

**Appendix C**  
**Topics to Be Included in Title IX & VAWA Nondiscrimination Notice**  
**for All Students and Employees**

The following topics should be included in the campus Title IX & VAWA Nondiscrimination Notice. The information below is not meant to be quoted verbatim but is meant to guide the campus administrator on the purpose of each notice item and to provide sample language.

A. Policy statement

Campuses should notify members of their campus community of the University's commitment to equal opportunity and nondiscrimination and the specific prohibition against sexual harassment, sexual assault, domestic violence, dating violence, stalking, and retaliation pursuant to Title IX & VAWA. This policy covers allegations of sexual harassment and sexual violence carried out by employees, students, and third parties. (See part III.A. above for sample language, III.B. for retaliation policy, and III.C. for coverage.)

Include adequate policy definitions for:

- sexual harassment (and definition of hostile environment)
- sexual assault
- domestic violence
- dating violence
- stalking
- consent

Include the Hawai'i criminal code definitions of sexual offenses.

B. Availability of immediate assistance and reporting options

The notice should include contact information for designated reporting options and complaint offices and campus resources. The listing should include both on- and off-campus resources that are prepared to assist persons who report incidents of sexual harassment and sexual violence, regardless of whether the person chooses to file a complaint. The resources will vary based on what is reasonably available on campus and in the community.

1. Examples of on- and off-campus resources, including confidential options

Designated reporting options:

- Title IX Coordinator
- Complaint offices that receive or investigate complaints or handle student judicial affairs

Safety and law enforcement:

- Campus security
- 911 and local law enforcement

Confidential advocacy, crisis counseling, and health services options available on campus:

- Confidential professionals – licensed counselors, physicians, and other professionals legally obligated to maintain confidentiality
- Employee assistance programs
- Student health services
- Advocates (LGBTI student services, Women's Centers), victim services (Sexual Violence Prevention Programs, Sexual Assault Response Teams), disability access services, i.e., non-licensed counselors designated by the campus to provide services to students in a private, anonymous setting

Off-campus resources:

- Community based resources for domestic violence, gay and lesbian anti-violence programs, sexual abuse treatment centers, legal services, visa and immigration assistance

Other informational resources:

- Campus Title IX – VAWA website and online training resources
- U.S. White House: <http://www.notalone.gov>
- U.S. Department of Education, Office for Civil Rights:  
<http://www2.ed.gov/ocr>  
Office for Civil Rights - Seattle Office  
U.S. Department of Education  
915 Second Avenue Room 3310  
Seattle, WA 98174-1099  
Telephone: 206-607-1600  
FAX: 206-607-1601; TDD: 800-877-8339  
Email: OCR.Seattle@ed.gov
- U.S. Department of Justice, Office on Violence Against Women  
<http://www.ovw.usdoj.gov>  
US Department of Justice  
Office on Violence Against Women  
145 N Street, NE, Suite 10W.121  
Washington, DC 20530

(202) 307-6026

2. Sample language for a resource list:

Availability of immediate assistance and interim measures

Emergency situations

*If you are in the midst of any kind of emergency, immediate harm, stalking, or threat of harm: call Campus Security [number] or 911 local law enforcement.*

Immediate and ongoing assistance

*If you have been threatened with or experienced sexual violence, stalking, or sexual harassment, you are encouraged to contact the campus Title IX Coordinator for information on campus and community based resources; confidential resources; your rights to file (or not to report) a criminal complaint; campus options for student conduct or administrative complaints; how confidentiality is handled; and other important information.*

*All members of the University community are urged to seek assistance and report conduct of concern before it becomes severe, pervasive, or persistent. Students and employees can contact the Title IX Coordinator and/or the offices listed below for information or to discuss their concerns.*

*Regardless of whether a person elects to pursue a criminal complaint or administrative complaint, and regardless of whether the incident occurred on- or off-campus, the University will offer and provide assistance. The Title IX Coordinator, Deputy Title IX Coordinators, Campus Security, and other designated offices will provide verbal and written information and referral.*

*To the extent of the person's cooperation and consent, campus offices will work cooperatively to ensure that the person's health, physical safety, and academic status are protected. Designated campus resource offices will provide information to the reporting party and will seek to prevent harassment from continuing and perhaps escalating and to otherwise assist the person harassed. Examples of accommodations (if appropriate and reasonably available) include no-contact orders, campus security escort services, nonretaliation notices, counseling, changes in class schedules, changes in living arrangements, safety plans, disability student services, and training.*

*When seeking advice and support, persons who are concerned about confidentiality and privacy should discuss their concerns with the person with whom they are speaking. Some campus and community resources offer services on a confidential basis. Others offer privacy but may need to report anonymous information to the Title IX Coordinator. Other offices are places to*

*file informal and formal complaints, to contact campus security or be assisted in contacting local law enforcement.*

*Title IX Coordinator and Deputy Coordinators*

*Title IX Coordinator and the Deputy Title IX Coordinators (if applicable) are designated to oversee Title IX compliance and provide information on Title IX rights and responsibilities, complaint investigation and resolution, student conduct procedures regarding allegations of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. Members of the campus community are encouraged to refer individuals with complaints of sexual harassment and sexual violence to these complaint officers.*

- *name*
- *address*
- *email*
- *phone*
- *web link*

*[if there are deputy Title IX Coordinators, list each one separately and indicate their area of responsibility]*

*Campus Security, Local Police*

*Campus Medical & Professional Counseling Services*

*Advocacy, Rape Crisis service, Women's Center, LGBT Center*

*Off-Campus Community Based Services*

C. Availability of interim measures

Provide written notification for students and employees about the range of options for, and available assistance in changing academic, living, transportation, and working situations, if requested by the student or employee and if such accommodations are reasonably available, regardless of whether the person chooses to report the crime to campus security or local law enforcement. These accommodations should be handled in a confidential manner, to the extent that maintaining such confidentiality would not impair the ability of the campus to provide the accommodations or protective measures.<sup>16</sup>

1. Interim measures for students

Appropriate interim measures may be implemented for student complainants and respondents. In most situations the interim measure will be made in response to a request by the student, and when such accommodations are

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<sup>16</sup> VAWA and 34 CFR Part 668 § 668.46

appropriate and reasonably available. In rare instances, interim measures may be initiated and/or implemented by the Title IX Coordinator or other campus officer due to imminent health and safety concerns for the campus. The following are examples of possible interim measures for students:

- safety plan
- security escort on campus
- change in campus housing location to alternate housing location
- assistance in transferring to another class section
- assistance in arranging for incompletes, leaves or withdrawals
- assistance in arranging for alternate University student employment arrangements
- “no contact” directive pending the outcome of the investigation. Such notice serves as notice to both complainant and respondent that they must not have verbal, electronic, written or third party communication with one another.

2. Interim measures for employees

Appropriate interim measures may be implemented for employee complainants and respondents. In most situations the interim measure will be made in response to a request by the employee, and when such accommodations are appropriate and reasonably available. In rare instances, interim measures may be initiated and/or implemented by the Title IX Coordinator or other campus officer due to imminent health and safety concerns for the campus. In cases where an employee’s work arrangements may be affected, it is recommended to inform covered employees of their opportunity to discuss the matter with their union representative. Interim measures for covered employees shall be taken in accordance with the applicable collective bargaining agreement. The following are examples of possible interim measures for employees:

- safety plan
- modifications in work arrangements
- temporary reassignment to other work groups or teams
- temporary changes in office location or work area or in access to workplace areas
- “no contact” directive pending the outcome of the investigation. Such notice serves as notice to both complainant and respondent that they must not have verbal, electronic, written or third party communication with one another.
- reasonable workplace accommodations in accordance with victims protection and leave policies pursuant to Chapter 378, Part VI, Victims Protections, Hawai‘i Revised Statutes

3. The following is sample language for a notice regarding interim measures:

Availability of Interim Measures

*Students and employees are strongly encouraged to report incidents of sexual harassment and sexual violence as soon as possible to prevent escalation, preserve evidence, and to give campus administrators an opportunity to intervene. The Title IX Coordinator will discuss with you any appropriate and reasonably available assistance in changing academic, living, transportation, and working situations that the campus may be able to offer prior to filing a complaint or during an investigation, so as to provide interim relief and a safe academic or work environment. Interim measures can be provided regardless of whether you decide to file a complaint or report the incident to Campus Security or law enforcement. Examples of interim measures include:*

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*Contact information for the Title IX Coordinator is listed above. Other offices that may be able to assist with interim accommodations include:*

*----- (include a confidential resource, if available)*

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D. Confidential offices and resources

Any person who has experienced sexual harassment or sexual violence is strongly urged to contact their campus Title IX Coordinator or campus security, as needed in an emergency. However, if a person desires to keep the details of an incident confidential, she or he can speak with individuals who have professional or legal obligations to maintain confidentiality. Pursuant to Title IX guidance, students may also speak privately with designated campus student services offices such as advocacy offices and sexual assault services. When seeking advice and support, students who are concerned about confidentiality and privacy should discuss their concerns with the person with whom they are speaking. To the extent feasible, the campus Title IX & VAWA notice will indicate which offices listed in the notice are confidential and whether the student can remain anonymous.

1. Confidential professionals

Confidential professionals include licensed counselors, physicians, clergy, and other professionals legally obligated to maintain confidentiality.

Campuses that have physicians, psychologists, employee assistance programs, or other professionals covered by the Hawai'i law on privileged communication can identify these confidential resources in their Title IX & VAWA notice. Unless there is an imminent threat to health or safety, or other basis for disclosure pursuant to law (e.g., mandatory child abuse reporting for

persons under 18), confidentiality applies when persons seek services from the following professionals<sup>17</sup>:

- A licensed counseling psychologist
- Physician or health care provider
- Trained victim counselor working for a domestic violence or sexual assault crisis center (under direct control of social worker, nurse, psychiatrist, psychologist)
- Member of the clergy
- A personal attorney

2. Confidential advocacy and support services for students<sup>18</sup>

Pursuant to Title IX guidance, campuses may designate non-licensed counselors, advisors, or advocates (e.g., counselors in sexual assault center, victim advocacy office, women's center, wellness or health center) to provide confidential services to students. These counselors are not covered by State law on confidential, privileged communication; however, they can assist students by coordinating support services or interim measures and by providing information on reporting options in a private (anonymous) setting. These counselors or offices report information to the Title IX Coordinator without including personally identifying information about the student.

If the student requests to remain confidential and to have their name withheld, the counselor should:

- explain that this will limit the campus's ability to conduct an investigation or pursue disciplinary action against the accused and
- inform the student that the University's Title IX policy includes strong prohibitions against retaliation and that campus officials will take steps to prevent or address retaliation.

The counselors or advocates are obligated to report the nature, date, time, and general location of an incident to the Title IX Coordinator to help keep the Title IX Coordinator informed of the general extent and nature of sexual violence on- and off-campus so the coordinator can track patterns, evaluate the scope of the problem, evaluate the effectiveness of interim measures, and formulate appropriate campus-wide responses. The counselor or advocate is not obligated by Title IX to report individually identifiable information about students without the student's consent unless otherwise required by law or in instances where there is a real and significant threat of repeat incidents of sexual harassment and sexual violence. In these limited situations where the remedial options are deemed to be insufficient, the University has a duty to

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<sup>17</sup> HRS §626, Article V (Privileges)

<sup>18</sup> OCR Questions & Answers on Title IX and Sexual Violence, April 29, 2014

investigate to the fullest extent possible in an effort to stop the alleged violence or discrimination, despite the lack of information or cooperation by the victim. The designated campus officer (e.g., Title IX Coordinator) will evaluate the student's request for confidentiality and consult with the counselor or sexual assault coordinator.

In an employment context, Title VII and Chapter 378 HRS principles apply. If the alleged conduct is severe or pervasive, involves a tangible employment action and/or a respondent who is a supervisor, the counselor or Title IX Coordinator is advised to consult with the lead HR specialist for the campus. The counselor may need to report sufficient information so that the campus can take prompt action to correct the adverse action or sexual misconduct, including hostile environment harassment. If informal remedial measures are not effective or are insufficient to address the situation, the campus may need to initiate an investigation and take corrective action.

E. Informal and formal reporting and complaint options

a. Where to file an administrative or student conduct complaint

Campuses should include in their Title IX & VAWA notice the contact information for designated complaint officers or offices that can receive and handle Title IX & VAWA complaints. It is recommended to have more than one complaint option. Examples include: Title IX Coordinator, Vice Chancellor/Dean for Student Affairs, HR Director, EEO/AA Coordinator. Sample language:

*Any individual who believes that she or he has been subjected to or observed incidents of sexual harassment, sexual assault, domestic violence, dating violence, or stalking is encouraged to seek assistance immediately from the Title IX Coordinator or other designated complaint officers. These officers will provide advice and written information regarding policies, interim measures, on- and off-campus resources, referrals to appropriate services, the importance of preserving evidence, informal and formal complaint options, and law enforcement options.*

*Regardless of whether criminal charges are filed, complaints of sexual harassment, sexual assault, domestic violence, dating violence, and/or stalking may also be heard through on-campus procedures, including but not limited to student conduct procedures (applicable in cases where the respondent is a student) and informal and formal discrimination complaint procedures (AP 9.920).*

*Proceeding with a student conduct complaint or administrative complaint under this policy is independent of any criminal investigation*



*or proceeding. The University does not normally wait until a criminal investigation or proceeding is concluded before conducting its own investigation, implementing interim measures, and taking appropriate action. Because the standards for a violation of criminal law are different from the standards for a violation of this policy, criminal investigations and proceedings are not determinative of whether a violation of this policy has occurred. In other words, conduct may violate this policy even if law enforcement agencies or local prosecutors decline to prosecute. Complaints filed through on-campus procedures may occur prior to, concurrent with, or following civil or criminal proceedings off-campus.*

*STUDENTS may file informal and formal complaints of sexual harassment, sexual violence, and stalking with the following offices:*

*Title IX Coordinator*

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*EMPLOYEES may file informal and formal complaints of sexual harassment, sexual violence, and stalking with the following offices:*

*Title IX Coordinator*

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b. Where to file a criminal complaint

The campus Title IX & VAWA notice should include contact information for law enforcement options – Campus Security and local law enforcement. Campuses should seek to obtain memoranda of understanding with applicable local law enforcement agencies to delineate responsibilities and share information.

*Any student, employee, or visitor who is a victim of sexual harassment, sexual violence, or stalking is encouraged, and has the option and right, to report the incident to Campus Security and/or local police at the numbers listed above. Campus Security will provide information on your option to notify law enforcement authorities, including local police, and the option to be assisted by Campus Security in notifying such authorities, if you so choose. You also have the right to decline to notify such authorities.*

*You have the right to file a criminal complaint with local law enforcement, as well as the right to pursue a concurrent student conduct or discrimination complaint through campus administrative procedures.*

c. Filing with a state or federal agency

Include contact information for OCR (for students), Hawai'i Civil Rights Commission (HCRC - employment), U.S. Equal Employment Opportunity Commission (EEOC - employment). Include a statement that complainants can file charges with state and federal enforcement agencies at any time and do not need to wait for the conclusion of a campus student conduct hearing or campus investigation.

F. Administrative responsibilities and confidentiality

The following types of offices and individuals have administrative or fact finding responsibilities; however, they will protect and respect the complainant's privacy to the extent possible. In order to carry out their responsibilities, these offices and individuals may need to share information but will do so only on a need to know basis. They will treat the complainant, respondent, and witness information in a confidential manner.

- Title IX Coordinator – responsible for overseeing the campus response to Title IX reports and complaints, and identifying and addressing any patterns or systemic problems revealed by such reports.
- Complaint officers – designated to receive and investigate complaints or to handle student judicial affairs.
- Executives, managers, and supervisors have administrative or reporting responsibilities
- Campus Security Authorities who may be called upon to issue timely warnings but without personally identifying information about the victim

G. Title IX & VAWA requirement to notify the Title IX Coordinator<sup>19</sup>

The Title IX & VAWA notice should inform students that all University employees are subject to Title IX & VAWA, and that in order for the University to comply with these laws, all employees are expected to notify the campus Title IX Coordinator if they observe or otherwise become aware of sexual harassment and sexual violence. This gives the University the opportunity to prevent escalation, offer assistance and other remedial action, and to prevent future incidents.

In most situations, employees can notify the Title IX Coordinator without disclosing the identities of the parties involved; however, students should be informed that executives, managers, and supervisors are expected to provide detailed information to the Title IX Coordinator.

The Title IX Coordinator or relevant designee is responsible for assessing the situation, identifying and addressing any patterns or systemic problems, and other

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<sup>19</sup> OCR Questions & Answers. See section D.

appropriate action. For example, the campus can seek to prevent escalation by separating the complainant and alleged harasser and by conducting sexual harassment or violence prevention training.

Individuals who have concerns about confidentiality are urged to discuss their situation with a resource person or office that can maintain confidentiality or privacy, e.g., a licensed counseling psychologist, physician, health care provider, clergy, domestic violence or rape crisis center.

Pursuant to Title IX, in situations where a student requests confidentiality and asks the campus not investigate or seek disciplinary action against the respondent, the Title IX Coordinator or other designee must consider the request and assess whether the campus can honor the request while still providing a safe and nondiscriminatory environment for all students, including the student who reported the sexual misconduct.

By informing students of the campus obligations under Title IX & VAWA and the role of the Title IX Coordinator, students can make informed decisions about whether to disclose detailed information to staff members who are not covered by legal privilege<sup>20</sup> or to discuss their concerns with designated resource persons who can maintain confidentiality or privacy, e.g., a licensed counseling psychologist, physician, health care provider, clergy, domestic violence or rape crisis center.

[Note: Pursuant to the Clery Act, each campus also has designated Campus Security Authorities (CSA) who have specific reporting responsibilities regarding campus crimes. If the campus determines that the alleged perpetrator poses a serious and immediate threat, CSAs may be called upon to issue a timely warning to the community. These warnings do not include information that identifies the victim.]

#### Guidance on Title IX & VAWA notification to the Title IX Coordinator

- Employees are expected to notify the campus Title IX Coordinator or other campus designee if they observe or otherwise become aware of sexual harassment and sexual violence.
- When a person is seeking to confide in a University employee, it is strongly recommended to inform the person that employees cannot maintain strict confidentiality because they may need to report incidents to the campus Title IX Coordinator.
- Students and others seeking advice should be informed that confidential resources are available.

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<sup>20</sup> HRS §626, Article V (Privileges)

- Employees do not need to determine whether the alleged sexual harassment or violence actually occurred. Title IX Coordinator or designee will assess the situation, respond to requests for confidentiality, provide referral to campus resources, initiate interim measures, provide information on complaint options and law enforcement options, and other assistance.
- Departments should not initiate their own investigations. Consult with the Title IX Coordinator regarding the situation. This applies to Athletics programs and professional schools like Law and Medicine that may have program-specific student conduct or professional ethics policies.
- Questions about confidentiality should be discussed with the Title IX Coordinator or designee. (See parts H. and I. below.)

H. Requests for confidentiality

If a student subsequently requests confidentiality, this request should be considered by the Title IX Coordinator or other appropriate designee, in an effort to respect the request in the context of the University's responsibility to provide a safe, nondiscriminatory environment for all students.

Students and others who are concerned about confidentiality and privacy are encouraged to discuss their concerns with the person with whom they are speaking. Students are also encouraged to use on- and off-campus resources that can provide information in a confidential or private setting. For the University's policy on confidentiality, see part III.G above.

I. Designated individual(s) or office that will evaluate confidentiality requests<sup>21</sup>

Campuses should designate an office or individual (usually the Title IX Coordinator) who can evaluate and respond to a student's or other reporting party's request for confidentiality. For example, a student may have reported an incident of sexual harassment or sexual violence to a University employee and subsequently ask to remain anonymous or confidential. The University employee should consult with the Title IX Coordinator or other designated officer who can respond appropriately to the situation. If the person who allegedly experienced the discrimination is an employee, the designated officer will review the request for confidentiality based on Title VII principles.

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<sup>21</sup> OCR Questions & Answers. See section E-1.