

**Responsible University Officers**  
Senior Vice President  
Institutional Compliance Officer

**Responsible Offices**  
Equal Employment Opportunity/Americans with Disabilities & Title IX Office

**UNIVERSITY OF GUAM SEXUAL MISCONDUCT POLICY**  
**Including Sexual Harassment, Sexual Assault, Sex Offenses,**  
**Domestic Violence, Dating Violence, Stalking, and Inappropriate**  
**Amorous Relationships**

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**UOG President's Message**

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**The University of Guam is the premier learning institution in Guam and the Western Pacific. We are dedicated to the advancement and protection of island societies. In fulfilling our mission, each student and each employee must feel safe and secure in the conduct of their studies and the fulfillment of their duties. The University is committed to providing a supportive, secure and safe learning environment and employee workplace. The University of Guam will not tolerate sexual misconduct. Sexual misconduct in any form is against the law. Sexual misconduct is against University of Guam policy. Sexual misconduct should be reported and the University will act in accordance with the law and its policies.**

**As good University citizens, we can all do our part in helping to prevent and eliminate sexual misconduct at the University. Please read, understand and comply with this Sexual Misconduct Policy.**



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**Policy Statement**

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This policy prohibits all forms of sexual misconduct, including but not limited to sexual harassment, sexual assault, sex offenses, domestic violence, dating violence, stalking, and inappropriate amorous relationships. Further, this policy expressly prohibits retaliation against an individual because of her/his good faith participation in the reporting, investigation, or adjudication of violations of this policy. University students and employees who violate this policy will face discipline up to and including expulsion or termination.

All members of the University Community must work together to prevent and eliminate sexual misconduct at the University of Guam.

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### **Audience**

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This policy and associated procedures apply to the conduct and protection of University students and employees, including faculty members, non-faculty employees, staff, administrators, graduate, professional and doctoral students, post-doctoral scholars, and student employees. The non-discrimination provisions also apply to contractors and other third parties under circumstances within the University's control. This policy and associated procedures provide for the prompt and equitable resolution of reports of sexual misconduct.

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### **Reason for Policy**

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The University is committed to providing an inclusive and welcoming environment for all members of our community. The University values safety, diversity, education, and equity and is firmly committed to maintaining a campus environment free from all forms of sexual misconduct. Federal and local laws protect the University community from any act of sexual misconduct. Such acts violate the essential dignity of our community member(s) and are contrary to our institutional values.

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### **Related Statutes, Orders, and Policies**

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- Titles IV, VI, and IX of the Civil Rights Act of 1964
- Title IX, Education Amendments of 1972 (Title IX)
- Section 504 of the Rehabilitation Act of 1973
- Family Educational Rights and Privacy Act of 1974 (FERPA)
- Americans with Disabilities Act of 1990
- Title VII of the Civil Rights Act (1964), as amended in 1991 (Title VII)
- Executive Orders 11246 (of 1965) and 13672 (of 2014)—Equal Employment Opportunity
- Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (1990), as amended in 2015 (Clery Act)
- Violence Against Women Act (1994), as amended in 2015 (VAWA)
  
- Guam Code Annotated (GCA) Title 4, Article VII
  
- Related policies and procedures are set out in Section XVI of this policy.

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### **Contacts**

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Questions about this policy should be directed to the Equal Employment Opportunity/Americans with Disabilities Act and Title IX Office at (671) 735-2244.

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### **Document History**

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Approved by the Board of Regents on March 3, 2016 through Resolution No. 16-12

# THE UNIVERSITY OF GUAM SEXUAL MISCONDUCT POLICY

Including Sexual Harassment, Sexual Assault, Sex  
Offenses, Domestic Violence, Dating Violence,  
Stalking, and Inappropriate Amorous Relationships

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## I. POLICY OF NO TOLERANCE OF SEXUAL MISCONDUCT

The University of Guam (University) does not condone or tolerate acts of sexual misconduct perpetrated by or against any members of its campus community. As a public land grant institution of higher education, the University is committed to maintaining a campus environment as a place of work and study for faculty, administrators, staff, and students, regardless of their background or gender identity, free from all forms of sexual misconduct, and ensuring that students have access to a quality learning experience and the opportunity to pursue their academic goals in a safe, supportive learning environment. As such, the University is actively committed to reducing and eradicating the incidence of sexual misconduct and ameliorating the root causes that lead to sexual misconduct, as well as providing appropriate support to victims and survivors when an act of sexual misconduct does occur.

This policy and associated procedures apply to the conduct of, and protect, University students and employees, including faculty members, non-faculty employees, staff, administrators, graduate, professional and doctoral students, post-doctoral scholars, student employees, and volunteers and visitors to campus (including board members, guests, patrons, contractors, clients of the University, or other third parties). The complaint procedures herein and non-discrimination provisions apply to contractors, visitors, third parties and others regarding acts of sexual misconduct which occur on campus, within university jurisdiction, or under circumstances within the University's control, as further set forth in Section X, Subsection E of this policy. This policy complies with the requirements of the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, as amended ("Clery Act"); the Violence Against Women Act, as amended ("VAWA"); Title IX of the Education Amendments of 1972 ("Title IX"); Title VII of the Civil Rights Act of 1964, as amended ("Title VII"); Guam Code Annotated ("GCA") Title 4, Article VII; and other applicable laws and state and federal regulations.

## II. DEFINITIONS

The following definitions apply to this policy:

**Advisor:** Any individual who provides the accuser or accused support, guidance, or advice. Any advisor who becomes aware of any sexual misconduct will report the misconduct directly to a Responsible Employee.

**Awareness programs:** Community-wide or audience-specific programming, initiative, and strategies that increase audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.

**Bystander intervention:** Safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of sexual harassment, sexual assault, sex offenses, domestic violence, dating violence, stalking, or an inappropriate amorous relationship.

Bystander intervention includes

- recognizing a situation of potential harm; and
- understanding institutional structure and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking actions to intervene.

**Campus Security Authorities:** Employees designated by the University who have significant administrative or supervisory responsibility for student and campus activities, including but not limited to, student housing, student discipline and campus judicial proceedings. Examples include security personnel, resident advisors, Vice Presidents and faculty advisors. Campus Security Authorities are also Responsible Employees.

**Confidential resources:** Employees designated by the University who will keep confidential information about an individual unless expressly permitted by the individual or there is a continuing threat of serious violence to the individual or others, or there is a legal obligation to reveal such information. Confidential resources include campus crisis counselors. Confidential resources are not Campus Security Authorities or Responsible Employees, as defined herein.

**Consent:** Consent is an understandable exchange of affirmative words or actions, which indicate a willingness to participate in mutually agreed upon sexual activity. Consent must be informed, freely and actively given. It is the responsibility of the initiator to obtain clear and affirmative responses at each stage of sexual involvement. Consent to one form of sexual activity does not imply consent to other forms of sexual activity. The lack of a negative response is not consent. An individual who is incapacitated by alcohol and/or other drugs whether voluntarily or involuntarily consumed may not give consent. Past consent of sexual activity does not imply ongoing future consent.

Consent cannot be given if any of the following are present: force, coercion or incapacitation.

- i. **Force** is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and/or coercion that overcome resistance.
- ii. **Coercion** is unreasonable pressure for sexual activity. Coercion is more than an effort to persuade, entice, or attract another person to have sex. Conduct does not constitute coercion unless it wrongfully impairs an individual's freedom of will to choose whether to participate in the sexual activity.
- iii. **Incapacitation** is a state where an individual cannot make rational, reasonable decisions because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place. A person may be incapacitated due to the consumption of alcohol or other drugs, or due to a temporary or permanent physical or mental health condition. A person who is incapacitated lacks the capacity to give consent because they cannot understand the "who, what, when, where, why, or how" of their sexual interaction.

**The University offers the following guidance on Consent and assessing Incapacitation:**

A person who wants to engage in a specific sexual activity is responsible for obtaining consent for that activity. The lack of a negative response or protest does not constitute consent. Lack of resistance does not constitute consent. Silence and/or passivity also do not constitute consent. Relying solely on non-verbal communication before or during sexual activity can lead to misunderstanding and may result in a violation of this policy. It is important not to make assumptions about whether a potential partner is consenting. To avoid confusion or ambiguity, participants are encouraged to talk with one another before engaging in sexual activity. If confusion or ambiguity arises during sexual activity, participants are encouraged to stop and clarify a mutual willingness to continue that activity.

Consent to one form of sexual activity does not, by itself, constitute consent to another form of sexual activity. For example, one should not presume that consent to oral-genital contact constitutes consent to vaginal or anal penetration. Consent to sexual activity on a prior occasion does not, by itself, constitute consent to future sexual activity. In cases of prior relationships, the manner and nature of prior communications between the parties and the context of the relationship may have a bearing on the presence of consent.

Once consent has been given, it may be withdrawn at any time. An individual who seeks to withdraw consent must communicate, through clear words or actions, a decision to cease the sexual activity. Once consent is withdrawn, the sexual activity must cease immediately.

In evaluating consent in cases of alleged incapacitation, the University asks two questions: (1) *Did the person initiating sexual activity know that the other party was incapacitated?* and **if not**, (2) *Should a sober, reasonable person in the same situation have known that the other party was incapacitated?* If the answer to either of these questions is "YES," consent was absent and the conduct is likely a violation of this policy.

Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking or using drugs. A person could be incapacitated for other reasons which may include: sleep, prescribed or over the counter medication, mental or physical disability. Alcohol-related incapacity results from a level of alcohol ingestion that is more severe than impairment, being under the influence, drunkenness or intoxication. The impact of alcohol and other drugs varies from person to person.

One is not expected to be a medical expert in assessing incapacitation. One must look for the common and obvious warning signs that show that a person may be incapacitated or approaching incapacitation. Although every individual may manifest signs of incapacitation differently, evidence of incapacity may be detected from context clues, such as:

- slurred or incomprehensible speech;
- bloodshot eyes;
- the smell of alcohol on their breath;
- shaky equilibrium or unsteady gait;
- vomiting;
- incontinence;
- combativeness or emotional volatility;
- unusual behavior; and/or
- unconsciousness.

Context clues are important in helping to determine incapacitation. These signs alone do not necessarily indicate incapacitation. A person who is incapacitated may not be able to understand some or all of the following questions: “*Do you know where you are?*” “*Do you know how you got here?*” “*Do you know what is happening?*” “*Do you know who is here with you?*”

One should be cautious before engaging in sexual contact or sexual intercourse when either party has been drinking alcohol or using other drugs. The introduction of alcohol or other drugs may create ambiguity for either party as to whether consent has been sought or given. If one has doubt about either party’s level of intoxication, the safe thing to do is to forego all sexual activity.

**Being impaired by alcohol or other drugs is no defense to any violation of this policy.**

**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.

- 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;
- for the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse; and
- dating violence does not include acts covered under the definition of domestic violence.

Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

**Domestic violence:** A felony or misdemeanor crime of violence committed

- by a current or former spouse or intimate partner of the victim;
- by a person with whom the victim shares a child in common;
- by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- 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; and/or
- 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.

**Interim protective accommodations:** Changes to a student victim’s academic or living situation where the change can be reasonably accommodated, such as a change in student campus housing or a “No Contact Order.” Interim protective accommodations may also be made for victims other than students, depending on the situation.

**Ongoing prevention and awareness campaigns:** Programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing sexual harassment, sexual assault, sex offenses, domestic violence, dating violence, stalking, and inappropriate amorous relationships using a range of strategies with audiences throughout the institution.

**Power:** Refers to the authority or perceived authority that an individual has by virtue of their institutional standing as a university employee. This creates an inherently unequal relationship. Individuals, especially students, who are in our care frequently do not have the life experience to fully comprehend the extent of anyone who holds a title and may therefore feel constrained to reject or report sexual misconduct.

**Primary prevention programs:** Programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop sexual harassment, sexual assault, sex offenses, domestic violence, dating violence, stalking, and inappropriate amorous relationships before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in a healthy and safe direction.

**Proceeding:** All activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings. A proceeding does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim.

**Programs to prevent sexual harassment, sexual assault, sex offenses, domestic violence, dating violence, stalking, and inappropriate amorous relationships:** Comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end sexual harassment, sexual assault, sex offenses, domestic violence, dating violence, stalking, and inappropriate amorous relationships that:

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

Programs to prevent sexual harassment, sexual assault, sex offenses, domestic violence, dating violence, stalking, and inappropriate amorous relationships include both primary prevention and awareness programs directed at incoming students, new employees, and new contractors and ongoing prevention and awareness campaigns directed at students, employees and contractors.

**Prompt, fair, and impartial proceeding:** A proceeding that is completed within reasonably prompt timeframes designated by an institution’s policy, including a process that allows for the extension of timeframes for good cause and with written notice to the accuser and the accused of the delay and the reason for the delay, and is conducted in a manner that:

- is consistent with the institution’s policies and transparent to the accuser and accused;
- includes timely notice of meeting at which the accuser or accused, or both, may be present;
- provides timely and equal access to the accuser, the accused, and appropriate officials to any information that will be used during informal and formal disciplinary meetings and hearings; and
- is conducted by officials who do not have a conflict of interest or bias for or against the accuser or the accused.



**Reporting options (partially confidential):** University officials to whom a complaint may be made. These include the Institutional Compliance Officer, Safety Officer, the Dean of Enrollment Management and Student Success, and others. Reporting options can maintain partial confidentiality, but must report the complaint to the Response Team.

**Response Team:** A team of individuals who may consist of the Institutional Compliance Officer, the Safety Officer, the Dean of Enrollment Management and Student Success, the Senior Vice President and the Human Resource Officer, who will conduct an initial assessment to determine whether the alleged conduct is a potential violation of the policy and whether further action is warranted. The Response Team will protect and safeguard the privacy of all individuals in a manner consistent with the need for careful assessment and response to the report.

**Responsible Employees:** Employees, including all full-time faculty, designated by the University who have administrative or supervisory responsibility for student and campus activities, including but not limited to, student housing, student discipline and campus judicial proceedings. Examples include security personnel, resident advisors, Vice Presidents and faculty advisors. Responsible Employees may also be Campus Security Authorities.

**Result:** Any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters with the institution. The result must include any sanctions imposed by the institution. The result does not include any interim protective accommodations.

**Retaliation:** An action taken by the University Administration or supervisor which subjects a university individual to interference, coercion or reprisal for seeking advice under this policy, reasonably filing a complaint, or otherwise in good faith participating in the internal complaint process or in a complaint process external to the University. The University prohibits retaliation under this policy, the Clery Act, and Titles VII and IX.

**Risk reduction:** Options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims to promote safety and to help individuals and communities address conditions that facilitate violence.

**Sexual assault:** An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) Program and/or Guam statutes.

**Sexual harassment:** Sexual harassment is a specific form of prohibited harassment which occurs when an individual's behavior constitutes (1) unwelcome sexual advances, or (2) unwelcome requests for sexual favors, or (3) other unwelcome verbal or physical behavior of a sexual nature where:

- submission to such conduct is made explicitly or implicitly a term or condition of an individual's education or employment; or
- submission to, or rejection of, such conduct by an individual is used as the basis for academic or employment decisions affecting the individual's welfare; or
- such conduct has the purpose or effect of unreasonably interfering with an individual's welfare, academic, residential life or work performance, or creates an intimidating, hostile or offensive educational, living or work environment at the University.

Sexual harassment is conduct that includes the use of explicit or implied sexual language that includes but is not limited to profanity, offensive language and expletives, derogatory comments or sexually offensive speech that is used to berate, bully, discipline or intimidate a member of the University community.

Examples of what may constitute sexual harassment are:

- **Verbal:** Sexual innuendo, spreading sexual rumors, sexual jokes, sexual insults, sexual propositions.
- **Nonverbal:** Leering, whistling, suggestive or insulting sounds and gestures, offensive writings, posting sexually denigrating pictures on office walls.

- **Physical:** Touching the body when unwelcome (e.g., brushing, patting, pinching, non-consensual sexual intercourse).

**Sexual misconduct:** For the purpose of this policy, sexual misconduct is a broad term that encompasses sexual harassment, sexual assault, and sex offenses, and may also include domestic violence, dating violence, stalking, and inappropriate amorous relationships. Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual misconduct can be committed by men or women, and can occur between people of the same or different gender.

**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, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity, or a disparity in “power” within the relationship.

- **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.
- **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim.
- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory rape:** Sexual intercourse with a person who is under the statutory age of consent.

**Stalking (including cyberstalking):** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to

- fear for the person’s safety or the safety of others; or
- suffer substantial emotional distress.

For the purposes 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;
- **reasonable person:** means a reasonable person under similar circumstances and with similar identities to the victim.
- **substantial emotional distress:** means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- Any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

### III. SCOPE AND APPLICABILITY

#### A. Individuals Covered by this Policy

This policy prohibits sexual harassment, sexual assault, sex offenses, domestic violence, dating violence, stalking, and inappropriate amorous relationships in any University workplace, educational program, activity, or service, which includes all academic, extracurricular, student housing, athletics, and other programs.

The policy applies to all students, faculty, staff, administrators, supervisors, employees, volunteers, and visitors to campus. This includes guests, patrons, independent contractors, or clients of the University.

#### B. Jurisdiction

This policy applies to all sexual misconduct that occurs on campus. It also applies to sexual misconduct that occurs off campus, including on-line or electronic conduct, where the conduct occurred in the context of an employment or education program or activity of the University, had continuing adverse

effects on campus, or had continuing adverse effects in an off-campus employment or education program or activity, or that otherwise threatens the health or safety of a member of the University community. Examples of covered off-campus conduct include University-sponsored study abroad, research, or internship programs.

### **C. Students**

All students are expected to adhere to the University's Student Code of Conduct based on adherence to UOG policies, respect for their fellow students and due regard for the personal dignity and rights of each student. Accordingly, students are expected to adhere to affirmative consent rules and definitions in the initiation of any sexual activity with another student.

### **D. Reports Involving Minors**

Individuals who suspect that a child is being harmed, or observe a child being harmed, should contact the Guam Police Department by dialing 911 or (671) 472-8911.

In addition, under Guam law, 19 GCA § 13201 et seq., certain professionals who reasonably suspect that a child has been abused or neglected have an obligation to report that suspicion to Child Protective Services at (671) 475-2672 or the Guam Police Department by dialing 911 or (671) 472-8911.

## **IV. RESOURCES FOR INFORMATION AND ASSISTANCE**

### **A. Equal Employment Opportunity/Americans with Disabilities Act and Title IX Office**

The Equal Employment Opportunity/Americans with Disabilities Act (EEO/ADA) and Title IX Office has primary responsibility for administering this policy and oversees the investigation, response to, and resolution of all reports of sexual misconduct; however, questions, concerns, and/or reports may be addressed to any of the individuals or offices identified as reporting options on the resource page or in the applicable procedures document.

### **B. Institutional Compliance Officer**

The University has a designated Institutional Compliance Officer (ICO) within the EEO/ADA & Title IX Office. The ICO oversees the University's investigation, response to, and resolution of reports of EEO, ADA and Title IX complaints involving students, faculty, and staff. The ICO is:

- knowledgeable and trained in University policies and procedures and relevant state and federal laws;
- available to advise any individual, including a complainant/victim, a respondent/accused, or a third party, about University and community resources and reporting options;
- available to provide assistance to any University employee regarding how to respond appropriately to a report of Title IX-related sexual misconduct;
- participates in ensuring the effective implementation of this policy, including monitoring compliance with all procedural requirements, record keeping, and timeframes; and
- responsible for overseeing annual training, prevention, and education efforts and annual review of the policy.

Inquiries or concerns about Title IX may be referred to the University's ICO. Concerns about the University's application of Title IX under this policy may be addressed to the United States Department of Education, Office for Civil Rights:

#### **Institutional Compliance Officer**

(671) 735-2244

email: [eeo-ada@ugam.uog.edu](mailto:eeo-ada@ugam.uog.edu)

#### **US Office for Civil Rights**

(800) 421-3481

email: [OCR@ed.gov](mailto:OCR@ed.gov)

### **C. Sexual Misconduct Response Team**

A report of sexual misconduct may be made through any designated reporting option. The ICO, with the assistance of the response team, will conduct an initial assessment to determine whether the alleged conduct presents a potential violation of the policy and whether further action is warranted based on the alleged conduct. This use of a central integrated and coordinated approach will allow the University to respond promptly and equitably to eliminate the conduct, prevent its recurrence, and address its effects.

Members of the response team can help any University community member understand the policy and the options for resolving concerns raised under this policy in academic or work settings at the University. The response team will attempt to protect and safeguard the privacy of all individuals involved in a manner consistent with the need for a careful assessment of and response to the report.

The response team will consist of a small “need to know” number of individuals. Depending on the roles (*e.g.*, student, faculty, administrator, staff) of the complainant and the respondent, the response team may include administrators from:

- EEO/ADA & Title IX Office
- ICO
- UOG Safety Office
- Dean, Enrollment Management and Student Success (EMSS)
- Senior Vice President (SVP), Academic and Student Affairs
- Human Resources Office (HRO)

In all cases, the response team must inform the ICO for federal, local and University reporting purposes.

### **V. PROTOCOL WITH CRIMINAL AUTHORITIES**

Conduct that violates this policy may also constitute a crime under the laws of Guam. Whether or not any specific incident of misconduct constitutes a crime is a decision made solely by law enforcement. The University will establish protocols with criminal authorities, such as the Guam Police Department and the Office of the Attorney General, for reporting complaints of sexual assault and other sex offenses, for their further investigation and determination.

### **VI. RETALIATION**

No member of the University community may be subjected by the University Administration or supervisor to interference, coercion or reprisal for seeking advice under this policy, reasonably filing a complaint, or otherwise in good faith participating in the internal complaint process or in a complaint process external to the University. The University will not retaliate against any person making a complaint and will not knowingly permit retaliation. Further, the University prohibits retaliation against anyone who exercises rights under the Clery Act and Title IX, in accordance with federal law.

Any individual who engages in retaliation will be subject to prompt and appropriate disciplinary action. Individuals who have a concern about retaliation should contact the Equal Employment Opportunity/Americans with Disabilities Act and Title IX Office for assistance in addressing the concern. If the concern about retaliation involves the EEO/ADA/Title IX Compliance Officer, an individual may contact the Senior Vice President, Academic and Student Affairs. Individuals may also be able to utilize the applicable grievance procedure within the designated timeframe to address any concern not otherwise resolved.

## **VII. REPORTING OPTIONS**

### **A. Written Notification**

When a student or employee reports to the institution that the student or employee has been a victim of sexual harassment, sexual assault, a sex offense, domestic violence, dating violence, stalking, or inappropriate amorous relationship, whether the offense occurred on or off campus, the Institutional Compliance Officer (ICO) or Violence Against Women Prevention Program (VAWPP) will provide the student or employee a written explanation of the student's or employee's rights and options.

When sexual harassment, sexual assault, a sex offense, domestic violence, dating violence, stalking, or inappropriate amorous relationship occurs, victims should contact the following:

Guam Police Department at (671) 472-8911 or 911 for emergencies

Campus Security Office at (671) 735-2365, (671) 888-2456 (cell), (671) 649-3127 (G4S dispatch)

Violence Against Women Prevention Program at (671) 735-2890

Dean of Enrollment Management and Student Success at (671) 735-2890

Student victims may obtain on-campus assistance at Student Counseling Services, Isa Psychological Services, and the VAWPP. These offices shall also make appropriate referrals to off-campus services. The on-campus person to whom the victim reports the offense shall offer to assist the victim in notifying law enforcement authorities, if the victim so chooses.

In all cases, when a victim reports to the institution, the ICO shall be notified for federal, local and University reporting purposes.

### **B. Option to Notify**

A victim may decline to notify such authorities; and, where applicable, a victim will be advised of the victim's rights to obtain orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal or civil court, or by the institution. These advisements to the victim shall be both oral and in writing from the ICO or VAWPP.

#### **1. Preservation of Evidence**

Victims reporting sexual harassment, sexual assault, a sex offense, domestic violence, dating violence, stalking, or inappropriate amorous relationship shall be advised of the importance of preserving evidence for the proof of a criminal offense, such as keeping a log of violent incidents or obtaining a forensic examination at the appropriate health care facility if a victim is sexually assaulted, and that they may have the alleged offender prosecuted either through the criminal process, the University disciplinary procedure or both.

### **C. Interim Protective Accommodations**

In appropriate circumstances, upon request of the student victim, the University will change a student victim's academic or campus living situation if the requested change can be reasonably accommodated, regardless of whether the victim chooses to report the crime to campus authorities or local law enforcement. The University will notify the student victim in writing of any such interim accommodations. The range of interim accommodations may include:

- access to counseling services and assistance in setting up initial appointments, both on and off campus;
- imposition of a campus "No-Contact Order";
- rescheduling of exams and assignments;
- providing alternative course completion options;
- change in class schedule, including the ability to drop a course without penalty or to transfer sections;

- change in work schedule or job assignment;
- change in student's campus housing;
- assistance from University support staff in completing housing relocation;
- limiting access to certain University facilities or activities pending resolution of the matter;
- voluntary leave of absence;
- providing an escort to assure safe movement between classes and activities;
- arranging for medical services;
- providing academic support services, such as tutoring; and/or
- any other measure which can be tailored to the involved individuals to achieve the goals of this policy.

Upon the request of a victim who is not a student; e.g., a faculty, staff member, administrator or contractor, the University will provide interim protective accommodations, if reasonably accommodated, regardless of whether the victim chooses to report the crime to campus authorities or local law enforcement.

Failure to adhere to the parameters of any interim accommodation by either the victim or the accused may be considered a separate violation of this policy and may result in disciplinary or other sanctions, depending on the situation.

## **VIII. ANONYMOUS AND CONFIDENTIAL REPORTING**

### **A. Confidentiality**

When considering reporting options, victims should be aware that certain University personnel called confidential resources can maintain strict confidentiality, while others called responsible employees have mandatory reporting and response obligations. For public recordkeeping purposes, such as the Clery Act reporting and disclosures, personally identifying information about the victim is not disclosed. University personnel who receive a report of sexual misconduct may be required to share the personally identifying information with appropriate administrative authorities for investigation and follow up.

The University will protect the confidentiality of a victim by refusing to disclose the victim's information to anyone outside the University to the maximum extent permitted by law. As for confidentiality of information within the University, the University must balance a victim's request for confidentiality with its responsibility to provide a safe and non-discriminatory environment for the University community. Where the University cannot take disciplinary action against an alleged accused because of a complainant's insistence of confidentiality, the University will pursue other steps to limit the effects of the alleged sexual misconduct and attempt to prevent its recurrence.

The University has on-campus personnel who can maintain strict confidentiality. Campus crisis counselors are confidential resources who can assist in a crisis situation and provide information about options including medical assistance, psychological counseling, victim advocacy resources, legal resources, University disciplinary action, and criminal prosecution. The crisis counselors can provide safe and confidential support, explain common reactions to crises, and discuss coping methods that may assist immediately following the sexual misconduct and later. Talking about concerns may help the victim sort through feelings and decide what to do. Victims need not reveal their names if calling for information. Crisis counselors will not reveal the victim's identity to anyone without the victim's permission except under very limited exceptions (e.g., if an immediate threat to the victim or others is present, or if the victim is a minor).

The University will maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution

to provide the accommodations or protective measures.

The University will provide written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the University and in the community. This information is also regularly distributed at classroom presentations, outreach activities, and trainings.

### **B. Records**

The EEO/ADA & Title IX Office will maintain records for 7 years in accordance with the University's Records Retention and Disposition Schedule of all reports under this policy and their outcomes to track patterns and systemic behaviors.

### **C. Release of Information**

If a report of sexual misconduct discloses a serious and immediate threat to the campus community, the University will issue a timely notification to protect the health or safety of the community as required by the Clery Act. The notification will not include identifying information about a reporting party.

Pursuant to the Clery Act and the 2013 Amendments to the Violence Against Women Act, anonymous statistical information regarding reported criminal incidents must be shared with University Safety Office for inclusion in the Daily Crime Log. This information will also be included in the University's Annual Security Report. The University may also share aggregate and not personally identifiable data about reports, outcomes, and sanctions.

All University proceedings are conducted in accordance with the requirements of Title IX, the Clery Act, the Violence Against Women Act, FERPA, Guam law, and University policy. No information, including the identity of the parties, will be released from such proceedings except as required or permitted by law or University policy.

## **IX. REPORTING BY UNIVERSITY EMPLOYEES**

### **A. Responsible Employees**

Employees with administrative or supervisory responsibilities on campus or who have been designated as campus security authorities by the University are considered responsible employees. Campus security authorities include: members of the University Safety Office; any individual(s) who have responsibility for campus (guard, escort, etc.); individuals/departments designated as reporting options in this policy; and employees with responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings. Campus security authorities also include members of the Board of Regents, the President, Vice Presidents, Deans, Directors, Associate Directors, Division Chairs, Student Affairs professionals (including Resident Advisors), and faculty who serve as advisors to student groups. Confidential resources are **not** considered to be responsible employees.

Responsible employees will safeguard an individual's privacy, but are **required** by the University to immediately share all details about a report of sexual misconduct (including the known details of the incident (*e.g.*, date, time, location), the names of the parties involved, a brief description of the incident and if the incident has been previously reported) with the EEO/ADA & Title IX Office, the Institutional Compliance Officer, or a member of the response team. Such reporting ensures timely support for all parties and enables an effective and consistent institutional response.

### **B. All Other Employees**

All other employees (who are not designated as confidential resources) will safeguard an individual's privacy, but are **strongly encouraged** to share any information about such conduct with the EEO/ADA & Title IX Office, or a member of the response team, in recognition of the understanding that centralized reporting is an important tool to address, end and prevent sexual misconduct.

All **students** (who are not otherwise required to report as Responsible Employees) are **strongly encouraged** to report any information, including reports or partial reports, to the EEO/ADA & Title IX Office, the Institutional Compliance Officer, or a member of the response team.

### **C. Confidential Resources**

Confidential Resources will **not share** information about an individual (including whether that individual has received services) without the individual's express written permission, unless there is a continuing threat of serious violence to the patient/client or to others or there is a legal obligation to reveal such information (*e.g.*, suspected abuse or neglect of a minor).

## **X. BYSTANDER INTERVENTION**

One of the most effective methods of preventing sexual assault is bystander intervention, which encourages people to identify situations that might lead to sexual misconduct and then safely intervene to prevent misconduct from occurring.

### **A. Recognizing When to Intervene**

Some people might be concerned that they are being encouraged to place themselves in jeopardy to stop crimes in progress. This is not the case. There are many situations and events that occur prior to sexual misconduct that are appropriate for intervention. Bystander intervention encourages people to watch for those behaviors and situations that appear to be inappropriate, coercive and harassing.

### **B. Responsibility to Intervene**

The University deems that it is every person's responsibility to take safe and reasonable actions to prevent sexual misconduct.

### **C. Ways to Intervene**

- Making up an excuse to get a person out of a potentially dangerous situation;
- letting an individual know that his or her actions may lead to serious consequences;
- not leaving a person's side who may be in trouble despite the efforts of someone else to get him/her alone or away from you;
- using a group of friends to remind someone behaving inappropriately that his or her behavior should be respectful;
- taking steps to curb someone's use of alcohol before problems occur; and/or
- calling the authorities when the situation warrants.

### **D. Understanding How to Safely Implement the Choice**

Safety is paramount in bystander intervention. Usually, intervening in a group is safer than intervening individually. Also, choosing a method of intervention that de-escalates the situation is safer than attempting a confrontation. However, there is no single rule that can account for every situation. Please use good judgment and always put safety first.

## **XI. UNIVERSITY DISCIPLINARY PROCEDURES**

Sexual harassment, sexual assault, sex offenses, domestic violence, dating violence, stalking, and inappropriate amorous relationships violate the University of Guam Code of Student Conduct, the Negotiated Agreement between the Board of Regents of the University of Guam and the UOG Faculty Union (BOR-Union Agreement), and the policy for Equal Employment Opportunity and Non-Discrimination/Non-Harassment Policy of the University of Guam (EEO Policy), in addition to local and federal laws. Sexual misconduct complaints should be made to University officials as soon as possible after the incident to protect and provide assistance to victims, preserve evidence and to conduct a thorough



investigation. Guam law states that sexual harassment complaints may be made up to two years from the incident or in accordance with the timelines provided by the EEOC.

A victim will be advised of the victim's rights to obtain orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal or civil court, or by the institution. These advisements to the victim shall be both verbal and in writing by the ICO or VAWPP personnel.

### **A. Complaints Against Students**

Any member of the University community may file charges with the Student Discipline and Appeals Committee (SDAC) against any student for sexual harassment, sexual assault, a sex offense, domestic violence, dating violence, stalking, or an inappropriate amorous relationship. The VAWPP trains SDAC members annually on responding effectively to such cases. SDAC member appointments are set by University policy. Members receive annual training before serving on the SDAC to protect the safety of victims and promote accountability in the investigative and hearing process. SDAC members must not have a conflict of interest or bias for or against the victim or the accused.

The Student Handbook outlines the procedures, steps, anticipated timelines, and decision-making process, including the rights and responsibilities of both the complainant and the accused. These written procedures will be provided to the complainant, which can be accessed at <http://www.uog.edu/sites/default/files/uog-student-handbook-sept2015.pdf>. The proceedings and timelines of such proceedings are set by policy that is intended to provide a prompt, fair and impartial process from the initial investigation to the final result. The standard of evidence used during any SDAC proceeding is whether it is more likely than not that the accused student violated the Student Code. Both the complainant and the accused have the right to be assisted by any advisor of their choice, which may be an attorney. However, advisors are not permitted to speak or participate directly in any SDAC hearing. Due process rights will be upheld.

Students found guilty of sex offenses following a disciplinary proceeding will have the following sanctions imposed: written warning, probation, loss of privileges, fines, restitution, discretionary sanctions, residence hall suspension, residence hall expulsion, University suspension, University expulsion, a combination of more than one of the above.

### **B. Complaints Against Faculty**

Complaints of sexual harassment, sexual assault, a sex offense, domestic violence, dating violence, stalking, or an inappropriate amorous relationship against faculty may proceed in accordance with the BOR–Faculty Union Agreement, Article X, Disciplinary Action Including Adverse Action. The steps, anticipated timelines, and decision-making process are explained therein, and can be accessed on-line at <http://www.uog.edu/administration/administration-finance/human-resources/information>. These procedures are intended to provide a prompt, fair and impartial process from the initial investigation to the final result. If appealed, a five-member adjudication committee that consists of administrators and tenured faculty will conduct a hearing. Members will have received annual training on issues related to sexual harassment, sexual assault, sex offenses, domestic violence, dating violence, stalking, and inappropriate amorous relationships, and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. Members of the adjudication committee must not have any conflict of interest or bias for or against the victim or the accused.

The standard of evidence used will be based on the preponderance of the evidence. Both the complainant and the accused have the right to be assisted by any advisor of their choice, which may be an attorney. Advisors may speak or participate directly in a faculty adverse action proceeding. Due process rights will be upheld. Sanctions include but are not limited to an oral or written warning, a letter of reprimand, docking of pay, suspension without pay, loss of step, demotion in rank, and dismissal from employment.

### **C. Complaints Against Classified Employees**

Complaints of sexual harassment, sexual assault, a sex offense, domestic violence, dating violence, stalking, or inappropriate amorous relationship against a classified employee may proceed in accordance with the Interim Personnel Rules & Regulations for Classified Service Employees, Chapter 11, Adverse Action Procedures. This policy can be accessed on-line at <http://www.uog.edu/sites/default/files/interim%20personnel%20rules%20and%20regulations%20for%20classified%20service%20employees.pdf>. The steps, anticipated timelines, and decision-making process are explained therein. These procedures are intended to provide a prompt, fair and impartial process from the initial investigation to the final result.

The standard of evidence used on appeal will be based on the preponderance of the evidence. Both the complainant and the accused have the right to be assisted by any advisor of their choice, which may be an attorney. Advisors may speak or participate directly in a classified employee adverse action proceeding. Due process rights will be upheld. Sanctions include but are not limited to an oral or written warning, a letter of reprimand, docking of pay, suspension without pay, loss of step, demotion in rank, and dismissal from employment.

#### **D. Complaints Against Other Members of the University Community**

Complaints of sexual harassment, sexual assault, a sex offense, domestic violence, dating violence, stalking, or inappropriate amorous relationship against members of the University community, which includes faculty, students, student-employees, staff, administrators and applicants for such positions may proceed in accordance with the EEO/ADA & Title IX Policy and Procedures. A copy of the policy is given to a complainant and can be accessed at <http://www.uog.edu/administration/office-of-the-president/eoada-title-ix-office>. Complaints are expected to be resolved promptly, ordinarily no later than 45 days from receipt of the complaint. Complaints may be made to the ICO, who is the University's EEO/ADA Officer; a University EEO counselor, or to an administrator or officer of the University in the reporting relationship above the complaining individual or one who is above the person about whose behavior the complaint is made. Complaints will be reviewed, generally by the ICO and resolved according to this policy, including an investigation, if warranted. The ICO is an official who has received annual training on the issues related to sexual harassment, sexual assault, sex offenses, domestic violence, dating violence, stalking, and inappropriate amorous relationships, and who has been trained on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability. The ICO must not have any conflict of interest or bias for or against the victim or the accused.

The ICO will prepare a written summary of the relevant facts and the recommended corrective action, if any, to a decision maker who will be selected by the ICO or the Senior Vice President, with consideration of the reporting and/or academic relationships of the complainant, accused and others involved. The decision maker will make a determination of the complaint in a manner consistent with the particular facts and circumstances of the complaint. This policy is intended to provide a prompt, fair and impartial process from the initial investigation to the final result. Violations of this policy include but are not limited to disciplinary action such as warning, suspension or termination from employment or of any other affiliation with the University.

Both the complainant and the accused have the right to be assisted by any advisor of their choice, which may be an attorney, at any EEO related meeting or proceeding. Advisors may speak or participate directly in any proceeding under the EEO Policy. Due process rights will be upheld.

In all disciplinary proceedings of sexual misconduct, both the complainant and the accused shall be advised simultaneously in writing of the outcome of any disciplinary proceeding, the procedures to appeal the results of the disciplinary proceeding, if any, any change to the results that occurs prior to the time that such results become final and when such results become final. The disclosure of the outcome of the disciplinary proceeding shall include only the name of the accused, the violation alleged, and whether any institutional rules or code sections were violated, essential findings supporting such result,

and any sanction imposed including a description of disciplinary action, date of imposition of such action, and the duration of such action.

Compliance with these provisions does not constitute a violation of Section 444 of the General Education Provisions Act (20 USC 1232g), the Family Educational Rights and Privacy Act of 1974 (FERPA).

#### **E. Complaints Against Visitors, Contractors, and Others**

Complaints of sexual harassment, sexual assault, a sex offense, domestic violence, dating violence, stalking, or inappropriate amorous relationship against visitors, contractors and others which occur on campus or within University jurisdiction will proceed in accordance with the EEO/ADA & Title IX Policy and Procedures.

This can be accessed at <http://www.uog.edu/administration/office-of-the-president/eoodatitle-ix-office>. See Section C above for specific procedures.

#### **F. False Complaints**

The University prohibits any member of the University community from knowingly making false complaints of sexual misconduct or knowingly misrepresenting the filing of such complaints. Knowingly making false complaints or knowingly misrepresenting the filing of complaints constitutes a violation of the University's policies and will result in disciplinary action, with possible sanctions ranging from a letter of reprimand to dismissal. However, a complaint or representation made in good faith is not considered false merely because the evidence does not ultimately support the allegation of misconduct

### **XII. SEX OFFENDER REGISTRY**

The central repository for the Guam Sex Offender Registry Program is housed with the Judiciary of Guam, Probation Services Division, located at 120 West O'Brien Drive, Hagåtña, Guam 96910. Any person may access the Sex Offender Registry website at <http://www.guamcourts.org/sor/index.html>.

### **XIII. INAPPROPRIATE AMOROUS RELATIONSHIPS**

For the purposes of this policy, amorous relationships are defined as intimate, sexual, and/or any other type of amorous encounter or relationship, whether casual or serious, short-term or long-term.

#### **A. Instructional/Student Context**

All full-time and part-time faculty and staff must be aware that amorous relationships with students are likely to lead to difficulties and have the potential to place faculty and staff at great personal and professional risk. The power difference inherent in the faculty–student or staff–student relationship means that any amorous relationship between a faculty or staff member and a student is potentially exploitative or could at any time be perceived as exploitative and should be avoided. Faculty and staff engaged in such relationships should be sensitive to the continuous possibility that they may unexpectedly be placed in a position of responsibility for the student's instruction or evaluation. In the event of a charge of sexual harassment arising from such circumstances, the University will in general be unsympathetic to a defense based upon consent when the facts establish that a faculty-student or staff-student power differential existed within the relationship.

##### **1. Undergraduate Students**

Subject to the limited exceptions herein, all members of the faculty and staff are prohibited from pursuing or engaging in an amorous relationship with any undergraduate student.

##### **2. Graduate Students**

With respect to graduate students (including but not limited to Master's, Doctoral, and any other post-baccalaureate students), all faculty and staff are prohibited from pursuing or engaging in an amorous relationship with a graduate student under that individual's authority. Situations of authority

include, but are not limited to: teaching; formal mentoring or advising; supervision of research and employment of a student as a research or teaching assistant; exercising substantial responsibility for grades, honors, or degrees; and involvement in disciplinary action related to the student.

Students and faculty/staff alike should be aware that pursuing or engaging in an amorous relationship with any graduate student will limit the faculty or staff member's ability to teach, mentor, advise, direct work, employ and promote the career of the student involved with him or her in an amorous relationship.

### ***3. Students in Positions of Authority***

Like faculty and staff members, students may themselves be in a position of authority over other students, for example, when serving as a teaching assistant in a course or when serving as a research assistant, work study or supervising other students. The power difference inherent in such relationships means that any amorous relationship between that student and another student over whom she/he has authority is potentially exploitative and must be avoided. All students currently or previously engaged in an amorous relationship with another student are prohibited from serving in a position of authority over that student. Students also should be sensitive to the continuous possibility that they may unexpectedly be placed in a position of responsibility for another student's instruction or evaluation.

### ***4. Pre-existing Relationships with Any Student***

The University recognizes that an amorous relationship may exist prior to the time a student enrolls at the University or, for amorous relationships with graduate students, prior to the time the faculty or staff member is placed in a position of authority over the graduate student. The current or prior existence of such an amorous relationship must be disclosed to the EEO/ADA and Title IX Compliance Office and/or the Human Resources Office and immediate supervisor by the employee in a position of authority immediately if the student is an undergraduate, and prior to accepting a supervisory role of any type over any graduate student.

All faculty and staff currently or previously engaged in an amorous relationship with a student are prohibited from the following unless effective steps have been taken in conjunction with the EEO/ADA and Title IX Compliance Office and/or the Human Resources Office, the immediate supervisor and the applicable dean or vice president to eliminate any potential conflict of interest in accordance with this policy: teaching; formal mentoring or advising; supervising research; exercising responsibility for grades, honors, or degrees; considering disciplinary action involving the student; or employing the student in any capacity—including but not limited to student employment and internships, work study, or as a research or teaching assistant.

Similarly, all graduate students currently or previously engaged in an amorous relationship with another student are prohibited from serving in a position of authority over that student.

### ***5. If an Amorous Relationship Occurs with Any Student***

If, despite these warnings, a faculty member, staff member, or graduate student becomes involved in an amorous relationship with a student in violation of this policy, the faculty member, staff member, or graduate student must disclose the relationship immediately to the EEO/ADA and Title IX Compliance Office and/or the Human Resources Office and immediate supervisor. Absent an extraordinary circumstance, no relationships in violation of this policy will be permitted while the student is enrolled or the faculty/staff member is employed by the University. In most cases, it will be unlikely that an acceptable resolution to the conflict of interest will be possible, and the faculty or staff member's employment standing or the graduate student's position of authority may need to be adjusted until s/he no longer has supervisory or other authority over the student.

In addition to the amorous relationship itself, a faculty, staff or graduate student's failure to report the existence of an inappropriate amorous relationship with a student is also a violation of this policy.

The University encourages immediate self-reporting, and will consider this factor in the context of any resolution that may be able to be reached.

## **B. Employment Context**

Amorous relationships between supervisors and their subordinate employees often adversely affect decisions, distort judgment, and undermine workplace morale for all employees, including those not directly engaged in the relationship. Any University employee who participates in supervisory or administrative decisions concerning an employee with whom s/he has or has had an amorous relationship has a conflict of interest in those situations. These types of relationships, specifically those involving spouses and/or individuals who reside together, also may violate the Standard of Conduct for Public Employees of the Government of Guam as well as the University's policy on Nepotism and Conflicts of Interest.

Accordingly, the University prohibits all faculty, staff and administrators from pursuing or engaging in amorous relationships with employees whom they supervise. No supervisor shall initiate or participate in institutional decisions involving a direct benefit or penalty (employment, retention, promotion, tenure, salary, leave of absence, etc.) to a person with whom that individual has or has had an amorous relationship. The individual in a position of authority can be held accountable for creating a sexually hostile environment or failing to address a sexually hostile environment and thus should avoid creating or failing to address a situation that adversely impacts the working environment of others.

### ***1. Pre-existing Amorous Relationships Between Supervisors and Subordinate Employees***

The University recognizes that an amorous relationship may exist prior to the time an individual is assigned to a supervisor. Supervisory, decision-making, oversight, evaluative or advisory relationships for someone with whom there exists or previously has existed an amorous relationship is unacceptable unless effective steps have been taken to eliminate any potential conflict of interest in accordance with this policy. The current or prior existence of such a relationship must be disclosed by the employee in a position of authority prior to accepting supervision of the subordinate employee to the EEO/ADA and Title IX Compliance Office and/or the Human Resources Office and immediate supervisor. Working with the EEO/ADA and Title IX Compliance Office and/or the Human Resources Office and the immediate supervisor, the relevant managers will determine whether the conflict of interest can be eliminated through termination of the situation of authority. The final determination will be at the sole discretion of the relevant dean or vice president.

### ***2. If an Amorous Relationship Occurs or has Occurred between a Supervisor and his/her Subordinate Employee***

If, despite these warnings, a University employee enters into an amorous relationship with someone over whom s/he has supervisory, decision-making, oversight, evaluative, or advisory responsibilities, that employee must disclose the existence of the relationship immediately to the EEO/ADA and Title IX Compliance Office and/or the Human Resources Office and immediate supervisor. In consultation with appropriate University administrators, the relevant dean or vice president will determine whether the conflict of interest can be eliminated. The final determination will be at the sole discretion of the relevant dean or vice president. In most cases, it will be unlikely that an acceptable resolution to the conflict of interest will be possible. If the conflict of interest cannot be eliminated, the supervisor's employment standing may need to be adjusted. In addition to the amorous relationship itself, a supervisor's failure to report the existence of the relationship with a subordinate employee is also a violation of this policy. The University encourages immediate self-reporting, and will consider this factor in the context of any resolution that may be able to be reached.

## **C. Consequences of Violations of this Policy**

If any faculty, staff or student violates the terms of this policy, disciplinary action will be taken in

accordance with disciplinary procedures contained in the relevant handbooks, policies, procedures, practices, or contracts. Violations of this policy will result in disciplinary actions which may include but are not limited to written warnings, loss of privileges, mandatory training or counseling, probation, suspension, demotion, exclusion, expulsion, revocation of tenure, and termination of employment.

#### **XIV. ACADEMIC FREEDOM AND INTEGRITY**

The University is committed to the principles of free inquiry and expression. Vigorous discussion and debate are fundamental to this commitment, and this policy is not intended to restrict teaching methods or freedom of expression, nor will it be permitted to do so. Sexual misconduct is not a proper exercise of academic freedom under this policy and is not a legally protected expression. However, discussion of topics (even those which include sexuality or sexually explicit information) that a student may find unpleasant, uncomfortable, or distressing may not necessarily be considered sexual misconduct. Sexual misconduct compromises the University's integrity, as well as its tradition of intellectual freedom.

#### **XV. PREVENTION AND RISK REDUCTION PROGRAMS**

The University conducts primary prevention and awareness programs for all incoming students and new employees through the Dean of Enrollment Management and Student Success (EMSS), in conjunction with the Student Government Association (SGA) and the Violence Against Women Prevention Program (VAWPP). These educational programs promote student awareness of sex offenses, including rape, attempted rape, other forms of sexual assault, sexual harassment, domestic violence, dating violence, stalking, and inappropriate amorous relationships. The VAWPP serves as a resource and victim services center for University of Guam students, staff, faculty, and members of their families. VAWPP services include education and training programs, interactive classroom presentations, prevention and community outreach, and victim services such as victim advocacy, counseling and emotional support, crisis intervention, risk assessment and safety planning, advisement on legal options, and referrals to other services.

The VAWPP provides ongoing campus-wide prevention and awareness campaigns and education outreach activities for students, faculty and employees, such as prevention exhibits, campus displays, movie nights, screening days, and other events. These outreach activities engage the broader campus community to learn more about sexual harassment, sexual assault, sex offenses, domestic violence, dating violence, stalking, and inappropriate amorous relationships, and where to access services.

The VAWPP provides information on risk reduction to recognize the warning signs of abusive behavior and how to avoid potential attacks. The different forms of sexual harassment, sexual assault, sex offenses, domestic violence, dating violence, stalking, and inappropriate amorous relationships are discussed and steps to take are outlined to ensure an individual's safety and to obtain assistance from informal resources such as family and friends, and formal resources such as the VAWPP, Campus Security, the Student Disciplinary Appeals Committee (SDAC), and the Guam Police Department (GPD).

All employees shall undergo annual training on the prevention of sexual misconduct. New employees shall certify to their understanding of the University's Sexual Misconduct Policy before beginning employment. New students shall affirm their understanding of student rights and responsibilities under the University's Sexual Misconduct Policy as part of the registration process and before class attendance.

#### **XVI. ANNUAL REVIEW**

This policy is maintained by the EEO/ADA & TITLE IX Office. The EEO/ADA & TITLE IX Office and Institutional Compliance Officer will review this policy on at least an annual basis, with the assistance of an advisory group consisting of student, faculty, staff, and may include community representatives selected

by senior leadership of that office. The review will capture evolving legal requirements, evaluate the supports and resources available to the parties, and assess the effectiveness of the resolution process (including as to the fairness of the process, the time needed to complete the process, and the sanctions and remedies imposed). The review will include the opportunity for individuals affected by the policy to provide feedback and will incorporate an aggregate view of reports and resolutions. EEO/ADA & TITLE IX Office will prepare an annual report, publicly available, which will include recommendations and steps taken to improve the delivery of services and the effectiveness of the policy and procedures.

## **XVII. RELATED UNIVERSITY POLICIES**

### **A. Policy for Equal Employment Opportunity and Non-Discrimination/Non-Harassment and Policy and Procedure for Students and Applicants with a Disability**

Provides a formal process by which the University community can seek prompt, orderly, and fair resolution to complaints of discrimination, harassment, including sexual harassment, and a process by which persons with disabilities can make requests for reasonable accommodations.

### **B. UOG Student Handbook, Grievance Procedures**

Provides a formal process by which students can seek prompt, orderly, and fair resolution of academic disputes and other related complaints.

### **C. Board of Regents—Faculty Union Negotiated Agreement—Faculty Grievance Procedures and Faculty Hearings Procedures**

Provides a formal process by which faculty employees can seek prompt, orderly, and fair resolution of workplace disputes.

### **D. UOG Interim Rules and Regulations for Classified Personnel Grievance Procedures**

Provides a formal process by which classified employees can seek prompt, orderly, and fair resolution of workplace disputes.

### **E. UOG Rules, Regulations and Procedures Manual**

Provides a formal process by which non-classified employees can seek prompt, orderly, and fair resolution of workplace disputes.

## **Title IX Checklist for Complaints of Sexual Misconduct**

Designated employees of the University (e.g., Institutional Compliance Officer, Responsible Employees, Response Team) with reporting authority for complaints of sexual misconduct should ensure that the following items are discussed with a victim:

- Determine whether the victim requires immediate medical assistance. If so, call (671) 735-2365/70 or (671) 888-2456.
- Ask the victim whether he or she would like you to contact the police immediately. If so, call the Guam Police Department (GPD) at (671) 472-8911. If not, you should respect the victim's wishes. Advise the victim that (s)he has the right to contact or not to contact the police at any time.
- Advise the victim that you can protect his/her privacy, but you cannot promise confidentiality.
- Tell the victim that you are required to report the incident to the University's Equal Employment Opportunity/Americans with Disabilities Act (EEO/ADA) and Title IX Office. The official in charge of this office is called the Institutional Compliance Officer (ICO). You are also required to report this incident to the Response Team, but you will not tell anyone else. Let the victim know that the ICO or a member of the Response Team may be in touch with him/her.
- Remind the victim that acts of sexual misconduct, such as sexual harassment, sexual assault, sex offenses, domestic violence, dating violence, stalking, and inappropriate amorous relationships are not the fault of the victim. Thank the victim for telling you what happened and reassure him/her that you have information to share which might be useful, and then provide him/her with the list of resources. The UOG Resource Page is provided in this policy and in brochures available from the ICO and the Violence Against Women Prevention Program (VAWPP).
- Discuss the options he/she has (counseling, police report, etc.), if you are comfortable and have the knowledge to do so. The ICO or VAWPP can also provide resources and information for victims.
- Advise the victim that he or she has the right to file a complaint or not to file a complaint with the University. Title IX information is available in this policy which describes the filing process, or the victim may be in touch with the ICO directly to better understand the process.
- Advise the victim that there may be times when the University must take action against an accused, even if that is against the victim's wishes. The University undertakes these decisions very carefully and would inform the victim and take appropriate steps to ensure the victim's safety prior to taking any action against the accused.
- An incident on campus should be referred to the University Safety Office. An incident off-campus should be referred to the GPD. GPD will give its full assistance in response to a report of sexual misconduct on campus.
- Let the victim know that there are people on campus that can help them if they don't feel safe going to classes, going home or going to work. These are known as interim protective accommodations. Advise the victim that assistance can be provided by the University (ICO or Dean of Enrollment Management and Student Success (EMSS)) for changing academic situations and working situations, if requested by the victim and if reasonably available, regardless of whether the victim chooses to report the situation to the police.
- Inform the victim that retaliation by the accused or anyone else is prohibited and will be punished by the University. The University wants to make certain the fear of retaliation does not prevent the victim from reporting the incident either to the police or formally to the University. If the victim experiences any retaliation, he or she should immediately contact the ICO at the University.



# How to File a Complaint of Sexual Misconduct

## A. Complaints Against Students

Complaints of sexual misconduct against students may be filed with the Student Discipline and Appeals Committee (SDAC) and/or with the EEO/ADA & Title IX Office.

If the complaint against a student is filed with the SDAC Committee, the Student Handbook procedures apply, which can be accessed at <http://www.uog.edu/sites/default/files/uog-student-handbook-sept2015.pdf> or the Enrollment Management and Student Success Center. Further, this Sexual Misconduct Policy, Disciplinary Procedures, Section X, Subsection A applies.

If the complaint against a student is filed with the EEO/ADA & Title IX Office, the policy for Equal Employment Opportunity and Non-Discrimination/Non-Harassment, pgs. 3–6 apply. A copy of this policy can be obtained at the EEO/ADA & Title IX Office or accessed on-line at <http://www.uog.edu/administration/office-of-the-president/eoadatitle-ix-office>. Further, this Sexual Misconduct Policy, Disciplinary Procedures, Section X, Subsection A applies.

## B. Complaints Against Faculty

Complaints of sexual misconduct against faculty may be processed in accordance with the Negotiated Agreement by and between the Board of Regents of the University of Guam and the UOG Faculty Union, American Federation of Teachers, Local 6282 (BOR–Union Agreement), and/or with the EEO/ADA & Title IX Office.

If the complaint against faculty is processed in accordance with the BOR–Union Agreement, Article X, Disciplinary Action Including Adverse Action procedures apply, which can be accessed on-line at <http://www.uog.edu/administration/administration-finance/human-resources/information>. Further, this Sexual Misconduct Policy, Disciplinary Procedures, Section X, Subsection B applies.

If the complaint against faculty is filed with the EEO/ADA & Title IX Office, the policy for Equal Employment Opportunity and Non-Discrimination/Non-Harassment, pgs. 3–6 apply. A copy of this policy can be obtained at the EEO/ADA & Title IX Office or accessed on-line at <http://www.uog.edu/administration/office-of-the-president/eoadatitle-ix-office>. Further, this Sexual Misconduct Policy, Disciplinary Procedures, Section X, Subsection B applies.

## C. Complaints Against Classified Employees

Complaints of sexual misconduct against a classified employee may proceed in accordance with the Interim Personnel Rules and Regulations for Classified Service Employees (PR&R) and/or with the EEO/ADA & Title IX Office.

If the complaint against a classified employee is filed in accordance with the PR&R, Chapter 11, Adverse Action Procedures apply. This policy can be accessed on-line at <http://www.uog.edu/sites/default/files/interim%20personnel%20rules%20and%20regulations%20for%200classified%20service%20employees.pdf>. Further, this Sexual Misconduct Policy, Disciplinary Procedures, Section X, Subsection C applies.

If the complaint against a classified employee is filed with the EEO/ADA & Title IX Office, the policy for Equal Employment Opportunity and Non-Discrimination/Non-Harassment, pgs. 3–6 apply. A copy of this policy can be obtained at the EEO/ADA & Title IX Office or accessed on-line at <http://www.uog.edu/administration/office-of-the-president/eoadatitle-ix-office>. Further, this Sexual Misconduct Policy, Disciplinary Procedures, Section X, Subsection C applies.

#### **D. Complaints Against Members of the University Community**

Complaints of sexual misconduct against members of the University Community, including but not limited to faculty, students, student-employees, staff, administrators and applicants for such positions may be filed with the EEO/ADA & Title IX Office. The policy for Equal Employment Opportunity and Non-Discrimination/Non-Harassment, pgs. 3–6 applies. A copy of this policy can be obtained at the EEO/ADA & Title IX Office or accessed on-line at <http://www.uog.edu/administration/office-of-the-president/eoada-title-ix-office>. Further, this Sexual Misconduct Policy, Disciplinary Procedures, Section X, Subsection D applies.

#### **E. Complaints Against Visitors, Contractors, and Others**

Complaints of sexual misconduct against visitors, contractors and others may be filed with the EEO/ADA & Title IX Office. The policy for Equal Employment Opportunity and Non-Discrimination/Non-Harassment, pgs. 3–6 applies. A copy of this policy can be obtained at the EEO/ADA & Title IX Office or accessed on-line at <http://www.uog.edu/administration/office-of-the-president/eoada-title-ix-office>. Further, this Sexual Misconduct Policy, Disciplinary Procedures, Section X, Subsection E applies.

## How to Get Help In the Event of an Emergency:

Anyone who has experienced sexual misconduct is urged to immediately seek help. Help includes seeking medical assistance, seeking confidential counseling or crisis response, filing a report with law enforcement, and/or making a report to the University. The University of Guam will help any individual get to a safe place, provide transportation to the hospital, contact the Guam Police Department, and offer information about the University's resources and processes.

<u>Emergency Response</u>	<u>Medical Treatment</u>	<u>Confidential Counseling &amp; Crisis Response</u>
<p><b>Emergency Law Enforcement: 911</b> (from anywhere)</p> <p><b>UOG Campus Safety</b> (671) 735-2365/70 (671) 888-2456</p> <p><b>G4S</b> (671) 649-3127 (Dispatch)</p> <p><b>Guam Police Department</b> (671) 472-8911</p>	<p><b>Guam Memorial Hospital Emergency Room</b> (671) 647-2555 <u>website: <a href="http://www.gmha.org/gmha_new/">www.gmha.org/gmha_new/</a></u> The GMHA Emergency Department is staffed 24 hours a day by qualified physicians and nursing staff</p> <p><b>Guam Regional Medical City</b> (671) 649-4764 / Fax: (671) 649-4765 The GRMA Emergency Department is staffed 24 hours a day by qualified physicians and nursing staff</p> <p><b>Urgent Care Clinics:</b></p> <p><b>American Medical Center</b> 1244 N. Marine Corps Drive, Upper Tumon (671) 647-8261/2 / Fax: (671) 647-8257 Monday–Friday 6:00 pm–9:00 pm</p> <p><b>Guam SDA Clinic</b> 388 Ypao Road, Tamuning (671) 646-8881/2 / Fax: (671) 647-2557 Sunday–Friday 8:00 am–2:00 pm</p> <p><b>Hagatna MED Clinic</b> 250 Route 4, Suite 203, Hagatna (671) 475-6500 Monday–Friday 8:00 am–5:00 pm Saturday 10:00 am–2:00 pm</p> <p><b>IHP Medical Group</b> 655 Harmon Loop Road, Suite 108 Harmon (671) 633-4447 / Fax: (671) 633-4452 Monday–Friday 5:30 pm–8:00 pm</p> <p><b>FHP Urgent Care</b> 548 S. Marine Corps Drive, Tamuning (671) 646-5825 Sunday–Saturday 7:00 am–11:00 pm</p>	<p><b>UOG Violence Against Women Prevention Program (VAWPP)</b> Humanities and Social Sciences Building, 1<sup>st</sup> Floor, Room 103 (671) 735-2890 <u>email: <a href="mailto:vawpp@uguam.uog.edu">vawpp@uguam.uog.edu</a></u> <u>website: <a href="http://www.uog.edu/vawpp">www.uog.edu/vawpp</a></u></p> <ul style="list-style-type: none"> <li>• victim advocacy</li> <li>• counseling and emotional support</li> <li>• crisis intervention</li> <li>• risk assessment and safety planning</li> <li>• advisement on legal options</li> <li>• referrals to other services</li> </ul> <p><b>UOG Isa Psychological Services Center</b> Humanities and Social Sciences Building, 2<sup>nd</sup> Floor, Room 202 (671) 735-2883 <u>email: <a href="mailto:isa@uguam.uog.edu">isa@uguam.uog.edu</a></u> <u>website: <a href="http://www.uog.edu/schools-and-colleges/college-of-liberal-arts-and-social-sciences/isa-psychological-services-center">www.uog.edu/schools-and-colleges/college-of-liberal-arts-and-social-sciences/isa-psychological-services-center</a></u></p> <ul style="list-style-type: none"> <li>• individual psychotherapy for adults, adolescents, and children</li> <li>• family and couples therapy</li> <li>• crisis intervention</li> </ul> <p><b>Victim Advocates Reaching Out (VARO)</b> (671) 477-5552 (24-hr hotline) <u>email: <a href="mailto:mailto:varoguam1@yahoo.com">mailto:varoguam1@yahoo.com</a></u></p> <ul style="list-style-type: none"> <li>• crisis intervention and emotional support</li> <li>• material assistance (e.g. emergency food, clothing, personal care items, transportation, shelter and advocacy)</li> <li>• information about law enforcement and legal procedures</li> </ul> <p><b>Healing Hearts Crisis Center</b> (671) 647-5351 <u>email: <a href="mailto:mailto:healing_hearts@mail.dmhsa.guam.gov">mailto:healing_hearts@mail.dmhsa.guam.gov</a></u></p> <ul style="list-style-type: none"> <li>• medical-legal examinations for adults and children</li> <li>• social work services</li> <li>• multi-disciplinary team interviews</li> <li>• community outreach and public awareness</li> </ul>

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## Reporting Options:

The University's EEO/ADA and Title IX Office oversees the investigation and resolution of all misconduct covered by this Sexual Misconduct Policy ("policy"). To discuss any aspect of the policy, individuals are encouraged to contact:

### Institutional Compliance Officer

University of Guam  
Dorm 2, Iya-Hami Hall, Room 106  
Mangilao, Guam 96923  
(671) 735-2244

### Office of the Senior Vice President, Academic & Student Affairs

University of Guam  
UOG Station  
Mangilao, Guam 96923  
(671) 735-2994/8

### Office of the President

University of Guam  
UOG Station  
Mangilao, Guam 96923  
(671) 735-2990/5

Any individual can make a report under this policy to these individuals or to the individuals/departments designated below. The report may be made in person, by telephone, in writing, by e-mail, electronically, or anonymously. All reports will be shared with the University's Response Team. Any report involving a minor will be shared with the Guam Police Department and Child Protective Services.

### EEO/ADA & Title IX Office

Institutional Compliance Officer  
(671) 735-2244

### G4S Dispatch

(671) 649-3127

### Campus Security Office

(671) 735-2365

### Guam Police Department

Emergencies 911

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## Understanding the Difference between Making a Report to the University or Law Enforcement (Reporting Options) and Seeking Confidential Assistance (Confidential Resources)

There is a distinction between making a report to the University or law enforcement through designated **reporting options** (listed above) and seeking confidential assistance through **confidential resources** (listed below).

**Reporting options:** Making a report to the University by contacting a **reporting option** means that the report will be shared with the Institutional Compliance Officer and a member of the University's Response Team will communicate with the complainant to provide resources and support and to identify the appropriate action to respond to the report as outlined in this policy. In addition, many University employees, designated as responsible employees, are required to share information with the University's Institutional Compliance Officer. There are many options for resolution of a report, and a complainant is encouraged to make a report even if that individual is not seeking disciplinary action against a respondent. The University will make every effort to respect a complainant's autonomy in determining how to proceed. Support and resources are always available to a complainant regardless of the chosen course of action.

**Confidential resources:** In contrast, information shared with a **confidential resource** will not be disclosed to anyone else, including the University, except under very limited circumstances. Any individual may choose to seek support from confidential professionals on and off campus, including counselors, medical health providers, clergy, and/or rape crisis counselors.

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## Confidential Resources:

The trained professionals designated below can provide counseling, information, and support in a confidential setting. These **confidential resources** will not share information about an individual (including

whether that individual has received services) without the individual's express permission, unless there is a continuing threat of serious harm to the patient/client or to others or there is a legal obligation to reveal such information (e.g., suspected abuse or neglect of a minor). These professionals are also available to help an individual make a report to the University.

**On Campus**

**UOG Violence Against Women Prevention Program (VAWPP)**  
(671) 735-2980

**UOG Isa Psychological Service Center**  
(671) 735-2883

**Off Campus**

**Victim Advocates Reaching Out (VARO)**  
(671) 477-5552 (24-hr hotline)

**Healing Hearts Crisis Center**  
(671) 647-5351

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**Interim Protective Accommodations Available Through the University:**

In responding to a report, the University has an interest in providing care to the complainant or victim and to the broader campus community. For this reason, after receiving a report, the University, through its Response Team, will make an immediate assessment of any risk of harm to the parties, any other individuals, or to the broader campus community and will take the necessary steps to address those risks. These steps may include establishing interim protective accommodations to provide for the safety of the parties involved, any other individuals, and the campus community. Interim protective accommodations are available regardless of whether a complainant chooses to pursue disciplinary action against a respondent or accused. Examples of interim protective accommodations include no-contact orders, residence modifications, academic or employment accommodations, and interim suspension.

Retaliation is expressly prohibited by this policy, and the University will take immediate and responsive action to any report of retaliation or any violation of interim protective accommodations.

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**Mandatory Reporting of Child Abuse:**

Individuals who suspect that a child is being harmed or observe a child being harmed should contact the Guam Police Department by dialing 911 or (671) 472-8911. Under Guam law, certain professional individuals who reasonably suspect that a child under the age of 18 has been abused or neglected have an obligation to report that suspicion to the Guam Police Department or Child Protective Services at (671) 475-2672.

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