provide the Complainant and the Respondent with a written notice of allegations that includes an explanation of the grievance resolution processes used for institutional disciplinary actions. The university will not impose any disciplinary sanctions or other actions against a Respondent that are not Supportive Measures prior to making a determination as to whether the Respondent is responsible for Sexual Harassment under the applicable resolution process.

The Title IX Coordinator will follow the Sexual Harassment Grievance Procedures (Title IX) to respond to Formal Complaints of Sexual Harassment occurring against a person in the United States who is participating in or attempting to participate in the university’s Education Program or Activity, as required by federal regulations promulgated under Title IX of the Education Amendments Act of 1972.

The Title IX Coordinator will follow the Sexual Harassment Grievance Procedures (Non-title IX Sexual Violence) to respond to Formal Complaints of Sexual Violence against a BYU–Hawaii employee or a BYU–Hawaii student that do not fall under federal Title IX regulations because the allegations in the Formal Complaint did not occur in the United States or did not occur within BYU–Hawaii’s Education Program or Activity.

Other Formal Complaints of Sexual Harassment received by the Title IX Coordinator will be jointly evaluated by the Title IX Coordinator and the university’s Chief Compliance Officer to ensure the university provides an appropriate response under the Nondiscrimination and Equal Opportunity Policy, Personnel Conduct Policy, Church Educational System Honor Code, and other applicable policies and procedures of the university.

3.4.3. SANCTIONS

Sanctions for violating this policy may include the following:

- For a faculty, staff, or administrative employee: verbal counseling, written warning, final written warning, probation, reassignment, demotion, reduction in pay, suspension, restriction on officially representing the university, termination of employment, and a ban from campus. Any disciplinary sanction imposed on an employee Respondent and the reason for the sanction may also be noted on the employee’s employment record.

- For a student: notice, warning, probation, suspension withheld, short suspension, suspension, restriction on officially representing the university, expulsion, and a ban from campus. Any disciplinary sanction imposed on a student Respondent and the reason for the sanction may also be noted on the student’s academic transcript and Honor Code file. Any sanction imposed on a student Respondent may include an educational action plan prescribed and administered through the Honor Code Office. If the Respondent is a student employee, possible sanctions include all sanctions applicable to students and all sanctions applicable to employees.

- For a Respondent who is neither a student nor an employee: limitation or termination of any agreement or association between the university and the Respondent and a temporary or complete ban of the Respondent from all or any part of the campus or other university property.

3.5. OVERLAPPING COMPLAINTS AND CONCURRENT INVESTIGATIONS OR PROCESS

If the Sexual Harassment allegations arise out of the same facts or circumstances, the Title IX Coordinator may consolidate Formal Complaints against more than one Respondent, by more than one Complainant against one or more Respondents, or by one Party against the other Party.
Likewise, if a Formal Complaint includes multiple allegations of Sexual Harassment that do not arise out of the same facts or circumstances or that are not subject to discipline under the same university policies or procedures, the university may address them separately. And if a Formal Complaint includes allegations of Sexual Harassment together with allegations of other misconduct or violations of university policy, the university may address the allegations of Sexual Harassment under the Sexual Harassment Grievance Procedures (Title IX) or the Sexual Harassment Grievance Procedures (Non-Title IX) and may refer allegations not subject to these procedures to the appropriate office or unit of the university, subject to any applicable confidentiality provisions and amnesty protections, which will still be in force.

The Title IX Coordinator will provide written notice to all affected Parties of any decision to consolidate the allegations in any Formal Complaint(s) or to address them separately.

An investigation or resolution of a Formal Complaint will not be suspended pending the conclusion of a criminal investigation or any other investigation, including another university investigation. However, the fact-finding portion of the investigation may be delayed temporarily to comply with a law enforcement request for cooperation (e.g., to allow for criminal evidence collection) when the criminal charges are based on the same allegations that are being investigated under these procedures. In addition, if the university determines the issues raised in a Formal Complaint may be relevant to its determination in another investigation or another process that is simultaneously pending at the university, the other investigation or process may be suspended until this process and any appeal are concluded.

Although the findings and conclusions of one investigation will not necessarily determine the outcome of any other, any information or findings developed in any university or external investigation may be shared with and considered in any other university investigation.

3.6. INFORMAL RESOLUTION

The Parties may resolve a Formal Complaint through an informal resolution process that allows the Parties to forego all or some of the formal grievance process. The goal of informal resolution is to conclude the matter to the satisfaction of the Parties quickly and confidentially and to protect the safety of all Parties and the university’s educational environment.

Either Party may ask the Title IX Coordinator to facilitate an informal resolution process at any time before a Respondent is determined to be responsible for Sexual Harassment; however, the university will not offer or facilitate an informal resolution process until

- a Formal Complaint has been filed;
- all Parties have received a written notice of allegations; and
- all Parties have provided their voluntary, written consent to the informal resolution process.

Informal resolution may encompass a broad range of conflict resolution strategies, including but not limited to arbitration, mediation, restorative justice, or any other process acceptable to the Parties and the university.

Participation in an informal resolution process is never required as a condition of enrollment or employment or as a precondition to any Party’s right to an investigation and adjudication of Formal Complaints of Sexual Harassment or any other right provided as part of the formal resolution provisions set forth in these procedures. At any time prior to signing a written agreement of informal resolution, a Party may withdraw from the informal resolution process and resume the Formal Complaint resolution process described in these procedures. The university will not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Parties who reach an informal resolution must sign a written agreement documenting the terms and conditions for dismissal of the Complainant’s Formal Complaint and releasing the Parties’ claims against each other and against the university based on the allegations in the Formal Complaint and notice of allegations. The written agreement of informal resolution must also be approved and signed by the Title IX Coordinator or by her or his designee.
The Title IX Coordinator will ensure that any person who facilitates an informal resolution process does not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent, and is trained as set forth below.

3.7. CONFIDENTIALITY, NONRETRIALATION, AMNESTY, AND LENIENCY

BYU–Hawaii exists to provide an educational environment consistent with the ideals and principles of the restored gospel of Jesus Christ. The Church Educational System Honor Code and its observance by the campus community are essential components of BYU–Hawaii’s mission. The university will not tolerate Sexual Harassment and anyone found to have committed Sexual Harassment is not entitled to amnesty.

Being a victim of Sexual Harassment is never a violation of the Church Educational System Honor Code. The university strongly encourages the reporting of all incidents of Sexual Harassment to the Title IX Coordinator so that Supportive Measures can be offered to Complainants and Sexual Harassment can be prevented and addressed.

3.7.1. CONFIDENTIALITY.

The university recognizes that Complainants or witnesses of Sexual Harassment might be hesitant to report an incident to university officials if they fear the discovery of honor code violations, such as alcohol use, drug use, or consensual sexual activity outside of marriage. To address this concern and to encourage the reporting of Sexual Harassment, the Title IX Office will not share the identity of a Complainant or witness with the Office of Honor unless requested by such person or a person’s health or safety is at risk.

Further, the university will keep confidential the identity of any individual who has made a report or filed a Formal Complaint of Sexual Harassment, any Complainant, any individual who has been reported to be the perpetrator of Sexual Harassment, any Respondent, and any witness; except as required by law, as necessary to carry out this policy, or as may be permitted by the Access to Student Records Policy.

3.7.2. NONRETRIALATION.

BYU–Hawaii prohibits retaliation by anyone, including any university disciplinary office. Retaliation means intimidation, a threat, coercion, or discrimination—including discipline of an individual for honor code violations that do not involve Sexual Harassment but arise out of the same facts or circumstances as a report of Sexual Harassment—for the purpose of interfering with any right or privilege secured by this policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. However, the university may discipline an employee who is a mandatory reporter under this policy and fails or refuses to forward a complaint of Sexual Harassment or provide any relevant information to the Title IX Office in violation of this policy.

Any materially adverse action or course of conduct taken against a person could be the basis for a retaliation claim if the conduct would deter a reasonable person from complaining about Sexual Harassment, but normally, petty slights, minor annoyances, and simple lack of good manners will not create such deterrence and are insufficient to establish a retaliation claim.

BYU–Hawaii students and personnel agree to be honest as part of their commitment to live by the Church Educational System Honor Code and Personnel Conduct Policy. Making a materially false statement in bad faith during a grievance proceeding is grounds for discipline. Imposing discipline, or filing reports seeking to impose discipline, for such a false statement does not constitute retaliation prohibited under this policy. However, a university determination that the Respondent was or was not responsible for Sexual Harassment, alone, is not sufficient to conclude that any party made a materially false statement in bad faith. For example, the fact that a Respondent who denies his or her responsibility for Sexual Harassment is determined to be responsible for the Sexual Harassment does not necessarily mean that the Respondent has made a materially false statement in bad faith. Likewise, a determination that a Respondent is not responsible for Sexual Harassment, as alleged by a Complainant, does not necessarily mean that the Complainant’s allegation was a materially false statement made in bad faith.

Individuals who feel they have been subjected to retaliation under this policy should report the incident to the Title IX Coordinator, who will address the report in accordance with the Discrimination Complaint Procedures.

3.7.3. AMNESTY.
Anyone, including a Complainant, who reports an incident of Sexual Harassment will not be disciplined by the university for any related honor code violation arising out of the same facts or circumstances as the report unless a person’s health or safety is at risk. However, with Complainants or witnesses who have violated the honor code, the university may offer and encourage support, counseling, or education efforts to help students and benefit the campus community.

3.7.4. LENIENCY.

To encourage the reporting of Sexual Harassment, the university will also offer leniency to Complainants and witnesses for other honor code violations that are not related to the incident but which may be discovered as a result of the investigatory process. Such violations will generally be handled so that the student can remain in school while appropriately addressing these concerns.

In applying these principles, the university may consider the facts and circumstances of each case, including the rights, responsibilities, and needs of each of the involved individuals.

3.8. TRAINING

The university is committed to educating members of the campus community on sexual harassment prevention and response. Training on this policy will be required for all personnel. All administrators, deans, chairs, directors, managers, and supervisors are responsible to ensure that personnel within their areas of stewardship are properly trained on their obligations under this policy and applicable laws.

The Title IX Coordinator will ensure that all individuals involved in administering the Sexual Harassment Grievance Procedures (Title IX) receive training on the following:

- the definition of Sexual Harassment;
- the scope of BYU–Hawaii’s Education Program or Activity;
- how to conduct an investigation and grievance process, including hearings, appeals, and informal resolution processes, as applicable;
- how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Training materials must not rely on sex stereotypes and must promote impartial investigations and adjudications of Formal Complaints of Sexual Harassment.

Those involved in administering the Sexual Harassment Grievance Procedures (Non-Title IX) will receive annual training on the issues related to Sexual Violence and how to conduct an investigation and decision-making process that protects the safety of victims and promotes accountability.

3.9. DISCLOSING RELATIONSHIPS

To avoid the possibility or appearance of Sexual Harassment, personnel and students should avoid dating, romantic, or amorous relationships where a power differential exists. Examples of such relationships include, but are not limited to, a professor or teaching assistant involved in a relationship with his or her student, or a supervisor involved in a relationship with a subordinate employee. If such a relationship exists and both parties want to continue the relationship, the supervisor(s) of both parties must be informed of the relationship, must document the disclosure of the relationship, and must confirm with each of the parties independently that the relationship is voluntary and not unwelcome to either party. However, as a general rule, dating, romantic, or amorous relationships should not be entered into or continued while one individual in the relationship has the power to either reward or penalize the other in work or in school.

4. RELATED POLICIES

- Access to Student Records (FERPA) Policy
- Church Educational System Honor Code
- Employee Grievance Policy
- Hiring/Employment
• Nondiscrimination and Equal Opportunity Policy
• Progressive Discipline Policy
• Protection of Minors Policy
• Sexual Harassment Grievance Procedures (Non-Title IX Sexual Violence)
• Sexual Harassment Grievance Procedures (Title IX)
Brigham Young University–Hawaii (“BYU–Hawaii” or “university”) prohibits Sexual Harassment. As described in the Sexual Harassment Policy, the university will respond to allegations of Sexual Harassment by offering Supportive Measures designed to restore or preserve a Complainant’s equal access to BYU–Hawaii’s Education Program or Activity. The university will also follow the grievance process outlined in these Procedures before imposing any disciplinary sanctions or other actions against a Respondent that are not Supportive Measures.

The following procedures describe the university’s equitable, fair, prompt, and impartial response to Formal Complaints of Sexual Harassment occurring against a person in the United States who is participating in or attempting to participate in BYU–Hawaii’s Education Program or Activity, as required by federal regulations under Title IX of the Education Amendments Act of 1972.

I. Investigation

The university will investigate allegations in a Formal Complaint as follows:

A. Preliminary Investigation and Dismissal

The university will investigate the allegations in a Formal Complaint and will dismiss the Formal Complaint with regard to any alleged conduct that

- would not constitute Sexual Harassment, even if proved;
- did not occur in a BYU–Hawaii Education Program or Activity; or
- did not occur against a person in the United States.

Dismissal for any of the foregoing reasons precludes any subsequent Formal Complaint alleging the same factual allegations. However, a Complainant may file another Formal Complaint against the same Respondent based on new or additional factual allegations.

The Title IX Coordinator may dismiss the Formal Complaint or any of its allegations or may suspend an investigation if at any time during the investigation or hearing

- a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein,
- the Respondent is not or is no longer enrolled at or employed by BYU–Hawaii, or
- specific circumstances prevent the Investigator from gathering evidence sufficient to reach a determination as to the allegations in the Formal Complaint or allegations therein.

Dismissal of a Formal Complaint does not preclude action against the Respondent under the Sexual Harassment Grievance Procedures (Non-Title IX Sexual Violence), Church Educational System Honor Code, Personnel Conduct Policy, Grievance Policy, Academic Governance Policy, Campus Threat Assessment Committee Policy, or other university policies applicable to the conduct.

Upon a dismissal required or permitted pursuant to this subsection, the Title IX Coordinator will promptly send written notice of the dismissal and reason(s) for the dismissal simultaneously to the Parties. A determination to dismiss allegations of a Formal Complaint may be appealed as provided in these Procedures.

If a Formal Complaint is dismissed or an investigation is suspended because the Respondent is not or is no longer enrolled at or employed by BYU–Hawaii, the university may re-open the investigation if the Respondent enrolls, re-enrolls, re-applies, or applies for work at the university or any organization owned, controlled, or sponsored by The Church of Jesus Christ of Latter-day Saints. If a Formal Complaint is re-opened, the Title IX Coordinator will promptly
notify the Parties, and the Parties will be entitled to the same rights and responsibilities as set out in these Procedures.

**B. Selection of the Investigator**

Upon receiving or signing a Formal Complaint of Sexual Harassment, the Title IX Coordinator will promptly deliver the Formal Complaint to an employee or independent contractor selected by the Title IX Coordinator to investigate the allegations in the Formal Complaint ("Investigator"). The Title IX Coordinator will ensure that any individual selected as an Investigator has received training in the previous 12 months on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as provided in these Procedures, and meets all other standards required of individuals involved in administering this grievance process (Grievance Administrators) under these Procedures.

**C. Notice of Allegations**

Upon receipt of a Formal Complaint, the Investigator will promptly collect the information necessary to prepare a written Notice of Allegations and will provide such notice to the known Parties at least five business days prior to the Respondent’s initial interview. The Notice of Allegations will include the following:

- Notice of the allegations potentially constituting Sexual Harassment, including the identities of the Parties involved in the incident (if known), the conduct allegedly constituting Sexual Harassment, and the date and location of each alleged incident constituting Sexual Harassment (if known).
- Notice of the university’s formal and informal grievance resolution processes.
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination as to whether the Respondent is responsible for Sexual Harassment (Determination Regarding Responsibility) will be made only after the grievance process is complete.
- Notice to the Parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney.
- Notice to the Parties that they may inspect and review evidence.
- Notice prohibiting any Party from knowingly making false statements or knowingly submitting false information during the grievance process, and informing the Parties that those actions constitute a material violation of the Church Educational System Honor Code commitment to “be honest.”
- Notice prohibiting any Party from engaging in retaliation (see Sexual Harassment Policy).

A Party who wishes to file a Formal Complaint of Sexual Harassment or other violation of the Sexual Harassment Policy against another Party or individual based on allegations arising out of the same facts or circumstances identified in the Notice of Allegations must file the Formal Complaint within fifteen business days of receiving the Notice of Allegations or becoming aware of the facts on which the Formal Complaint is based, whichever is later. Allegations in any Formal Complaint received under this paragraph may be consolidated or separated as provided in the Sexual Harassment Policy.

If, in the course of an investigation, the Investigator decides to investigate allegations of Sexual Harassment about the Complainant or Respondent that are not included in the Notice of Allegations, the Investigator must provide all known Parties with a supplemental Notice of Allegations as to the additional allegations.

**D. Information Gathering**

The Investigator will provide an equal opportunity for the Parties to identify witnesses, including fact and expert witnesses, and to provide other information, whether the information tends to show the Respondent’s responsibility for Sexual Harassment or tends to show the Respondent is not responsible. The Investigator may ask the Parties to provide this information in a written statement and/or through live interview(s). The Investigator will not restrict the ability of either Party to discuss the allegations under investigation with others or to gather and present relevant information, but the parties are reminded that any discussions held must not violate any protective orders then in force and must not include intimidation, threats, coercion, or discrimination against any person for the purpose of interfering with any right or privilege secured by the Sexual Harassment Policy or these Procedures.
The Investigator will presume that the Respondent is not responsible for the alleged conduct until a Determination Regarding Responsibility is made at the conclusion of the grievance process. The Investigator will seek to collect information sufficient for the individuals assigned to make a Determination Regarding Responsibility (Decision Makers) to reach a Determination Regarding Responsibility based on the preponderance of the evidence (i.e., evidence sufficient to show that the determination is more likely than not to be true).

The Investigator will consider all relevant information—including information tending to show the Respondent’s responsibility for Sexual Harassment and information tending to show the Respondent is not responsible—from the Parties or from other sources, including university records. However, the Investigator will not interview a Party’s ecclesiastical leader, physician, psychiatrist, psychologist, lawyer, or other professional or paraprofessional acting or assisting in that capacity, nor will the Investigator access, consider, disclose, or otherwise use records that are made or maintained in connection with the confidential communication with or treatment by any such person, unless the Investigator obtains that Party’s voluntary, written consent to do so for a grievance process under these Procedures. The Investigator will not intentionally require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the Party holding the privilege has waived the privilege.

E. Investigation Record

The Investigator will create a record (Investigation Record) consisting of all information obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, regardless of whether the Investigator thinks the information is relevant. Prior to completion of the investigative report, the Investigator will send the Investigation Record to each Party and the Party’s advisor, if any, through a file-sharing platform that provides the parties with read-only access and maintains the confidentiality of the transmitted data.

Each Party and advisor must maintain the confidentiality of all information shared with them during the proceedings, must use this information only for purposes of these Procedures, and must not further distribute or disclose this information. The university may restrict further access to the Investigation Record and seek appropriate sanctions against a Party or an advisor who violates a confidentiality obligation under these Procedures. The Investigation Record will remain available to the Parties and their advisors until a final Determination Regarding Responsibility is made at the conclusion of the grievance process.

F. Final Written Response

After the Investigator sends the Investigation Record to the Parties, they will have 10 business days to submit a written response, which the Investigator will consider prior to completion of the Investigative Report. Any written response and any additional evidence provided in connection with a Party’s final written response will be added to the Investigation Record.

G. Investigative Report

At the conclusion of the investigation, the Investigator will create an investigative report (Investigative Report) that

- Identifies the allegations potentially constituting Sexual Harassment and the Respondent’s responses to each allegation;
- Describes the procedural steps taken from the receipt of the Formal Complaint through the conclusion of the investigation, including notifications to the Parties, interviews with Parties and witnesses, site visits, and methods used to gather other evidence;
- Impartially summarizes the relevant evidence;
- Makes any recommendations that the investigator deems appropriate; and
- Provides the name and contact information of the Decision Makers.

The Investigator will simultaneously send the Investigative Report to the Title IX Coordinator and to each Party and each Party’s advisor, if any, and will include the Investigative Report as part of the Investigation Record.

The Investigator will, in good faith, attempt to conclude the investigation and issue an Investigative Report within 90 calendar days of receiving the Formal Complaint of Sexual Harassment. If, as a result of the complexity
of a case or other good cause—including considerations such as the absence of a Party, a Party’s advisor, or a witness; ongoing law enforcement activity; or the need for language assistance or accommodation of disabilities—the investigation cannot reasonably be concluded within the 90-day period, the Investigator will provide the Complainant and the Respondent with written notice of the delay and the reason for the delay or extension.

II. Hearing

After receiving the Investigative Report, the Title IX Coordinator will schedule a live hearing and will provide written notice of the time and place of the hearing to each Party and each Party’s advisor, if any. The hearing must take place at least 10 business days after the Investigative Report is delivered to the Parties and should take place within 45 calendar days after the Investigative Report is delivered unless it is delayed by unavoidable circumstances such as the unavailability of the Parties, Decision Makers, Investigator, or key witnesses.

A. Live Hearings

The Decision Makers will ensure that the hearing is conducted impartially. Live hearings will either be conducted with all Parties physically present in the same room or with the Parties located in separate rooms with technology enabling the Decision Makers and Parties to simultaneously see and hear the Party or the witness answering questions. In the Decision Makers’ discretion, witnesses and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. In these circumstances, the Decision Makers may impose conditions on the person(s) appearing virtually to ensure the integrity of the process.

Any Party wishing to be physically separated from the other Party during the hearing, or any Party requesting that any witness be permitted to appear virtually at a live hearing, must submit a written request to the Title IX Coordinator at least 10 business days before the date of the hearing so the Title IX Coordinator can make the appropriate arrangements.

The Title IX Office will arrange for an audio or audiovisual recording, or transcript, of the hearing to be made and will make the recording or transcript available within the Investigation Record for the Parties’ inspection and review after the hearing.

B. Decision Makers

The hearing will be held before a Decision Maker designated by the Title IX Coordinator (the Presiding Decision Maker). Additional Decision Makers may be designated as follows:

- For a student Respondent, the Dean of Students or a designee authorized by the Dean of Students to impose all sanctions provided under these procedures; the Director, BYU–Hawaii Counseling Services or designee; if the alleged Sexual Harassment occurred in a student employment context, the Decision Makers may also include the student employee’s immediate supervisor and the Employee Relations Manager or designee.

- For a faculty Respondent, the Associate Academic Vice President for Faculty or a designee authorized by the Academic Vice President to impose all sanctions provided under these procedures.

- For an administrative or staff employee Respondent, the responsible vice president or assistant to the president or a designee authorized by the vice president or assistant to the president to impose all sanctions provided under these procedures and the Manager, Employee Relations or designee.

- For a Respondent who is neither a student nor an employee, an individual designated by the Threat Assessment Committee and an individual designated by the vice president who oversees the area within BYU–Hawaii’s Education Program or Activity in which the Complainant was participating or attempting to participate when the alleged harassment occurred.

Neither the Title IX Coordinator nor the Investigator may serve as a Decision Maker.

The Decision Makers will determine by majority vote all points in the written Determination Regarding Responsibility; however, the Presiding Decision Maker may independently decide questions of relevance or other procedural questions. The Title IX Coordinator will ensure that any individual designated as a Decision Maker
receives training or has received training in the previous 12 months on any technology to be used at a live hearing and on issues of relevance of questions and evidence—including when questions and evidence about a Complainant’s sexual predisposition or prior sexual behavior are not relevant—and meets all other standards required of Grievance Administrators under these Procedures.

C. Written Submissions

After receiving the Investigative Report and no fewer than 10 business days before the hearing, the Parties must provide a written submission to the Decision Makers that includes

- The Party’s written response, if any, to the Investigative Report;
- The name and contact information of any witnesses the Party intends to call at the hearing and the substance of the witnesses’ anticipated statements; and
- The name and contact information of the Party’s chosen advisor for the hearing.

If a Party does not identify a chosen advisor in the written submission, the Title IX Coordinator will, without fee or charge to the Party, appoint an advisor for that Party and, at least five business days prior to the hearing, provide the advisor’s name and contact information to the Parties.

The Decision Makers will review the Parties’ written submissions, and, at least five business days prior to the hearing, forward the written submissions to the other Party.

D. Opening and Closing Statements

The Decision Makers may ask the Complainant and the Respondent to make a brief statement at the opening and/or the closing of the hearing. The Decision Makers may limit the time for these statements but will give each Party an equal opportunity to make any such statements at the hearing.

E. Investigation Record

The Investigation Record will be available to the Decision Makers and the Parties during the hearing, and each Party will be given equal opportunity to refer to information in the Investigation Record during the hearing, including for purposes of cross-examination. Physical or documentary information not included in the Investigation Record will not be admissible during the hearing unless the Presiding Decision Maker determines that such information was not reasonably available to the Party seeking its admission during the investigation.

F. Witnesses

The Decision Makers and the Parties may ask the Investigator and any witness who has provided a statement to the Investigator in the Investigation Record to answer questions at the hearing. The university will make reasonable allowance for BYU–Hawaii students and employees to participate in a Sexual Harassment hearing, if necessary, during regular school or work hours. However, the university will not compel any Party or witness to participate in a hearing.

If a Party or witness does not attend or does not submit to cross-examination at the hearing, the Decision Maker must not rely on any statement of that Party or witness in reaching a Determination Regarding Responsibility. However, the Decision Makers cannot draw an inference about the Determination Regarding Responsibility based solely on a Party’s or witness’s absence from the hearing or refusal to answer cross-examination or other questions, including any inference that a Respondent’s absence or refusal to answer questions implies his or her responsibility for the Sexual Harassment alleged or that a Complainant’s absence or refusal to answer implies that the Respondent is not responsible for the Sexual Harassment alleged by the Complainant.

G. Direct and Cross-examination of Parties and Witnesses

The Decision Makers may ask any relevant questions of any Party or witness at the hearing, including the Investigator. The Decision Makers will permit each Party’s advisor to ask the Parties and any witnesses all relevant questions and follow-up questions, including questions challenging credibility. Any cross-examination at the live hearing will be conducted directly, orally, and in real time by a Party’s advisor and never by a Party
personally. If a Party does not have an advisor present at the live hearing, the university, without fee or charge to that Party, will provide an advisor of the university’s choice to conduct cross-examination on behalf of that Party.

**H. Relevance**

Only relevant questions may be asked of a Party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Presiding Decision Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

Questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant and may not be asked, unless offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.

**I. Determination Regarding Responsibility**

The Decision Makers will objectively evaluate all evidence relevant to the allegations in the Notice of Allegations—including both information tending to show the Respondent’s responsibility for Sexual Harassment and information tending to show the Respondent is not responsible—and must unanimously determine, based on the preponderance of the evidence (i.e., whether it is more likely than not), whether the Respondent is responsible for Sexual Harassment. The Decision Makers will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived it. The Decision Makers will presume that the Respondent is not responsible for the alleged conduct until a Determination Regarding Responsibility is made at the conclusion of the grievance process and will not base any credibility determinations on a person’s status as a Complainant, Respondent, or witness. It is the responsibility of the Decision Makers to ensure that the burden of proof is met with regard to any Determination Regarding Responsibility of Respondent.

Within ten (10) business days of the hearing, the Decision Makers will issue a written Determination Regarding Responsibility to the Parties. The Determination Regarding Responsibility must include the following:

- Identification of the allegations potentially constituting Sexual Harassment and the Respondent’s responses to each allegation;
- Description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including notifications to the Parties, interviews with Parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the Determination Regarding Responsibility;
- Conclusions regarding the application of the Sexual Harassment Policy to the facts;
- A statement of, and the rationale for, the result as to each allegation, including
  - a Determination Regarding Responsibility;
  - any disciplinary sanctions the university imposes on the Respondent;
  - whether remedies designed to restore or preserve equal access to BYU–Hawaii’s Education Program or Activity will be provided to the Complainant; and
  - The procedures and permissible bases for the Complainant and Respondent to appeal and the date the Determination Regarding Responsibility becomes final.

Remedies provided by the Decision Makers may include Supportive Measures and disciplinary sanctions against the Respondent as detailed in the Sexual Harassment Policy.

The Title IX Coordinator is responsible for effective implementation of any remedies in conjunction with university units and management personnel authorized to implement the remedies.
The Presiding Decision Maker will promptly and simultaneously send a copy of the written Determination Regarding Responsibility to the Parties and their advisors and will provide copies to the Title IX Coordinator and the Investigator. The Determination Regarding Responsibility becomes final 11 calendar days after it is delivered to the Parties, unless an appeal is filed within ten (10) calendar days of the Parties receiving the written determination. If an appeal is timely filed, the Reviewer’s Determination Regarding Responsibility becomes final on the date that the appeal decision is provided to the Parties. The Parties’ access to the Investigation Record will terminate as soon as the Determination Regarding Responsibility becomes final, and any further access will be only as permitted by the Access to Student Records Policy.

III. Appeal

Either Party may appeal from a Determination Regarding Responsibility and from the dismissal of a Formal Complaint or any of its allegations.

The appealing Party must submit a written appeal to the Title IX Office within 10 business days of receiving the Determination Regarding Responsibility or notice of dismissal. The written appeal is limited to five pages, exclusive of exhibits, and must identify at least one of the following grounds as the basis for the appeal:

- A procedural irregularity affected the outcome of the matter.
- New evidence that was not reasonably available at the time the Determination Regarding Responsibility or dismissal was made, that could affect the outcome of the matter. This new evidence and an explanation of both why it was unavailable at the time the Determination Regarding Responsibility was made and its potential impact must be included in the appeal.
- The Title IX Coordinator, Investigator, or any Decision Maker had a conflict of interest, a bias for or against Complainants or Respondents generally, or a preexisting bias against the individual Complainant or Respondent, that affected the outcome of the matter.

The Title IX Coordinator will send a copy of the written appeal to the other Party, who may file a written opposition to the appeal. The opposition must be sent to the Title IX Office within 10 business days of receiving the written appeal and is limited to five pages, exclusive of exhibits. The Title IX Coordinator will send a copy of the opposition to the appealing Party for reference, as no further opposition or statements will be accepted.

The Title IX Coordinator will send the Determination Regarding Responsibility, written appeal, and any written opposition to a designated appeal reviewer (Reviewer) for review and will provide the Reviewer with access to the Investigation Record. Neither the Title IX Coordinator nor any person designated as an Investigator or Decision Maker in a matter may be designated as a Reviewer of the same matter. The Reviewer will be determined as follows:

- The Reviewer of a determination involving a student Respondent, including a student employee, will be the Student Life Vice President.
- The Reviewer of a determination involving a faculty Respondent will be the Academic Vice President or an associate academic vice president designated by the Academic Vice President. However, if the Vice President for Academics was a Decision Maker or if the sanction imposed by the Decision Maker is for the involuntary termination of a faculty member with continuing faculty status (CFS) or in a CFS-track position, the university president will be the Reviewer. See Progressive Discipline Policy and Grievance Policy.
- The Reviewer of a determination involving an administrative or staff employee Respondent will be the employee’s line vice president or member of the President’s Council. However, if the employee’s line vice president was a Decision Maker or if the sanction imposed by the Decision Maker was for the employee’s involuntary termination, the university president will be the Reviewer.
- The Reviewer of a determination involving a Respondent who is neither a student nor an employee will be the Campus Threat Assessment Committee or, where the sanction does not include a ban of
the Respondent, the vice president who oversees the area within BYU–Hawaii’s Education program or Activity in which the Complainant was participating or attempting to participate when the alleged harassment occurred, or an individual designated by that vice president.

Except as provided in the Progressive Discipline Policy for the appeal and hearing of a decision terminating the employment of a CFS or CFS-track faculty member, the Reviewer will not interview the Parties or consider any information outside the Investigation Record and the written appeal and opposition of the Parties.

Within 30 business days of receiving the appeal, the Reviewer will simultaneously provide the Parties and the Title IX Coordinator with a written Determination Regarding Responsibility upholding, reversing, or amending all or part of the original Determination Regarding Responsibility and providing the Reviewer’s rationale for the result. If the Reviewer cannot reasonably consider and resolve the appeal within 30 calendar days, the Reviewer will advise the Parties as to when the appeal decision will be provided. The Reviewer’s Determination Regarding Responsibility is final, and no further review will be allowed.

IV. General Provisions

A. Impartiality

Grievance Administrators—including the Title IX Coordinator, Investigators, Decision Makers, Reviewers will presume that the Respondent is not responsible for the alleged conduct until a Determination Regarding Responsibility is made at the conclusion of the grievance process.

Grievance Administrators will strive to objectively evaluate all relevant evidence, including both information tending to show the Respondent’s responsibility for Sexual Harassment and information tending to show the Respondent is not responsible. No Grievance Administrator may participate in the grievance process if he or she has a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

Determinations regarding any person’s credibility may not be based on the person’s status as a Complainant, Respondent, or witness.

B. Confidentiality

Parties to the investigation of a Formal Complaint are not restricted from discussing the allegations under investigation, especially as necessary to gather and present relevant evidence. However, given the sensitive nature of Sexual Harassment allegations and the potential for damage to the Parties’ personal reputations, all participants in the grievance process, including individuals who have made a report of Sexual Harassment, Complainants, Respondents, advisors, and witnesses, are requested to keep the allegations and investigation proceedings confidential insofar as possible. Any use or dissemination of information relating to the allegations or investigation that is intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by the Sexual Harassment Policy or these Procedures is prohibited retaliation.

Records kept by the university relating to Sexual Harassment allegations are not publicly available, but in the event that the university is required to make any records publicly available, any identifying information about the Parties will be redacted, to the extent permissible by law, to protect the Parties’ confidentiality.

C. Advisors

An investigation under these procedures is an internal university student or employment disciplinary matter. Nevertheless, Parties may invite an advisor of their choice to accompany them to any meeting or proceeding related to the investigation or resolution of a Formal Complaint. The advisor may be a friend, mentor, family member, attorney, or any other person selected by the individual to provide advice and support. The university will not typically change scheduled meetings to accommodate an advisor’s inability to attend. Individuals may elect to change their advisor during the investigative process and are not required to use the same advisor throughout the process.
An advisor may attend for purposes of observation but will not be permitted to represent a Party, respond to questions posed to the Party they advise, or to otherwise participate in any meeting or proceeding that may take place under these Procedures, except during live hearings, as provided in these Procedures. Advisors are subject to campus rules and are expected to refrain from interference with the university investigation and resolution process. Advisors are not permitted to contact or ask the other Party or any witness questions other than as permitted during the live hearing.

Although all Parties have the same opportunity to have an advisor present during any grievance proceeding, the university cannot guarantee equal advisory rights when it comes to advisors (e.g., if one Party selects an attorney as their advisor, but the other Party does not have or cannot afford an attorney, the university is not obligated to provide one). However, if a Party does not have an advisor present at the live hearing, the university will provide, without fee or charge to that Party, an advisor of the university’s choice to conduct cross-examination of the other Party and witnesses on behalf of that Party. If the advisor provided by the university is an attorney, he or she will not have an attorney-client relationship with the Party, and their communications will not be subject to an attorney-client privilege. However, the university will treat the communications as confidential.

D. Notice, Delivery of Documents, and Extensions of Time

Grievance Administrators will provide any Party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the Party to prepare to participate.

Delivery of notice occurs when a Party receives documents in person, when they are sent by email to the Party’s email address on file with the university, or three days after they are posted by U.S. Mail to the Party’s residential address on file with the university.

A Party may ask the Title IX Coordinator or designee for an extension of any deadline imposed by these Procedures. The Title IX Office will grant the extension only for good cause with written notice to the other Party of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a Party, a Party’s advisor, or a witness; ongoing law enforcement activity; or the need for language assistance or accommodation of disabilities.

E. Record Keeping

The university will maintain the following records for a period of seven years or as required by the University Records Retention Policy, whichever is longer:

- Records of any actions, including any Supportive Measures, taken in response to a report or Formal Complaint of Sexual Harassment. In each instance, the university must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to BYU–Hawaii’s Education Program or Activity. If the university does not provide a Complainant with Supportive Measures, then the university must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the university in the future from providing additional explanations or detailing additional measures taken.

- Records of any informal resolution, including any written agreement of informal resolution.

- Records of each Sexual Harassment investigation, including any Determination Regarding Responsibility and any audio or audiovisual recording or transcript created during the live hearing, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to the university’s Education Program or Activity.

- Records of any appeal and the result therefrom.

- All materials used to train Grievance Administrators (which the university will also make publicly available on its Title IX website).
APPENDIX E: SEXUAL HARASSMENT GRIEVANCE PROCEDURES (NON-TITLE IX SEXUAL VIOLENCE)

Brigham Young University–Hawaii (“BYU–Hawaii” or “university”) prohibits Sexual Harassment (See Sexual Harassment Policy). As described in the Sexual Harassment Policy, the university will respond to allegations of Sexual Harassment by offering Supportive Measures designed to restore or preserve a Complainant’s equal access to BYU–Hawaii’s Education Program or Activity. The university will also follow the applicable grievance process before imposing any disciplinary sanctions or other actions against a Respondent that are not Supportive Measures.

The following procedures describe the university’s equitable, fair, prompt, and impartial response to Formal Complaints of Sexual Violence that did not occur in the United States or did not occur within BYU–Hawaii’s Education Program or Activity, and where the Respondent is a BYU–Hawaii employee or a BYU–Hawaii student.

The Title IX Coordinator will follow the Sexual Harassment Grievance Procedures (Title IX) to respond to Formal Complaints of Sexual Harassment occurring against a person in the United States who is participating in or attempting to participate in BYU–Hawaii’s Education Program or Activity, as required by federal regulations under Title IX of the Education Amendments Act of 1972.

I. Investigation

The university will investigate allegations in a Formal Complaint as follows:

A. Preliminary Investigation and Dismissal

The university will consider the allegations in a Formal Complaint and will dismiss the Formal Complaint with regard to any alleged conduct that would not constitute Sexual Violence, even if proved. Dismissal for this reason precludes any subsequent Formal Complaint alleging the same factual allegations. However, a Complainant may file another Formal Complaint against the same Respondent based on new or additional factual allegations.

If, at any time after the filing of a Formal Complaint, it is determined that the allegations constitute Sexual Harassment that is subject to Title IX, the Formal Complaint will be addressed under the Sexual Harassment Grievance Procedures (Title IX).

The Title IX Coordinator may also dismiss a Formal Complaint or may suspend an investigation if a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein or if specific circumstances prevent gathering evidence sufficient to reach a determination as to the allegations in the Formal Complaint.

Upon a dismissal, the Title IX Coordinator will simultaneously send written notice of the dismissal and the reason for the dismissal to the Parties. Dismissal of a Formal Complaint does not preclude action against the Respondent under the Church Educational System Honor Code, Personnel Conduct Policy, Academic Governance Policy, Campus Threat Assessment Committee Policy, or other university policies applicable to the conduct.

B. Selection of the Investigator

Upon receiving or signing a Formal Complaint, the Title IX Coordinator will deliver it to an employee or independent contractor selected by the Title IX Coordinator (Investigator) to investigate the allegations in the Formal Complaint.

C. Notice of Allegations

Upon receipt of a Formal Complaint, the Investigator will collect the information necessary to prepare a written Notice of Allegations and will provide the notice to the known Parties at least five business days before the Respondent’s initial interview. The Notice of Allegations will include the following:

- Notice of the allegations potentially constituting Sexual Violence, including the identities of the Parties

11 Capitalized terms in these procedures are defined in the Sexual Harassment Policy or as indicated herein.
involved in the incident (if known), the conduct allegedly constituting Sexual Violence, and the date and location of each alleged incident constituting Sexual Violence (if known);

- Notice of the university’s formal and informal grievance resolution processes;
- Notice to the Parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney;
- Notice prohibiting any Party from knowingly making false statements or knowingly submitting false information during the grievance process, and informing the Parties that those actions constitute a material violation of the Church Educational System Honor Code commitment to “be honest”; and,
- Notice prohibiting any Party from engaging in retaliation.

A Party who wishes to file a Formal Complaint against another Party or individual based on allegations arising out of the same facts or circumstances identified in the Notice of Allegations must file the Formal Complaint within fifteen business days of receiving the Notice of Allegations or becoming aware of the facts on which the Formal Complaint is based, whichever is later.

Allegations in any Formal Complaint received under this paragraph may be consolidated or separated as provided in the Sexual Harassment Policy.

If, in the course of an investigation, the Investigator decides to investigate allegations of Sexual Violence about the Complainant or Respondent that are not included in the Notice of Allegations, the Investigator will provide all known Parties with a supplemental Notice of Allegations as to the additional allegations.

D. Information Gathering

The Investigator will provide an equal opportunity for the Parties to identify witnesses, including fact witnesses, and to provide other information, whether the information tends to show the Respondent’s responsibility for Sexual Violence or tends to show the Respondent is not responsible. The Investigator may ask the Parties to provide this information in a written statement and/or through live interview(s). The Investigator will not restrict the ability of either Party to discuss the allegations under investigation with others or to gather and provide relevant information to the Investigator, but the Parties are reminded that any discussions may not violate any protective orders then in force and must not include intimidation, threats, coercion, or discrimination against any person for the purpose of interfering with any right or privilege secured by the Sexual Harassment Policy or these procedures.

The Investigator will seek to collect information sufficient for the Decision Maker(s) to make findings of fact and reach a determination as to whether the Respondent engaged in Sexual Violence (Determination Regarding Responsibility) based on the preponderance of the evidence (i.e., evidence sufficient to show that the determination is more likely than not to be true).

The Investigator will consider all relevant information—including information tending to show the Respondent’s responsibility for Sexual Violence and information tending to show the Respondent is not responsible—from the Parties or from other sources, including university records. However, the Investigator will not interview a Party’s ecclesiastical leader, physician, psychiatrist, psychologist, lawyer, or other professional or paraprofessional acting or assisting in that capacity; nor will the Investigator access, consider, disclose, or otherwise use records that are made or maintained in connection with the confidential communication with or treatment by any such person, unless the Investigator obtains that Party’s voluntary, written consent to do so for a grievance process under these procedures. The Investigator will not intentionally require, allow, rely on, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the Party holding such privilege has waived the privilege.

E. Investigation Record

The Investigator will create a record (Investigation Record) consisting of all information obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, regardless of whether the
Investigator thinks the information is relevant.

F. Investigative Report

At least ten (10) business days before the conclusion of the investigation, the Investigator will create a report (Preliminary Investigative Report) that

- Identifies the allegations potentially constituting Sexual Violence and the Respondent’s responses to each allegation;
- Describes the procedural steps taken following the receipt of the Formal Complaint, including notifications to the Parties, interviews with Parties and witnesses, site visits, and methods used to gather other evidence;
- Impartially summarizes the relevant evidence;
- Makes recommended findings of fact; and
- Makes any other recommendations the Investigator deems appropriate.

The Investigator will simultaneously send the Preliminary Investigative Report and the Investigation Record to each Party and each Party’s advisor, if any, through a file-sharing platform that provides the Parties with read-only access and maintains the confidentiality of the transmitted data.

Each Party and advisor must maintain the confidentiality of all information in the Preliminary Investigative Report and the Investigation Record, must use this information only for purposes of these procedures, and must not further distribute or disclose this information. The university may seek appropriate sanctions against a Party or an advisor who violates a confidentiality obligation under these procedures.

After the Investigator sends the Preliminary Investigative Report and Investigation Record to the Parties, they will have 10 business days to submit a written response, which the Investigator will consider prior to finalizing the Investigative Report. Any written response and any additional evidence provided in connection with a Party’s written response will be added to the Investigation Record. After the deadline for the Parties to submit their written responses to the Preliminary Investigative Report and Investigation Record has passed, the Investigator will promptly finalize the Investigative Report and send it to the Decision Makers.

The Investigator will, in good faith, attempt to conclude the investigation and issue the Preliminary Investigative Report and Investigation Record to the Decision Makers within 90 calendar days of receiving the Formal Complaint of Sexual Violence. If, as a result of the complexity of a case or other good cause—including considerations such as the absence of a Party, a Party’s advisor, or a witness; ongoing law enforcement activity; or the need for language assistance or accommodation of disabilities—the investigation cannot reasonably be concluded within the 90-day period, the Investigator will provide the Complainant and the Respondent with written notice of the delay and the reason for the delay or extension.

II. Determination Regarding Responsibility

The Decision Makers, who are authorized to impose all sanctions described in the Sexual Harassment Policy, may be selected as follows:

- For a student Respondent, the Dean of Students or designee, the Director, Counseling Services or designee, or a Decision Maker designated by the Title IX coordinator; if the alleged Sexual Violence occurred in a student employment context, the Decision Makers may also include the student employee’s immediate supervisor and the managing director of Employee Relations or designee;
- For a faculty Respondent, the academic vice president or designee, the faculty member’s dean or immediate supervisor, or a Decision Maker designated by the Title IX coordinator; and,
• For an administrative or staff employee Respondent, the responsible vice president or assistant to the president or designee, the managing director of Employee Relations or designee, or a Decision Maker designated by the Title IX coordinator.

Neither the Title IX coordinator nor the Investigator may serve as a Decision Maker. However, the Title IX coordinator will serve as a non-voting resource to assist the Decision Makers.

The Decision Makers will objectively evaluate all evidence in the Investigative Report and Investigation Record, and, by a majority vote, make a Determination Regarding Responsibility based on the preponderance of evidence. At the Decision Makers’ discretion, the Investigator may be invited to respond to questions about the Investigative Report and the Investigation Record. The Decision Makers’ discussions with the Investigator and their deliberations will be closed to the Parties and their advisors. Remedies provided by the Decision Makers may include Supportive Measures and disciplinary sanctions against the Respondent as detailed in the Sexual Harassment Policy.

Within 60 days of the Investigator’s transmission of the Investigative Report and Investigation Record, the Decision Makers will simultaneously issue a written Determination Regarding Responsibility to the Parties and their advisors, if any, and the Title IX Coordinator.

The Determination Regarding Responsibility must include the following:

• Findings of fact supporting the Determination Regarding Responsibility;
• Conclusions regarding the application of the Sexual Harassment Policy to the facts;
• A statement of, and the rationale for, the result as to each allegation, including
  o a Determination Regarding Responsibility and
  o any disciplinary sanctions the university imposes on the Respondent; and,
• The procedures and permissible bases for the Complainant and Respondent to appeal and the date the Determination Regarding Responsibility becomes final.

The Parties will be simultaneously notified of any delay in issuing the Determination Regarding Responsibility and the reason for the delay and of any changes to the Determination before it becomes final.

The Title IX Coordinator is responsible for coordinating the implementation of any remedies identified in the Determination Regarding Responsibility with the university units and management personnel authorized to implement the remedies.

III. Appeal

A Party who is unsatisfied with the Decision Makers’ Determination Regarding Responsibility (Appealing Party) or notice of dismissal may submit an appeal within 10 business days of the date of the email delivery of the Determination Regarding Responsibility. An appeal is not a reconsideration of the case but is limited to the contents of the Determination Regarding Responsibility and the Investigation Record. The Appealing Party must show at least one of the following:

• A procedural irregularity affected the outcome of the matter.
• New evidence that was not reasonably available at the time the Determination Regarding Responsibility or dismissal was made, that could affect the outcome of the matter. This new evidence and an explanation of both why it was unavailable at the time the Determination Regarding Responsibility was made and its potential impact must be included in the appeal.
• The Title IX Coordinator, Investigator, or any Decision Maker had a conflict of interest, bias for or against Complainants or Respondents generally, or a preexisting bias against the individual Complainant or Respondent that affected the outcome of the matter.

An appeal may not exceed five pages in length and must be submitted to the Title IX Coordinator, who will send a copy of the appeal to the non-appealing Party (Non-appealing Party) and advisor, if any. The Non-appealing Party will have 10 business days after the delivery of the appeal to provide a response, which may not exceed five
The Reviewer will be determined as follows:

- The Reviewer of a determination involving a student Respondent, including a student employee, will be the Dean of Students.

- The Reviewer of a determination involving a faculty Respondent will be the academic vice president or an associate academic vice president designated by the academic vice president. However, if the academic vice president was a Decision Maker or if the sanction imposed by the Decision Maker is for the involuntary termination of a faculty member with continuing faculty status (CFS) or in a CFS-track position, the university president will be the Reviewer and will make the decision after a hearing before a Termination Hearing Committee. (See Progressive Discipline Policy and Employee Grievance Policy.)

- The Reviewer of a determination involving an administrative or staff employee Respondent will be the employee’s responsible vice president or a member of the President’s Council. However, if the employee’s responsible vice president was a Decision Maker or if the sanction imposed by the Decision Maker is for the employee’s involuntary termination, the university president will be the Reviewer.

The Reviewer will not interview the Parties or consider any information outside the Determination Regarding Responsibility, the Investigative Report, and the Investigation Record.

Within 30 business days of receiving the appeal, the Reviewer will simultaneously provide the Parties and the Title IX Coordinator with a written Determination Regarding Responsibility upholding, reversing, or amending all or part of the original Determination Regarding Responsibility and providing the Reviewer’s rationale for the result. If the Reviewer cannot reasonably consider and resolve the appeal within 30 calendar days, the Reviewer will simultaneously advise the Parties as to when the appeal decision will be provided. The Reviewer’s Determination Regarding Responsibility is final, and no further review will be allowed.

The Title IX Coordinator is responsible for coordinating the implementation of the Reviewer’s Determination Regarding Responsibility with the university units and management personnel authorized to implement the actions. In cases where the Reviewer’s Determination Regarding Responsibility results in reinstatement to the university or resumption of privileges, all reasonable attempts will be made to restore the Respondent’s prior status.

IV. General Provisions

A. Impartiality

These procedures will be conducted by individuals who do not have a conflict of interest or bias for or against the Complainant or the Respondent.

B. Confidentiality

Parties to the investigation of a Formal Complaint are not restricted from discussing the allegations under investigation, especially as necessary to gather and present relevant evidence. However, given the sensitive nature of Sexual Violence allegations and the potential for damage to the Parties’ personal reputations, all participants in the grievance process, including individuals who have made a report of Sexual Violence, Complainants, Respondents, advisors, and witnesses, are requested to keep the allegations and investigation proceedings confidential to the extent possible. Any use or dissemination of information relating to the allegations or investigation that is intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by the Sexual Harassment Policy or these procedures is prohibited retaliation.

Records kept by the university relating to Sexual Harassment allegations (including Sexual Violence allegations) are not publicly available, but in the event the university is required to make any records publicly available, any identifying information about the Parties will be
redacted, to the extent permissible by law, to protect the Parties’ confidentiality.

C. Advisors

An investigation under these procedures is an internal university student or employment disciplinary matter. The Parties may invite an advisor of their choice to accompany them to meetings related to the investigation or resolution of a Formal Complaint of Sexual Violence that the Parties are invited to attend. The advisor may be a friend, mentor, family member, attorney, or any other person selected by the individual to provide advice and support. The university will not typically change scheduled meetings to accommodate an advisor's inability to attend. Individuals may elect to change their advisor during the investigative process and are not required to use the same advisor throughout the process.

An advisor may attend for purposes of observation but will not be permitted to represent a Party, to respond to questions posed to the Party they advise, or to otherwise participate in any meeting or proceeding that may take place under these procedures. Advisors are subject to campus rules and are expected to refrain from interference with the university investigation and resolution process. Advisors are not permitted to contact the other Party or any witness.

The university will not provide an advisor for a party. Although all Parties have the same opportunity to have an advisor present, the university cannot guarantee equal advisory rights when it comes to advisors (e.g., if one Party selects an attorney as their advisor, but the other Party does not have or cannot afford an attorney, the university is not obligated to provide one).

D. Notice, Delivery of Documents, and Extensions of Time

Any Party whose participation is invited or expected in proceedings described in these procedures will receive written notice of the date, time, location, participants, and purpose of the proceeding, which will be provided in sufficient time for the Party to prepare to participate.

Delivery of documents occurs when a Party receives documents in person, when they are sent by email to the Party’s email address on file with the university, or three days after they are posted by U.S. Mail to the Party’s residential address on file with the university.

A Party may ask the Title IX Coordinator or designee for an extension of any deadline imposed by these procedures. The Title IX Office, in consultation with the Investigator or Reviewer, will grant the extension only for good cause with written notice to the other Party of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a Party, a Party’s advisor, or a witness; ongoing law enforcement activity; or the need for language assistance or accommodation of disabilities.

E. Record Keeping

The university will maintain records related to the application of these procedures for a period of seven years or as required by the Information and Records Retention Policy, whichever is longer.

RELATED POLICIES:

- Access to Student Records (FERPA) Policy
- Campus Threat Assessment Committee Policy
- Church Educational System Honor Code
- Employee Grievance Policy
- Honor Code Policy
- Nondiscrimination and Equal Opportunity Policy
- Protection of Minors Policy
- Sexual Harassment Grievance Procedures (Title IX)
- Sexual Harassment Policy
APPENDIX F: DRUG-FREE SCHOOL POLICY

DRUG-FREE SCHOOL

1. Purpose
The Drug-Free Schools and Communities Act Amendments of 1989 provides that, as a condition of receiving federal funds under any federal program, a higher education institution must certify that it has adopted and implemented a program to prevent the unlawful possession, use, or distribution of drugs and alcohol by students and employees (see 20 U.S.C. § 1011i; 34 C.F.R. §86.1). To comply with this law and further its commitment to support society’s effort to eliminate drug and alcohol abuse, the university has adopted this Drug-Free School Policy to supplement the Church Education System Honor Code (“Honor Code”).

2. Policy
Brigham Young University–Hawaii (“BYU–Hawaii”) encourages an academic environment that promotes the health, safety, and welfare of all university members. As a condition of enrollment or employment, the university requires that all students and university personnel abide by the Honor Code, which includes a personal commitment to abstain, both on and off campus, from alcoholic beverages, tobacco, tea, coffee, vaping, and substance abuse. The possession, use, or distribution of illegal drugs or alcohol is prohibited.

The university also (i) prohibits the use of kava, e-cigarettes and other electronic smoking or similar devices; (ii) prohibits the manufacture, cultivation, possession, use, sale, or distribution of illicit drugs, including marijuana; and (iii) requires abstaining from the intentional use or distribution of any prescription or legal drugs without specific medical authorization.

These requirements and prohibitions apply to students and university personnel while on or off campus and apply to guests and volunteers while on campus or participating in any university activities.

This Drug-Free School Policy should not be confused with the university’s Drug-Free Workplace Policy, which is designed to comply with the Drug-Free Workplace Act of 1988 and which governs the workplace environment of university personnel engaged in research sponsored by the federal government.

3. Implementation
3.1 Alcohol and Drug Abuse Prevention Program
The university has adopted and implemented an alcohol and drug abuse prevention program for its students and university employees. This program includes annual distribution in writing to each student—regardless of the length of the student’s program of study—and to all employees the following information:

(1) the standard of conduct expected of students and employees in relation to the possession, use, or distribution of drugs and alcohol;

(2) the standard of conduct related to the misuse of prescription drugs, alcohol, and tobacco;

(3) a description of the applicable legal sanctions under state and federal law that may arise from the abuse of alcohol or the unlawful possession or distribution of drugs;

(4) a description of the health risks associated with the abuse of alcohol or the use of illicit drugs;

(5) a description of the university’s substance abuse counseling and treatment resources available to students and employees; and
(6) a clear statement of the disciplinary sanctions that may be imposed upon students and employees for violations of the university’s Drug-Free School Policy.

3.2 Disciplinary Sanctions for Alcohol and Drug Violations

Personnel or students found to be knowingly possessing, using, or distributing illicit drugs, alcohol, or tobacco are subject to university disciplinary action and, if applicable, to legal sanctions pursuant to federal, state, or local law. A student or employee who violates this policy or the related prohibitions on alcohol, tobacco, vaping, and substance abuse in the Honor Code will be subject to applicable disciplinary sanctions up to and including dismissal from the university or termination of employment.

The university will determine the appropriate sanction(s) on a case-by-case basis and may consider all of the circumstances involved, including, but not limited to, the following factors: (1) whether the violation constitutes a first offense; (2) the scope and duration of the individual’s alcohol or tobacco use, vaping, or substance abuse; (3) whether the individual has requested assistance to obtain substance abuse treatment; and (4) any other efforts the individual has undertaken to correct the misconduct, such as counseling with an ecclesiastical leader. In applicable cases discipline may involve referral to local law enforcement for criminal prosecution.

Individuals involved in the unintentional misuse of prescription drugs are not subject to the sanctions stated in this policy, but rather are encouraged to seek assistance from the university’s services detailed below.

3.3 Available Alcohol, Tobacco, and Drug Counseling and Treatment

The university supports student and personnel participation in programs to prevent alcohol and tobacco use, vaping, use of illegal drugs, and abuse of prescription drugs. The BYU–Hawaii Counseling Services located in the McKay building, room 181H (808)-675-3999, has been established to provide full-time students and their dependents with initial confidential assistance for drug and alcohol abuse problems. Counselors are experienced professionals who offer support for students in an atmosphere of understanding and confidentiality. Student meetings with Counseling Services counselors are confidential unless there is a threat of harm to self or others, a student reveals abuse of a child or vulnerable adult, or in the case of legal subpoenas. Educational training programs, health information, preliminary evaluations, and counseling for possible referral to an outside medical provider are also available. The Office of Honor (808)-675-3531 and the Human Resources Department (808)-675-3713 also provide information regarding available professional counseling. Several independent off-campus entities also offer counseling services that are not affiliated with the university or its sponsor, The Church of Jesus Christ of Latter-day Saints. These include the following:

Kahuku Medical Center............................................. 293-9221
Koʻolau Health Center........................................... 293-9231
Hawaii State Department of Health Access Line...... 832-3100
Alcoholics Anonymous.................................... 946-1438
Narcotics Anonymous............................................ 734-4357

The Employee Assistance Program (EAP), offered through Deseret Mutual Benefit Administrators, provides personnel with confidential assistance related to substance abuse, mental health, goal achievement, and more. Personnel can seek assistance from EAP by calling 1-844-280-9629 or visiting https://myeaphelper.mybeaconwellbeing.com/.

The general university prevention program of information dissemination, consultation, and referral is available as follows:

- The university educates students and employees about the detrimental effects of illicit drugs, misuse of prescription drugs, alcohol, and tobacco through the university’s Clery Act Annual Security Report (“Security Report”) publication and distribution. Additional educational training may consist of university sponsored workshops, seminars, informational materials, and lectures as determined appropriate by the Director of Counseling Services and approved by university administration.
• A description of the health risks associated with any particular drug (i.e., physical and psychological addiction; physical, psychological, and spiritual deterioration; disease; and death) may be obtained from the university’s annual Security Report, which is available online at studentlife.byuh.edu/security/home or can be requested in hard-copy form from Campus Safety and Security.

• The university recognizes that potential legal sanctions may accompany an individual’s use of drugs. The applicable legal sanctions under Federal, state, or local law may include significant fines and imprisonment. A summary of applicable legal sanctions from the unlawful use of drugs may be obtained from the university’s Security Report, which can be requested in hard-copy form from Campus Safety & Security.

• Students and personnel involved in intentional alcohol or tobacco use, vaping, or substance abuse may seek a consultative interview through Counseling Services for possible referral to an outside medical provider. All discussions will be handled in a confidential manner to the extent permitted by law.

Personnel and students should cooperatively help one another to solve alcohol, tobacco, vaping, and substance abuse problems. Persons aware of those with substance abuse problems enrolled at or employed by the university are encouraged to act responsibly by consulting with Counseling Services, Human Resources, the Office of Honor, or Campus Safety & Security. Remaining silent or waiting until a situation has escalated is unwise and often dangerous.

3.4 Biennial Drug-Free School Program Review

The university has appointed a standing Alcohol and Drug Abuse prevention Committee which meets at least once every two years or more often as needed. The committee reviews the university’s alcohol and drug abuse prevention program to determine its effectiveness, implement changes to the program as needed, and confirm that appropriate disciplinary sanctions are consistently enforced against students and employees who violate this policy.

3.5 Applicability

This policy applies to all university students, faculty, employees and volunteers.

4. Related Policies and Procedures

Honor Code Policy
CES Honor Code
Drug-Free Workplace Policy
Disruptive Student Conduct Policy
APPENDIX G: DRUG-FREE WORKPLACE POLICY

DRUG-FREE WORKPLACE

1. Purpose

Brigham Young University–Hawaii (“BYU–Hawaii”) encourages an academic environment that promotes the health, safety, and welfare of all university members and that is consistent with the requirements of the Drug-Free Workplace Act of 1988.

2. Policy

The university prohibits the unlawful manufacture, use, dispensing, possession, or distribution of controlled substances by any employee, student, volunteer, or other individual participating in the university workplace (collectively referred to in this policy as “workforce participant(s)").

As a condition of employment or participation in the university workplace, BYU–Hawaii requires all workforce participants to abide by this BYU–Hawaii Drug-Free Workplace Policy. In addition, all workforce participants are required to adhere to the more restrictive prohibitions of the CES Honor Code (“Honor Code”) and to the university’s Drug-Free School Policy.

If there is a conflict between this policy and the Honor Code, the Honor Code will be the controlling document.

3. Implementation

3.1 Notification and Requirements

All workforce participants at the university will receive a copy of the Drug-Free Workplace Policy at least annually.

Any workforce participant at the university convicted of violating a criminal drug statute inside OR outside of the workplace must notify Human Resources, in writing, no later than five calendar days after the conviction.

If any workforce participant violates this policy, Human Resources, in consultation with the appropriate unit management and within 30 days of receiving notification of a conviction, will take appropriate personnel action against the individual, up to and including termination of employment, consistent with the requirements of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as amended.

Other disclosures associated with the university’s drug-free workplace responsibilities are available in the annual campus security report available at https://safetyandsecurity.byuh.edu/reports and click on the Annual Security and Fire Safety Report tab.

3.2 Drug Prevention Assistance

In an effort to deter drug abuse, the university has given responsibility for assisting employees with abuse issues to Human Resources. For individual assistance, please visit the Human Resources office in the Lorenzo Snow Building, call (808) 675-3713, or email at hrs@byuh.edu.

3.3 Applicability

This policy applies to all employees, including faculty, administrative, staff, and student employees of the university. It also applies to any volunteer or other individual who participates in the workplace at the university.

4. Related Policies and Procedures

Honor Code Policy
CES Honor Code
Drug-Free School Policy
The following tables show sanctions for illegal possession, distribution, or consumption of drugs or alcohol.

Table 1: Federal Penalties for Illegal Drug Manufacturing or Distribution—Drug Specific

Below are federal penalties for the manufacture, distribution, or dispensing of specific illegal drugs. See 21 U.S.C. § 841.

<table>
<thead>
<tr>
<th>Drug (CSA Schedule)</th>
<th>Quantity</th>
<th>First Offense</th>
<th>Second Offense</th>
<th>Third+ Offense</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heroin (I &amp; II)</td>
<td>100–999 gm mixture</td>
<td>Penalty 1</td>
<td>Penalty 7</td>
<td>Penalty 7</td>
</tr>
<tr>
<td></td>
<td>1 kg+ mixture</td>
<td>Penalty 2</td>
<td>Penalty 8</td>
<td>Penalty 13</td>
</tr>
<tr>
<td>Cocaine (I &amp; II)</td>
<td>500–4,999 gm mixture</td>
<td>Penalty 1</td>
<td>Penalty 7</td>
<td>Penalty 7</td>
</tr>
<tr>
<td></td>
<td>5 kg+ mixture</td>
<td>Penalty 2</td>
<td>Penalty 8</td>
<td>Penalty 13</td>
</tr>
<tr>
<td>Cocaine Base (I &amp; II)</td>
<td>28–279 gm mixture</td>
<td>Penalty 1</td>
<td>Penalty 7</td>
<td>Penalty 7</td>
</tr>
<tr>
<td></td>
<td>280 gm+ mixture</td>
<td>Penalty 2</td>
<td>Penalty 8</td>
<td>Penalty 13</td>
</tr>
<tr>
<td>PCP (I &amp; II)</td>
<td>10–99 gm pure or 100-999 gm mixture</td>
<td>Penalty 1</td>
<td>Penalty 7</td>
<td>Penalty 7</td>
</tr>
<tr>
<td></td>
<td>100 gm+ pure or 1 kg+ mixture</td>
<td>Penalty 2</td>
<td>Penalty 8</td>
<td>Penalty 13</td>
</tr>
<tr>
<td>LSD (I &amp; II)</td>
<td>1–9 gm mixture</td>
<td>Penalty 1</td>
<td>Penalty 7</td>
<td>Penalty 7</td>
</tr>
<tr>
<td></td>
<td>10 gm+ mixture</td>
<td>Penalty 2</td>
<td>Penalty 8</td>
<td>Penalty 13</td>
</tr>
</tbody>
</table>

1 The penalties referenced in Table 1 are explained in detail at the end of Table 1 below. Note that when this table refers to Second Offense or Third+ Offense, it is not referring only to convictions of the particular drug offense at hand. Rather, for Penalties 7, 8, and 13, the offense is considered a Second Offense (or greater, if applicable) if any “prior conviction for a serious drug felony or serious violent felony has become final.” See 21 U.S.C. § 841(b)(1)(A)–(B) (emphasis added). And for Penalties 9, 10, 11, and 12, the offense is considered a Second Offense (or greater, if applicable) if any “prior conviction for a felony drug offense has become final.” See 21 U.S.C. § 841(b)(1)(C)–(E) (emphasis added).

2 These penalties also apply if the person possessed the drug “with intent to manufacture, distribute, or dispense” the drug. 21 U.S.C. § 841(a)(1) (emphasis added). Along with the illegal drugs themselves, these penalties also apply to counterfeit substances. 21 U.S.C. § 841(a)(2).
<table>
<thead>
<tr>
<th>Drug (CSA Schedule)</th>
<th>Quantity</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>First Offense</td>
</tr>
<tr>
<td>Fentanyl (I &amp; II)</td>
<td>40–399 gm mixture</td>
<td>Penalty 1</td>
</tr>
<tr>
<td></td>
<td>400 gm+ mixture</td>
<td>Penalty 2</td>
</tr>
<tr>
<td>Fentanyl Analogue (I &amp; II)</td>
<td>10–99 gm mixture</td>
<td>Penalty 1</td>
</tr>
<tr>
<td></td>
<td>100 gm+ mixture</td>
<td>Penalty 2</td>
</tr>
<tr>
<td>Marijuana³ (I &amp; II)</td>
<td>Less than 50 kg or fewer than 50 plants</td>
<td>Penalty 3</td>
</tr>
<tr>
<td></td>
<td>50–99 kg or 50–99 plants</td>
<td>Penalty 4</td>
</tr>
<tr>
<td></td>
<td>100–999 kg mixture or 100–999 plants</td>
<td>Penalty 1</td>
</tr>
<tr>
<td></td>
<td>1,000 kg+ mixture or 1,000+ plants</td>
<td>Penalty 2</td>
</tr>
<tr>
<td>Methamphetamine (I &amp; II)</td>
<td>5–49 gm pure or 50–499 gm mixture</td>
<td>Penalty 1</td>
</tr>
<tr>
<td></td>
<td>50 gm+ pure or 500 gm+ mixture</td>
<td>Penalty 2</td>
</tr>
<tr>
<td>Any Schedule I or II Controlled Substance Not Otherwise Identified (I &amp; II)</td>
<td>Any amount</td>
<td>Penalty 4</td>
</tr>
<tr>
<td>Gamma Hydroxybutyric Acid (I &amp; II)</td>
<td>Any amount</td>
<td>Penalty 4</td>
</tr>
<tr>
<td>Flunitrazepam (I &amp; II)</td>
<td>1 gm</td>
<td>Penalty 4</td>
</tr>
<tr>
<td>Hashish (I &amp; II)</td>
<td>Less than 10 kg</td>
<td>Penalty 3</td>
</tr>
<tr>
<td></td>
<td>10 kg</td>
<td>Penalty 4</td>
</tr>
<tr>
<td>Hashish Oil (I &amp; II)</td>
<td>Less than 1 kg</td>
<td>Penalty 3</td>
</tr>
<tr>
<td></td>
<td>1 kg</td>
<td>Penalty 4</td>
</tr>
<tr>
<td>All Schedule III Controlled Substances (III)</td>
<td>Any amount</td>
<td>Penalty 5</td>
</tr>
<tr>
<td>All Schedule IV Controlled Substances (IV)</td>
<td>Any amount</td>
<td>Penalty 3 (except only one year minimum supervised release required)</td>
</tr>
<tr>
<td>All Schedule V Controlled Substances (V)</td>
<td>Any amount</td>
<td>Penalty 6</td>
</tr>
</tbody>
</table>

³ If the violator distributed a small amount of marijuana without getting paid for it, the violation will be treated like a simple possession violation.
Description of Penalties for Table 1—Imprisonment and Fines

Penalty 1: (1) Imprisoned 5 to 40 years, but if there is death/serious injury, then 20 years to life (no parole available for any prison term, and supervised release required for at least 4 years after any prison term); (2) fined no more than $5 million (for an individual offender) or no more than $25 million (for any other type of offender); or (3) both imprisoned and fined.

Penalty 2: (1) Imprisoned 10 years to life, but if there is death/serious injury, then 20 years to life (no parole available for any prison term, and supervised release required for at least 5 years after any prison term); (2) fined no more than $10 million (for an individual offender) or no more than $50 million (for any other type of offender); or (3) both imprisoned and fined.

Penalty 3: (1) Imprisoned no more than 5 years (supervised release required for at least 2 years after any prison term); (2) fined no more than $250,000 (for an individual offender) or no more than $1 million (for any other type of offender); or (3) both imprisoned and fined.

Penalty 4: (1) Imprisoned up to 20 years, but if there is death/serious injury, then 20 years to life (no parole available, and supervised release required for at least 3 years after any prison term); (2) fined no more than $1 million (for an individual offender) or no more than $5 million (for any other type of offender); or (3) both imprisoned and fined.

Penalty 5: (1) Imprisoned up to 10 years, but if there is death/serious injury, then up to 15 years (supervised release required for at least 2 years after any prison term); (2) fined no more than $500,000 (for an individual offender) or no more than $2.5 million (for any other type of offender); or (3) both imprisoned and fined.

Penalty 6: (1) Imprisoned up to 1 year; (2) fined no more than $100,000 (for an individual offender) or no more than $250,000 (for any other type of offender); or (3) both imprisoned and fined.

Penalty 7: (1) Imprisoned 10 years to life, but if there is death/serious injury, then life (no parole available, and supervised release required for at least 8 years after any prison term); (2) fined no more than $8 million (for an individual offender) or no more than $50 million (for any other type of offender); or (3) both imprisoned and fined.

Penalty 8: (1) Imprisoned 15 years to life, but if there is death/serious injury, then life (no parole available, and supervised release required for at least 10 years after any prison term); (2) fined no more than $20 million (for an individual offender) or no more than $75 million (for any other type of offender); or (3) both imprisoned and fined.

Penalty 9: (1) Imprisoned up to 10 years (supervised release required for at least 4 years after any prison term); (2) fined no more than $500,000 (for an individual offender) or no more than $2 million (for any other type of offender); or (3) both.

Penalty 10: (1) Imprisoned up to 30 years, but if there is death/serious injury, then life (no parole available, and supervised release required for at least 6 years after any prison term); (2) fined no more than $2 million (for an individual offender) or no more than $10 million (for any other type of offender); or (3) both imprisoned and fined.

---

4 All fine limits listed in this section are subject to preemption by Title 18 of the United States Code; for first-time offenders, the fine limit will be raised to the limit authorized by Title 18 if that amount is higher than the fine listed here, and for subsequent offenders, the fine limit will be raised to twice the limit authorized by Title 18 if that amount is higher than the fine listed here. 21 U.S.C. § 841[b](1)[A]–(E).
Penalty 11: (1) Imprisoned up to 20 years, but if there is death/serious injury, then up to 30 years (supervised release for at least 4 years after any prison term); (2) fined no more than $1 million (for an individual offender) or no more than $5 million (for any other type of offender); or (3) both imprisoned and fined.

Penalty 12: (1) Imprisoned up to 4 years (possibility of supervised release up to 1 year after any prison term); (2) fined no more than $200,000 (for an individual offender) or no more than $500,000 (for any other type of offender); or (3) both imprisoned and fined.

Penalty 13: Imprisoned at least 25 years (no parole) and fined no more than $20 million (for an individual offender) or no more than $75 million (for any other type of offender).

Table 2: Federal Penalties for Illegal Drug Manufacturing or Distribution—All Drugs

Below are federal penalties for crimes related to the manufacture or distribution of any illegal drug.

<table>
<thead>
<tr>
<th>Citation</th>
<th>Summary</th>
<th>First Offense</th>
<th>Second Offense</th>
<th>Third Offense</th>
</tr>
</thead>
<tbody>
<tr>
<td>21 U.S.C. §§ 859(a)–(b), 841(b)(1)(A)</td>
<td>Distribution of controlled substances to persons under 21 years of age by someone of at least 18 years of age.</td>
<td>Twice the maximum penalties described in Table 1 and at least twice any authorized term of supervised release. Unless “a greater minimum sentence is otherwise provided,” a term of imprisonment not less than 1 year. This does not apply to offenses involving 5 gm or less of marijuana.</td>
<td>Three times the maximum penalties described in Table 1 and at least three times any authorized term of supervised release. Unless “a greater minimum sentence is otherwise provided,” a term of imprisonment not less than 1 year.</td>
<td>Imprisonment of at least 25 years. Fined in accordance with their previous sentence.</td>
</tr>
<tr>
<td>21 U.S.C. § 860(a)–(b)</td>
<td>Distribution, possession with intent to distribute, or manufacture of a controlled substance in or within one thousand feet of school property (including elementary schools and universities), a playground, or a public housing facility, or within 100 feet of a youth center, public swimming pool, or video arcade.</td>
<td>Twice the maximum penalties described in Table 1 and “at least twice any [authorized] term of supervised release.” Unless a greater minimum sentence is otherwise provided, a term of imprisonment not less than 1 year. This does not apply to offenses involving 5 gm or less of marijuana.</td>
<td>Imprisonment of either (1) not less than 3 years and not more than life or (2) three times the maximum punishment described in Table 1, whichever term of imprisonment is longer. “[At] least three times any term of supervised release” described in Table 1. A fine up to three times any fine described in Table 1.</td>
<td>Imprisonment of at least 25 years. Fined in accordance with their previous sentence.</td>
</tr>
<tr>
<td>21 U.S.C. 860(c)</td>
<td>A person 21 years or older employing, coercing, or persuading children to distribute drugs in one of the places prohibited above (e.g. schools, playgrounds, video arcades) or “to assist in avoiding detection or apprehension” of these violations.</td>
<td>Imprisonment, fine, or both, up to triple those described in Table 1.</td>
<td>Imprisonment, fine, or both, up to triple those described in Table 1.</td>
<td>Imprisonment, fine, or both, up to triple those described in Table 1.</td>
</tr>
<tr>
<td>Citation</td>
<td>Summary</td>
<td>First Offense</td>
<td>Second Offense</td>
<td>Third Offense</td>
</tr>
<tr>
<td>-------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>------------------------------------</td>
<td>-------------------------------------</td>
<td>-----------------------------------</td>
</tr>
<tr>
<td>21 U.S.C. § 855</td>
<td>“In lieu of [an otherwise authorized fine], a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.” 5</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>21 U.S.C. § 862(a)</td>
<td>Conviction (at either the federal or state level) for distribution of a controlled substance. 5</td>
<td>Ineligible for any or all federal benefits for up to 5 years, as decided by the court.</td>
<td>Ineligible for any or all federal benefits for up to 10 years, as decided by the court.</td>
<td>Permanent ineligibility for all federal benefits.</td>
</tr>
<tr>
<td>21 U.S.C. § 841(h)</td>
<td>Knowingly or intentionally (1) using the Internet to deliver, distribute, or dispense a controlled substance without legal authorization or (2) aiding or abetting such activity.</td>
<td>Penalized in accordance with Table 1.</td>
<td>Penalized in accordance with Table 1.</td>
<td>Penalized in accordance with Table 1.</td>
</tr>
<tr>
<td>21 U.S.C. § 841(g)</td>
<td>Knowingly using the Internet to distribute a date rape drug to any person, knowing or with reasonable cause to believe that (1) the drug would be used in the commission of criminal sexual conduct or (2) the person is not an authorized purchaser. Date rape drugs include gamma hydroxybutyric acid (or a GHB analog, including gamma butyrolactone and 1,4-butanediol); ketamine; flunitrazepam; or any drug designated by the Attorney General as a date rape drug.</td>
<td>Fined in accordance with the penalty identified in Table 1; imprisoned up to 20 years; or both.</td>
<td>Fined in accordance with the penalty identified in Table 1; imprisoned up to 20 years; or both.</td>
<td>Fined in accordance with the penalty identified in Table 1; imprisoned up to 20 years; or both.</td>
</tr>
<tr>
<td>21 U.S.C. § 841(b)(7)</td>
<td>Distributing a controlled substance or controlled substance analog to another person without that person’s knowledge, with intent to commit a crime of violence (including rape) against that person.</td>
<td>Fined in accordance with Title 18 of the United States Code and imprisoned up to 20 years.</td>
<td>Fined in accordance with Title 18 of the United States Code and imprisoned up to 20 years.</td>
<td>Fined in accordance with Title 18 of the United States Code and imprisoned up to 20 years.</td>
</tr>
</tbody>
</table>

5 For the penalties listed in this row, the federal benefits that may be denied to the person do not include benefits relating to long-term addiction treatment programs if 1) the person declares himself or herself to be an addict, the circumstances reasonably substantiate that claim, and the person submits to a long-term addiction treatment program; or (2) the person is determined to be successfully rehabilitated under the rules of the Secretary of Health and Human Services. 21 U.S.C. § 862(a)(2). The person’s ineligibility for federal benefits will also be suspended if he or she completes a supervised drug rehabilitation program, has otherwise been rehabilitated, or has made a good faith effort to join a supervised drug rehabilitation program, but is unable to join due to program inaccessibility or unavailability, or due to the person’s inability to pay for a program. 21 U.S.C. § 862(c)(C).
<table>
<thead>
<tr>
<th>Citation</th>
<th>Summary</th>
<th>First Offense</th>
<th>Second Offense</th>
<th>Third Offense</th>
</tr>
</thead>
<tbody>
<tr>
<td>21 U.S.C. § 841(b)(5)</td>
<td>Unlawfully cultivating or manufacturing a controlled substance on federal property.</td>
<td>Penalized in accordance with Table 1; except that if the fine limits for the base violation are less than $500,000 (for an individual offender) and $1 million (for any other type of offender), the fine limits will be raised to $500,000 and $1 million, respectively.</td>
<td>Penalized in accordance with Table 1; except that if the fine limits for the base violation are less than $500,000 (for an individual offender) and $1 million (for any other type of offender), the fine limits will be raised to $500,000 and $1 million, respectively.</td>
<td>Penalized in accordance with Table 1; except that if the fine limits for the base violation are less than $500,000 (for an individual offender) and $1 million (for any other type of offender), the fine limits will be raised to $500,000 and $1 million, respectively.</td>
</tr>
<tr>
<td>21 U.S.C. § 841(b)(6)</td>
<td>Manufacturing, distributing, or dispensing a drug or counterfeit substance; possessing with intent to manufacture, distribute, or dispense a drug or counterfeit substance; or attempting to carry out one of these actions; and knowingly or intentionally using a poison, chemical, or other hazardous substance on federal land, thereby (1) creating a serious hazard to humans, wildlife, or domestic animals; (2) degrading or harming the environment or natural resources; or (3) polluting an aquifer, spring, stream, river, or body of water.</td>
<td>Fined in accordance with Title 18 of the United States Code, imprisoned up to 5 years, or both.</td>
<td>Fined in accordance with Title 18 of the United States Code, imprisoned up to 5 years, or both.</td>
<td>Fined in accordance with Title 18 of the United States Code, imprisoned up to 5 years, or both.</td>
</tr>
<tr>
<td>21 U.S.C. §§ 841(c), 802(33)–(35)</td>
<td>Knowingly or intentionally (1) possessing a List I or List II chemical with intent to manufacture a controlled substance without legal authorization; or (2) possessing or distributing a List I or List II chemical knowing, or having reasonable cause to believe, that the listed chemical will be used to manufacture a controlled substance without legal authorization.</td>
<td>For violations involving a List I chemical, fined in accordance with Title 18 of the United States Code, imprisoned up to 20 years, or both. For violations involving a List II chemical, fined in accordance with Title 18 of the United States Code, imprisoned up to 10 years, or both.</td>
<td>For violations involving a List I chemical, fined in accordance with Title 18 of the United States Code, imprisoned up to 20 years, or both. For violations involving a List II chemical, fined in accordance with Title 18 of the United States Code, imprisoned up to 10 years, or both.</td>
<td>For violations involving a List I chemical, fined in accordance with Title 18 of the United States Code, imprisoned up to 20 years, or both. For violations involving a List II chemical, fined in accordance with Title 18 of the United States Code, imprisoned up to 10 years, or both.</td>
</tr>
<tr>
<td>21 U.S.C. §§ 841(c), 802(33)–(35)</td>
<td>With the intention of evading the recordkeeping or reporting requirements of 21 U.S.C. § 830 or its subsequent regulations, receiving or distributing a reportable amount of any List I or List II chemical in units small enough that the making of records or filing of reports under that section is not required.</td>
<td>Fined in accordance with Title 18 of the United States Code, imprisoned up to 10 years, or both.</td>
<td>Fined in accordance with Title 18 of the United States Code, imprisoned up to 10 years, or both.</td>
<td>Fined in accordance with Title 18 of the United States Code, imprisoned up to 10 years, or both.</td>
</tr>
</tbody>
</table>
### Table 3—Federal Penalties for Illegal Possession of Drugs—All Drugs

Below are federal penalties for crimes related to the possession of any illegal drug.

<table>
<thead>
<tr>
<th>Citation</th>
<th>Summary</th>
<th>First Offense</th>
<th>Second Offense</th>
<th>Third+ Offense</th>
</tr>
</thead>
<tbody>
<tr>
<td>21 U.S.C. § 844(a)</td>
<td>Prohibits intentional or knowing possession of a controlled substance without a prescription or registration.</td>
<td>Term of imprisonment no more than 1 year, minimum fine of $1,000, or both. However, if the violation involves flunitrazepam, the penalty will be a term of imprisonment no more than 3 years, a minimum fine of $1,000, or both. A violator charged with possession of a controlled substance will also be fined the reasonable costs of investigating and prosecuting the offense, unless the defendant lacks the ability to pay.</td>
<td>Term of imprisonment no less than 15 days and no more than 2 years and a minimum fine of $2,500. However, if the violation involves flunitrazepam, the penalty will be a term of imprisonment no more than 3 years, a minimum fine of $2,500, or both. A violator charged with possession of a controlled substance will also be fined the reasonable costs of investigating and prosecuting the offense, unless the defendant lacks the ability to pay.</td>
<td>Term of imprisonment no less than 90 days and no more than 3 years and a minimum fine of $5,000. However, if the violation involves flunitrazepam, the penalty will be a term of imprisonment no more than 3 years, a minimum fine of $5,000, or both. A violator charged with possession of a controlled substance will also be fined the reasonable costs of investigating and prosecuting the offense, unless the defendant lacks the ability to pay.</td>
</tr>
<tr>
<td>21 U.S.C. § 844(a); 28 C.F.R. §§ 76.3(a), 85.5</td>
<td>An individual in knowing possession of a controlled substance can face a civil fine of up to $11,000 for each violation. 6</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>21 U.S.C. §§ 853(a)(1)–(2), 881(a)(7)</td>
<td>If the drug offense is punishable by more than 1 year of imprisonment, an individual must forfeit any real property, as well as personal property obtained as the result of a violation or used (or intended to be used) in facilitating the violation.</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>21 U.S.C. § 862(b)(1)</td>
<td>Conviction (at either the federal or state level) for possession of a controlled substance. 7</td>
<td>Ineligible for any or all federal benefits for up to 1 year, as decided by the court. The court may order participation in an approved drug treatment program, which includes periodic testing. The court may also order community service.</td>
<td>Same penalty possibilities as first offense, except ineligibility for federal benefits for up to 5 years. The court may require that the completion of the conditions listed in the first offense be required for the reinstatement of federal benefits.</td>
<td>Same as second offense.</td>
</tr>
</tbody>
</table>

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6 “A civil penalty may not be assessed on an individual under this part on more than two separate occasions.” 28 C.F.R. § 76.3(d).

7 All penalties listed in this row will be waived if (1) the person declares himself or herself to be an addict, the circumstances reasonably substantiate that claim, and the person submits to a long-term addiction treatment program; or (2) the person is determined to be successfully rehabilitated under the rules of the Secretary of Health and Human Services. 21 U.S.C. § 862(b)(2). The person’s ineligibility for federal benefits will also be suspended if he or she completes a supervised drug rehabilitation program, has otherwise been rehabilitated, or has made a good faith effort to join a supervised drug rehabilitation program, but is unable to due to program inaccessibility or unavailability, or due to the person’s inability to pay for a program. 21 U.S.C. § 862(c)(C).
### Citation

<table>
<thead>
<tr>
<th>Citation</th>
<th>Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td>21 U.S.C. § 881(a)</td>
<td>An individual may be required to forfeit vehicles, boats, aircrafts, or any other conveyance used (or intended to be used) to transport or conceal a controlled substance; an individual may also be required to forfeit other property (books, records, research, raw materials, money, real estate, illegal drugs, manufacturing equipment, firearms, etc.) used (or intended to be used) to facilitate the violation of a drug law.</td>
</tr>
<tr>
<td>18 U.S.C. § 922(g)</td>
<td>An individual convicted of a crime punishable by imprisonment for more than one year, or who “is an unlawful user of or addicted to any controlled substance” is ineligible to transport, possess, or receive a firearm.</td>
</tr>
</tbody>
</table>

### Table 4—Hawaii State Penalties for Possession, Use, or Distribution of Illegal Drugs

Below are highlights of Hawaii laws imposing penalties for possession, use, or distribution of illegal drugs.

<table>
<thead>
<tr>
<th>Prohibited Conduct</th>
<th>Controlled Substance</th>
<th>Classification and Penalty*</th>
</tr>
</thead>
</table>
| Distributing methamphetamine in any amount to a minor or manufacturing methamphetamine in any amount\(^8\) (HRS § 712-1240.7(1)–(2)) | Methamphetamine     | Class A Felony  
Penalty: Indeterminate term of imprisonment of twenty years with a minimum of not less than two years and a fine not to exceed $20,000,000. (HRS §712-1240.7(3) |

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\(^8\) See HRS § 712-1240.7 for specific penalties for repeated offenses
<table>
<thead>
<tr>
<th>Prohibited Conduct</th>
<th>Controlled Substance</th>
<th>Classification and Penalty*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Possessing or distributing one or more dangerous drugs (HRS § 712-1241 to 1243)</td>
<td>Methamphetamine, heroin, morphine, cocaine</td>
<td>Class A Felony*&lt;br&gt;• Possessing one oz., or 1.5 oz. of any other dangerous drug&lt;br&gt;• Distributing 1/8 oz./25 capsules, or 3/8 oz. of any other dangerous drug</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Class B Felony&lt;br&gt;• Possessing 1/8 oz./25 capsules, or 1/4 oz. any other dangerous drug&lt;br&gt;• Distributing any dangerous drug in any amount</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Class C Felony&lt;br&gt;• Possessing any dangerous drug in any amount</td>
</tr>
<tr>
<td>Possessing or distributing marijuana (HRS § 712-1244–1246)</td>
<td>Marijuana</td>
<td>Class A Felony&lt;br&gt;• Possessing 1 oz./100 capsules/dosage units&lt;br&gt;• Distributing 1/8 oz./25 capsules, or any amount to a minor</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Class B Felony&lt;br&gt;• Possessing 1/8 oz./50 capsules/dosage units.&lt;br&gt;• Distributing any amount</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Class C Felony&lt;br&gt;• Possessing 25 capsules/dosage units</td>
</tr>
<tr>
<td>Commercial possession or distribution of marijuana (HRS § 712-1249.4–1249.5)</td>
<td>Marijuana</td>
<td>Class A Felony&lt;br&gt;• Possessing 25 lbs./100 plants Distributing five lbs.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Class B Felony&lt;br&gt;• Possessing two lbs./50 plants Distributing one lb.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Promoting intoxicating compounds (HRS § 712-1250(1)(a)–(b))</td>
<td>Toluol, hexane, trichloroethylene, acetone, toluene, ethyl acetate, methyl ethyl ketone, trichloroethane,</td>
<td>Misdemeanor&lt;br&gt;• Breathing, inhaling or drinking an intoxicating compound or offering for sale, delivering, or giving an intoxicating compound to someone under the age of 18</td>
</tr>
</tbody>
</table>
Prohibited Conduct  | Controlled Substance  | Classification and Penalty*
---|---|---
Offering for sale, delivering, or giving intoxicating alcohol to a person under the age of 21 (HRS § 712-1250.5(1)) | isopropanol, methyl isobutyl ketone, methyl cellosolve acetate, etc. | Misdemeanor – punishable by up to one year in jail and a fine of up to $2,000 (H.R.S. §§706-640, 706-663)
Keeping alcohol in/on a motor vehicle (opened or unopened) or at any scenic lookout (HRS § 291-3.3(a)–(b)) |  | Petty misdemeanor – punishable by up to 30 days in jail and a fine of up to $1,000 (H.R.S. §§706-640, 706-663.)
Drinking or using drugs in any state park (HAR § 13-146-25, see HRS § 184-5(a)–(b)) |  | First offense: petty misdemeanor, minimum $100 fine

*Description of Possible Penalties for Possession, Use, or Distribution of Illegal Drugs:

**Petty Misdemeanor**: Imprisonment not more than 30 days; fine not to exceed $1,000

**Misdemeanor**: Imprisonment not more than 1 year; fine not to exceed $2,000

**Class C Felony**: Imprisonment not more than 5 years; fine not to exceed $10,000

**Class B Felony**: Imprisonment not less than 2 years nor more than 20 years; fine not to exceed $25,000

**Class A Felony**: Imprisonment not less than 20 years and which may be up to life; fine not to exceed $50,000

Table 5—Hawaii State Penalties for Unlawful Possession, Use, or Distribution of Alcohol

Below are highlights of Hawaii laws imposing penalties for possession, use, or distribution of alcohol.

<table>
<thead>
<tr>
<th>Prohibited Conduct</th>
<th>Classification and Penalty*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Offering for sale, delivering, or giving intoxicating alcohol to a person under the age of 21 (HRS § 712-1250.5(1))</td>
<td>Misdemeanor – punishable by up to one year in jail and a fine of up to $2,000 (H.R.S. §§706-640, 706-663)</td>
</tr>
<tr>
<td>Keeping alcohol in/on a motor vehicle (opened or unopened) or at any scenic lookout (HRS § 291-3.3(a)–(b))</td>
<td>Petty misdemeanor – punishable by up to 30 days in jail and a fine of up to $1,000 (H.R.S. §§706-640, 706-663.)</td>
</tr>
<tr>
<td>Drinking or using drugs in any state park (HAR § 13-146-25, see HRS § 184-5(a)–(b))</td>
<td>First offense: petty misdemeanor, minimum $100 fine</td>
</tr>
<tr>
<td>Offense</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
</tr>
<tr>
<td>Second offense: petty misdemeanor, minimum $200 fine</td>
<td>Petty misdemeanor – punishable by up to 30 days in jail and a fine of up to $2000 (HRS § 291-3.1(c).)</td>
</tr>
<tr>
<td>Third offense: petty misdemeanor, minimum $500 fine</td>
<td>Petty misdemeanor – punishable by up to 30 days in jail and a fine of up to $2000 (HRS § 291-3.1(c).)</td>
</tr>
</tbody>
</table>

### Consuming Alcohol While Operating a Motor Vehicle (HRS § 291-3.1(a))

- Petty misdemeanor – punishable by up to 30 days in jail and a fine of up to $2000 (HRS § 291-3.1(c).)

### Drinking Alcohol (or Open Containers) as a Passenger (HRS § 291-3.2(b))

- Petty misdemeanor – punishable by up to 30 days in jail and a fine of up to $2000 (HRS § 291-3.1(c).)

### Driving Under the Influence of an Intoxicant (HRS § 291E-61(a))

- First offense: 14 hour substance abuse rehabilitation program, one year revocation of license, and one or more of the following: 72 hours of community service; minimum of 48 hours and a maximum of five days imprisonment; a fine between $150-1000 (HRS § 291E-61(b)(1)).
- Second offense: 18 to 24 months license revocation; either at least 240 hours of community service work or between 5-30 days imprisonment; fine between $500-$1500 HRS § 291E-61(b)(2)).
- Third offense: two years license revocation, a fine between $500-$2500, and between 10-30 days imprisonment HRS § 291E-61(b)(3)). (Note: See HRS § 291E-61.5 for penalties beyond the third conviction.)
## APPENDIX I: HEALTH RISKS OF DRUG AND ALCOHOL USE

The following information is derived from the National Institute on Drug Abuse’s Commonly Abused Drugs Chart. Click [here](#) to view detailed information.

<table>
<thead>
<tr>
<th>Substances: Category and Name</th>
<th>Example of Commercial and Street Names</th>
<th>DEA Schedule*/How Administered**</th>
<th>Acute Effects/Health Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tobacco</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nicotine</td>
<td>Found in cigarettes, cigars, bidis, and smokeless tobacco</td>
<td>Not scheduled/smoked, snorted, chewed</td>
<td>Increased blood pressure and heart rate/chronic lung disease; cardiovascular disease; stroke; cancers of the mouth, pharynx, larynx, esophagus, stomach, pancreas, cervix, (snuff, spit tobacco, chew) kidney, bladder, and acute myeloid leukemia; adverse pregnancy outcomes; addiction</td>
</tr>
<tr>
<td>Alcohol</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alcohol (ethyl alcohol)</td>
<td>Found in liquor, beer, and wine</td>
<td>Not scheduled/swallowed</td>
<td>In low doses, euphoria, mild stimulation, relaxation, lowered inhibitions; in higher doses, drowsiness, slurred speech, nausea, emotional volatility, loss of coordination, visual distortions, impaired memory, sexual dysfunction, loss of consciousness/ increased risk of injuries, violence, fetal damage (in pregnant women); depression; neurologic deficits; hypertension; liver and heart disease; addiction; fatal overdose</td>
</tr>
<tr>
<td>Cannabinoids</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Marijuana</td>
<td>Blunt, dope, ganja, grass, herb, joint, bud, Mary Jane, pot, reefer, green, trees, smoke, sinsemilla, skunk, weed</td>
<td>I/smoked, swallowed</td>
<td>Euphoria; relaxation; slowed reaction time; distorted sensory perception; impaired balance and coordination; increased heart rate and appetite; impaired learning, memory; anxiety; panic attacks; psychosis/cough; frequent respiratory infections; possible mental health decline; addiction</td>
</tr>
<tr>
<td>Hashish</td>
<td>Boom, gangster, hash, hash oil, hemp</td>
<td>I/smoked, swallowed</td>
<td></td>
</tr>
<tr>
<td>Opioids</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Heroin</td>
<td>Diacetylmorphine: smack, horse, brown sugar, dope, H, junk, skag, skunk, white horse, China white; cheese (with OTC cold medicine and antihistamine)</td>
<td>I/injected, smoked, snorted feeling of heaviness in the body; slowed or arrested breathing,constipation; endocarditis; hepatitis; HIV; addiction; fatal overdose</td>
<td></td>
</tr>
<tr>
<td>Substances: Category and Name</td>
<td>Example of Commercial and Street Names</td>
<td>DEA Schedule*/How Administered**</td>
<td>Acute Effects/Health Risks</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>---------------------------------------</td>
<td>----------------------------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>Opium</td>
<td>Laudanum, paregoric: big O, black stuff, block, gum, hop</td>
<td>II, III, V/swallowed, smoked</td>
<td></td>
</tr>
<tr>
<td>Stimulants</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| Cocaine                      | Cocaine hydrochloride: blow, bump, C, candy, Charlie, coke, crack, flake, rock, snow, toot | II/snorted, smoked, injected | Increased heart rate, blood pressure, body temperature, metabolism; feelings of exhilaration; increased energy, mental alertness; tremors; reduced appetite; irritability; anxiety; panic; paranoia; violent behavior; psychosis/weight loss; insomnia; cardiac or cardiovascular complications; stroke; seizures; addiction speed, truck drivers, uppers  
Also, for cocaine—nasal damage from snorting |
| Amphetamine                  | Biphentine, Dexedrine: bennies, black beauties, crosses, hearts, LA turnaround, speed, truck drivers, uppers | II/swallowed, snorted, smoked, injected | Also, for methamphetamine—severe dental problems |
| Methamphetamine              | Desoxyn: meth, ice, crank, chalk, crystal, fire, glass, go fast, speed | II/swallowed, snorted, smoked, injected | |
| Club Drugs                   |                                       |                                  |                          |
| MDMA (methylenedioxymetham- phetamine) | Ecstasy, Adam, clarity, Eve, lover’s speed, peace, uppers | I/swallowed, snorted, injected | MDMA—mild hallucinogenic effects; increased tactile sensitivity, empathic feelings; lowered inhibition; anxiety; chills; sweating; teeth clenching; muscle cramping/sleep disturbances; depression; impaired memory; hyperthermia; addiction  
Flunitrazepam—sedation; muscle relaxation; confusion; memory loss; dizziness; impaired coordination/addiction grievous bodily harm, liquid |
<p>| Flunitrazepam***             | Rohypnol: forget-me pill, Mexican Valium, R2, roach, Roche, roofies, roofinol, rope, rorphies | IV/swallowed, snorted | |
| GHB***                       | Gamma-hydroxybutyrate: G, Georgia home boy, ecstasy, soap, scoop, goop, liquid X | I/swallowed | GHB—drowsiness; nausea; headache; disorientation; loss of coordination; memory loss/unconsciousness; seizures; coma |
| Dissociative Drugs           |                                       |                                  |                          |
| Ketamine                      | Ketalar SV: cat Valium, K, Special K, vitamin K III | III/injected, snorted, smoked | Feelings of being separate from one’s body and environment; impaired motor function/anxiety; tremors; numbness; memory loss; nausea |
| PCP and analogs               | Phencyclidine: angel dust, boat, hog, love boat, peace pill | I, II/swallowed, smoked, injected | |</p>
<table>
<thead>
<tr>
<th><strong>Substances: Category and Name</strong></th>
<th><strong>Example of Commercial and Street Names</strong></th>
<th><em><em>DEA Schedule</em>/How Administered</em>*</th>
<th><strong>Acute Effects/Health Risks</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Salvia Divinorum</strong></td>
<td>Salvia, Shepherdess’s Herb, Maria Pastora, magic mint, Sally-D</td>
<td>Not scheduled/chewed, swallowed, smoked</td>
<td>Also, for ketamine—analgesia; impaired memory; delirium; respiratory depression and arrest; death</td>
</tr>
<tr>
<td><strong>Dextromethorphan (DXM)</strong></td>
<td>Found in some cough and cold medications: Robotripping, Robo, Triple C</td>
<td>Not scheduled/swallowed</td>
<td>Also, for PCP and analogs—analgesia; psychosis; aggression; violence; slurred speech; loss of coordination; hallucinations Also, for DXM—euphoria; slurred speech; confusion; dizziness; distorted visual perceptions</td>
</tr>
</tbody>
</table>

**Hallucinogens**

| **LSD** | Lysergic acid diethylamide: acid, blotter, cubes, microdot, yellow sunshine, blue heaven | I/swallowed, absorbed through mouth tissues | Altered states of perception and feeling; hallucinations; nausea Also, for LSD and mescaline—increased body temperature, heart rate, blood pressure; loss of appetite; sweating; sleeplessness; numbness; dizziness; weakness; tremors; impulsive behavior; rapid shifts in emotion Also, for LSD—Flashbacks, Hallucinogen Persisting Perception Disorder Also, for psilocybin—nervousness; paranoia; panic |
| **Mescaline** | Buttons, cactus, mesc, peyote | I/swallowed, smoked |  |
| **Psilocybin** | Magic mushrooms, purple passion, shrooms, little smoke | I/swallowed |  |

**Other Compounds**

<p>| <strong>Anabolic steroids</strong> | Anadrol, Oxandrin, Durabolin, Depo-Testosterone, Equipoise:roids,juice, gym candy, pumpers | III/injected, swallowed, applied to skin | Steroids—no intoxication effects/hypertension; blood clotting and cholesterol changes; liver cysts; hostility and aggression; acne; in adolescents—premature stoppage of growth; in males—prostate cancer, reduced sperm production, shrunken testicles, breast enlargement; in females—menstrual irregularities, development of beard and other masculine characteristics |
| <strong>Inhalants</strong> | Solvents (paint thinners, gasoline, glues); gases (butane, propane, aerosol propellants, nitrous oxide); nitrates (isoamyl, isobutyl, cyclohexyl): laughing masculine characteristics gas, poppers, snappers, whippets | Not scheduled/inhaled through nose or mouth | Inhalants (varies by chemical)—stimulation; loss of inhibition; headache; nausea or vomiting; slurred speech; loss of motor coordination; wheezing/cramps; muscle weakness; depression; memory impairment; damage to cardiovascular and nervous systems; unconsciousness; sudden death |</p>
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<th>Substances: Category and Name</th>
<th>Example of Commercial and Street Names</th>
<th>DEA Schedule*/How Administered**</th>
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</thead>
<tbody>
<tr>
<td>Prescription Medications</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CNS Depressants.</td>
<td>For more information on prescription medications, please visit <a href="https://www.drugabuse.gov/drugs-abuse/prescription-medicines">https://www.drugabuse.gov/drugs-abuse/prescription-medicines</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stimulants</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Opioid Pain Relievers</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Schedule I and II drugs have a high potential for abuse. They require greater storage security and have a quota on manufacturing, among other restrictions. Schedule I drugs are available for research only and have no approved medical use; Schedule II drugs are available only by prescription (unrefillable) and require a form for ordering. Schedule III and IV drugs are available by prescription, may have five refills in 6 months, and may be ordered orally. Some Schedule V drugs are available over the counter.

** Some of the health risks are directly related to the route of drug administration. For example, injection drug use can increase the risk of infection through needle contamination with staphylococci, HIV, hepatitis, and other organisms.

*** Associated with sexual assaults.
MISSING STUDENT NOTIFICATION POLICY

1. PURPOSE

Federal regulations require the university to provide for means of notifying parents, campus authorities and law enforcement when a student who lives in on-campus student housing facilities has been missing for 24 hours.

2. POLICY

Annually, the university will inform all students via an automated alert of the option to confidentially register the name of one or more emergency contacts to be notified in the event that the student is determined to be missing. Students may update this information at any time through the Student Center of the Student Registration system. Information regarding registered emergency contacts will be accessible only to authorized campus officials and may not be disclosed, except to law enforcement personnel in furtherance of a missing student investigation. In the event that a student is missing, campus officials should immediately notify Campus Safety & Security as outlined in the following implementation guidelines.

2.1 REGISTRATION OF CONTACT PERSONS BY THE STUDENT

The university affords all students with the option to identify a contact person or persons whom the university shall notify within 24 hours of a determination by Campus Safety & Security or local law enforcement that the student is missing. A general emergency contact and a missing student contact may be registered, although the contact person may be the same for both purposes. A student may choose to designate a parent as their contact person; however, the contact person may be anyone they choose. If there is no contact identified, only the Honolulu Police Department will be notified by the university.

2.2 STUDENTS UNDER THE AGE OF 18

The university will notify a custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to notifying any additional contact person identified by the student.

2.3 NOTIFICATION OF LAW ENFORCEMENT

The university, regardless of age or status, and regardless of whether the student has registered a confidential contact person, will also notify Honolulu Police Department within 24 hours of the determination that the student is missing, unless the Honolulu Police Department made the determination that the student is missing.

3. IMPLEMENTATION

3.1 DEFINITIONS

3.1.1 AUTHORIZED CAMPUS OFFICIALS

Authorized campus officials include the Student Life Vice President, Director of Campus Life, members of Campus Safety & Security, and members of the Behavior Intervention Team.

3.2 REPORTING

Any person who believes that a student is missing should immediately notify at least one of the following:

- Campus Safety & Security – (808) 675-3911, 148 McKay;
- A Residence Life Hale Coordinator;
- A Resident Advisor;
- Dean of Students – (808) 675-4586, LSB 121; or,
- Director of Campus Life (808) 675-3311, Aloha Center 166.

Reports of missing students may also be made to the Honolulu Police Department by calling 9-1-1.
Any missing student report must be immediately referred to Campus Safety & Security (808-675-3911 or 5-3911). If a student is determined by Campus Safety & Security or local law enforcement to be missing, Campus Safety & Security will coordinate with the Director of Campus Life so that the Behavior Intervention Team can plan and oversee an investigation.

### 3.3 INVESTIGATION PROCEDURES

#### 3.3.1 OBLIGATION OF THE REPORTER

When a university employee or faculty member receives notification that a student is missing, the employee should help the reporter contact Campus Safety & Security to file a missing student report. If the reporter is unwilling to make a report, the employee should attempt to collect and report to Campus Safety & Security as much information as possible, including the following:

- Name of the missing person
- Contact information of the missing person
- Physical description of the missing person, including clothing; hair, eye, and skin color; and any distinguishing features
- Time and location where the person was last seen
- Names and contact information of persons close to the missing person or recently seen with the missing person
- Name and contact information of the reporter

#### 3.3.2 UNIVERSITY PROCEDURES UPON DETERMINATION THAT STUDENT IS MISSING

When a student is reported missing and has been deemed by Campus Safety & Security or local law enforcement to have been missing for 24 hours without any known reason, Campus Safety and Security will notify the Behavior Intervention Team chair, who is the Director of Campus Life. The university will then follow the procedures outlined below:

1. The Behavior Intervention Team will initiate an investigation to make a determination as to the status of the missing student;
2. The Director of Campus Life will contact the Student Life Vice President;
3. The Behavior Intervention Team will identify and implement actions to assist in locating the missing student.
4. The Director of Campus Life will notify the missing student notification contact(s), as identified by the missing student, within 24 hours of the determination that the student is missing;
5. If the student is under 18 (and not emancipated), the Director of Campus Life will notify the student’s custodial parent/guardian no later than 24 hours of the determination that the student is missing;
6. The Director of Campus Life will notify the Honolulu Police Department within 24 hours of Campus Safety & Security determining that the student is missing.
7. All attempts to notify the contact person(s) will be documented. Any of the foregoing steps may be taken before a student is determined to have been missing for 24 hours if there is reason to believe the student is missing or may otherwise be in danger.

### 4. RELATED POLICIES AND PROCEDURES

- [Campus Threat Assessment](#)
- [Student Emergency Leave Policy](#)