



HOLY NAMES  
UNIVERSITY  
*Since 1868*

## **Sexual Misconduct Policy**

### **I. Message from Holy Names University to the HNU Community**

The following policies and programs have been developed to help protect all students from experiencing any form of sexual misconduct. These policies also explain how the University will handle reports of sexual misconduct it receives. Creating a safe and inclusive educational environment is not only a legal obligation for the University; it is essential to sustaining HNU's welcoming and diverse community.

HNU encourages all students to read this important policy and to contact one of the “intake officers” listed below with any questions or to report an incident.

Please also understand that the policy of colleges and universities must be written to conform with federal and state laws, so the policies themselves may seem to be overly formal. Student Affairs can help students navigate through the policy and also has other materials or resources to help students.

### **II. Overview of How this Policy Works**

HNU is committed to maintaining a campus and programs free from all forms of sexual misconduct. This particular policy is geared most directly to the protection and safety of students.

By this Policy, all forms of sexual misconduct, including sexual and gender-related: violence, assault, harassment, domestic violence, dating violence, and stalking are prohibited and will be promptly responded to with disciplinary or other corrective action measures that are appropriate.

This policy also explains the procedures of HNU that allow for fact-finding for those students who find themselves to be victims of sexual misconduct and to provide ways in which the University supports and protects its students.

This Policy applies to misconduct whether it occurs on HNU property or anywhere else that has a connection to sponsored events or programs involving the University. Off-campus conduct that the University thinks can interfere with students having a safe or welcoming experience or education at the University, or that poses a threat or danger to the HNU community, is still within the University's oversight for the protection of our students and any incidents should be brought to our attention.

### **NOTICE OF NONDISCRIMINATION**

This policy concerns matters involving sexual misconduct. However, please know that HNU's other policies in the Student Handbook prohibit other kinds of misconduct inflicted against students. HNU does not permit discrimination or harassment in its programs and activities on the basis of race, color,

national origin, ancestry, sex, gender, gender identification or expression, sexual orientation, disability, age, religion, medical condition, veteran status, marital status or any other characteristic protected under law.

Incident(s) that involve one of these other kinds of misconduct will be handled under the HNU Student Code of Conduct Process.

Incident(s) of sexual misconduct that also involve conduct that may constitute one of these other kinds of misconduct will be handled under this Policy.

For information related to academic misconduct, or other misconduct that is not sexual misconduct, please refer to the applicable sections of the student handbook for your program.

### **GETTING HELP**

The University encourages all members of the HNU community who believe they have been victims of sexual misconduct to report these incidents to local law enforcement authorities and to seek medical attention as needed.

- For Emergencies call: 9-1-1
- City of Oakland Police Department Emergency: 510.777.3211
- City of Oakland Sexual Assault Hotline: 510.637.0298
- Alameda County Medical Center, [Highland Hospital Sexual Assault Center](#), 1411 E. 31st Street, Oakland provides 24-hour assistance, including medical treatment and examination, advocacy and counseling support for victims of sexual assault. 510.437.4688.
- Bay Area Women Against Rape 24-hour hotline: 510.845.7273
- National Domestic Violence hotline: 800.799.SAFE (7233)
- La Casa de La Madres: 24-hour crisis support hotline: For adults: 877.503.1850; for teens: 877.923.0700
- A Safe Place, Inc.: 24-hour crisis hotline: 510.536.7233 (SAFE)
- For additional resources, please see section XIII below.
- For additional reporting options, please see section V below.

If you are a student who believes that you or another student has experienced an incident of possible sexual misconduct at the “hands” of another student, faculty member, administrator, or in any other situation that is detrimentally affecting your experience as a student, please let us know right away. Please report the incident and/or refer to Section VI below for information on how to report incident(s) to the University.

As to employees of HNU who may have experienced sexual misconduct, or who may wish to report an incident of possible sexual misconduct against another person, prompt reporting is also very important. Please consult your employee handbook for the relevant reporting policies and procedures that apply; and contact the Title IX Coordinator and/or the Human Resources office for assistance. See below for their contact information.

### **III. University Administrators with Responsibility for this Policy**

Title IX of the Education Amendments of 1972 (“Title IX”) is a federal law that prohibits harassment on the basis of sex (or gender, including sexual identity and sexual orientation) at educational institutions that receive federal financial assistance. Sexual misconduct is a form of illegal harassment. State law also makes sexual misconduct at Universities an illegal act.

The Title IX Coordinator is the person designated by HNU to oversee this Policy and to whom anyone with questions about this Policy can be referred. The Title IX Coordinator at HNU is the Vice President for Student Affairs, Laura Lyndon. She can be reached at 510.436.1658 or [lyndon@hnu.edu](mailto:lyndon@hnu.edu).

HNU has also designated the following Deputy Title IX Coordinators:

- **Nicole Whitner**, Dean of Students
  - 510.436.1294 | [whitner@hnu.edu](mailto:whitner@hnu.edu)
- **Pat Barton**, Director of Human Resources
  - 510.436.1220 | [barton@hnu.edu](mailto:barton@hnu.edu)

There also are designated Intake Officers at HNU for cases involving students exclusively, to assess any conduct believed to be or that is an actual or anticipated incident of sexual misconduct:

- **Ang Banez**, Assistant Director of Housing & Residential Life
  - 510.436.1442 | [banez@hnu.edu](mailto:banez@hnu.edu)
- **Casey LaBarbera**, Director of New Student Programs, Involvement & Leadership
  - 510.436.1144 | [labarbera@hnu.edu](mailto:labarbera@hnu.edu)
- **Eleanor McFarlin**, Associate Dean and Director of Student Success
  - 510.436.1280 | [mcfarlin@hnu.edu](mailto:mcfarlin@hnu.edu)

See Section V below for more information on how to report incident(s) of sexual misconduct to HNU.

#### **IV. Legal Definitions of Sexual Misconduct**

HNU prohibits all forms of sexual misconduct, which includes sexual and gender-related violence of any form: assault, harassment, domestic violence, dating violence, and stalking. Each of these terms encompasses a broad range of behavior that the HNU forbids and that can subject perpetrators to serious consequences.

*The following are among the forms of sexual misconduct that violate HNU policy and the associated definitions, which overlap in some areas:*

##### **Sexual Assault or Nonconsensual Sexual Intercourse:**

- A. By force or threat of force;
- B. Without effective consent; or
- C. Where the person is incapacitated.

*Sexual Assault* includes, but is not limited to: rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or the threat of any of these.

*Sexual intercourse* includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand) or object, or oral penetration involving mouth to genital contact.

**Nonconsensual Sexual Contact (or attempts to commit the same):** Having or attempting to have sexual contact with another person:

- A. By force or threat of force;
- B. Without effective consent; or
- C. Where the person is incapacitated.

*Sexual contact* includes intentional contact with the intimate parts of another, causing another to touch one's intimate parts, or disrobing or exposure of another without permission. Intimate parts may include the breasts, genitals, buttocks, groin, mouth or any other part of the body that is touched in a sexual manner.

**Sexual Exploitation:** Occurs when one person takes nonconsensual or abusive sexual advantage of another person for one's own advantage or benefit, or to the benefit or advantage of another person.

Examples of sexual exploitation include:

- Causing or attempting to cause another person to become drunk, drugged or otherwise incapacitated with the intent of engaging in a sexual behavior;
- Recording, photographing or transmitting images of sexual activity and/or the intimate body parts (groin, genitalia, breasts or buttocks) of another person without their consent;
- Allowing third parties to observe sexual acts and voyeurism (spying on people who are engaging in sexual acts or who are doing other intimate activities such as undressing, showering, etc.);
- Exposing one's genitals in nonconsensual circumstances or inducing someone to expose their genitals;
- Knowingly transmitting a sexually transmitted disease or virus to another person without his or her knowledge; or
- Sexually based stalking and/or bullying.

**Domestic Violence:** 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 receiving grant monies, 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.

**Dating Violence:** Violence committed by a person –

- A. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- B. where the existence of such a relationship shall be determined based on a consideration of the following factors:
  - a. The length of the relationship.
  - b. The type of relationship.
  - c. The frequency of interaction between the persons involved in the relationship.

**Stalking:** A course of physical or verbal contact directed at another person that would cause a reasonable person to -

- A. Fear for his or her safety or the safety of others; or
- B. Suffer substantial emotional distress.

**Retaliation:** Action which is taken against a person or group of persons because of the person's or group of persons' participation in a complaint or investigation of sexual misconduct, including but not limited to, respondents, witnesses, or others involved in the complaint, investigation and/or resolution of the alleged sexual misconduct. Retaliation can take many forms, including threats, intimidation, pressuring, continued abuse, violence or other forms of harm to others.

**Sexual Harassment or Gender-Based Harassment:** unwelcome, sexual or gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive to interfere with, deny or limit a person's ability to participate in or benefit from HNU's education program(s) and/or activities. Sexual harassment has many forms. Sexual harassment is harmful regardless of gender of the perpetrator or the victim.

One form is quid pro quo or "this for that." Unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature constitutes sexual harassment when it is implicitly or

explicitly suggested that submission to or rejection of the conduct results in adverse educational or employment action.

Another form of sexual harassment involves hostile environment. It is sexual harassment when an individual receives unwelcome sexual advances, unwanted verbal, physical, or visual behavior of a sexual nature, or is made to feel uncomfortable because of their gender, gender identity or sexual orientation. Conduct that may constitute sexual or gender-based harassment may include one or more of the following:

- Physical conduct: unwanted touching, blocking normal movement, or interfering with studies or work;
- Verbal conduct: epithets, derogatory comments, slurs, or humor or comments of a sexual nature;
- Visual conduct: leering, making sexual gestures, displaying suggestive objects or pictures, posters in a public space or forum;
- Written conduct: letters, notes, or electronic communications containing comments, words or images as described above.

*The following are additional definitions used under this Policy as defined by law:*

**Consent** means “affirmative consent,” which means affirmative, conscious, and voluntary agreement to engage in sexual activity.

This means that consent must be given without coercion, force, threats, or intimidation. It also means that consent cannot be given when a person is deemed to be *incapacitated*. Being intoxicated by drugs or alcohol does not diminish one’s responsibility to obtain consent. The factors to be considered when determining whether consent was given include whether a person knew or should have reasonably known that the other person was incapacitated.

A person cannot freely give consent if they are:

- A. asleep or unconscious;
- B. incapacitated due to the influence of drugs, alcohol, or medication, such that they cannot understand the fact, nature, or extent of the sexual activity; or
- C. unable to communicate due to a mental or physical condition.

It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

**Coercion** is a form of force that comprises unreasonable pressure for sexual activity. When someone makes clear that they do not want to participate in a sexual activity, that they want to stop, or that their limit is at a certain point, continued pressure to act beyond that point can be coercive.

**Force** is the use of physical violence and/or imposing on someone physically to gain sexual access. Other forms of force include intimidation (implied threats), threats and coercion that overcome resistance or produce consent. For example, “Have sex with me or I’ll hit you.” “OK, don’t hit me; I’ll do what you want.”

**Incapacitation** is a state where a person cannot make an informed and rational decision to engage in sexual activity because the person lacks conscious knowledge of the nature of the act (i.e., to understand the who, what, when, where, why or how of the sexual interaction) and/or is physically helpless. A person is incapacitated, and therefore unable to give consent, if that person is asleep, unconscious, or otherwise unaware that sexual activity is occurring. Incapacitation may occur as the result of alcohol or drugs.

**Claimant** refers to the person who may identify as having experienced, or being a victim or survivor of possible sexual misconduct and who makes a report of sexual misconduct under this Policy. A Claimant can also be a person who reports self-knowledge of an incident of possible sexual misconduct but is not a victim, such as an HNU student, staff member, faculty, teacher, or administrator.

**Respondent** refers to the person whose conduct is at issue under this Policy. A Respondent may be a current or former student, staff member, faculty, teacher, administrator, visitor, alumni, contractor of HNU or any other person.

**Witness** refers to any person who either witnessed an incident or who has relevant information regarding a case that is being investigated under this Policy.

**Advisor or Support Person** is a person who provides emotional support to a Claimant or Respondent and who may be present in a nonparticipating role to provide moral support during any meeting or proceeding under this Policy. The advisor or support person may be a currently enrolled student, parent of the student, or an HNU faculty or staff member. Nonparticipating means that the advisor or support person is silent and does not speak or present information during the meeting or proceeding under this Policy. All persons involved in a proceeding might consider themselves as victims and HNU tries to provide meaningful support. [Attorneys are not permitted to participate in any Campus meeting or proceeding under this Policy, absent advance written consent of the Title IX Coordinator and agreement to terms.]

#### **SPECIAL POLICY THAT PROTECTS STUDENTS:**

Faculty and other employees of HNU are not allowed to participate in a close personal relationship with a student for whom that employee provides -- or might (by virtue of HNU assigned position or functions) in the future -- provide teaching, mentoring or supervision. (Note: Only when explicit and advanced authorization has been obtained in writing from the Vice President of Student Affairs or from the Provost, can this kind of relationship with a student take place. This policy is for the protection of students.)

Close personal relationships include dating, sexual and similar close personal relationships that are or are not consensually undertaken by the supervisor and the student. Such relationships do not include the usual and customary socializing at HNU of faculty member-student; mentor-mentee; supervisor-employee; faculty member-graduate student; coworkers; and supervisor-student employee. A person provides supervision when s/he oversees, directs or evaluates the work of others.

## **V. Reporting Incidents of Sexual Misconduct**

### **GENERAL INFORMATION**

Student health and safety, and the protection from crimes, is a priority at the university. HNU encourages all individuals to seek assistance from a medical provider and/or law enforcement as soon as possible after an incident that may be considered sexual misconduct. Prompt reporting is the best option for safety and to ensure the preservation of evidence and for the identification and location of witnesses.

HNU also encourages all students to make a report of the incident(s) to HNU and to do so to HNU's designated officers as described below. Students should make reports of the incident(s) as soon as the incident(s) of sexual misconduct become known. However, it is important to note that there is no statute of limitations for reporting incidences of sexual misconduct to the university.

HNU will promptly review and thoroughly consider (including an investigation where needed) all reports of incidents that may be sexual misconduct under this Policy. HNU will take prompt action to prevent, correct and discipline behavior that is found to violate this Policy, where appropriate, in the judgment of HNU.

The filing of a report under this Policy is independent of any criminal investigation or proceeding that may take place by governmental authorities or law enforcement, and both HNU and criminal investigations may be pursued simultaneously.

### **REPORTING PROCEDURES**

If you are a student who believes there has been an incident of possible sexual misconduct against an HNU student by another student, faculty or staff member, or visitor of HNU, or any other person, you should report such conduct as follows:

#### **Emergency and Off-Campus Reporting Options**

- For Emergencies call: 9-1-1
- Bay Area Women Against Rape 24-hour hotline: 510.845.7273
- National Domestic Violence hotline: 1.800.799.SAFE (7233)
- La Casa de La Madres: 24-hour crisis support hotline
- For adults: 1.877.503.1850
- For teens: 877.923.0700
- A Safe Place, Inc.: 24-hour crisis hotline: 510.536.7233(SAFE)
- Alameda County Medical Center, Highland Hospital Sexual Assault Center: 510.437.4688

*Note:* The Title IX Coordinator, Deputy Title IX Coordinators, and/or Intake Officers will assist students who wish to make a report to law enforcement authorities in doing so if the student so chooses. Students may also chose to decline to notify law enforcement authorities; however, as explained in Section G below, HNU may be required by law to report incidents that involve violence, hate violence, and/or sexual assault, to law enforcement authorities, including those incidents that occur on-campus and off-campus. Except if required by governmental agencies, HNU will not disclose a victim's identity unless the victim consents to being identified after being informed of his or her right to have identifying information withheld. If a victim does not consent to disclosing his or her identity, the alleged perpetrator's identity will not be disclosed either, unless required by governmental authorities.

In any case, under state and federal law, a victim has:(1) the right to a Sexual Assault Forensic Medical Examination at no cost to the victim/patient; and (2) the right to participate or not participate with the local law enforcement agency or the criminal justice system, either prior to the examination, or at any other time. Additionally, a victim may agree to engage with local law enforcement and participate in the investigation and prosecution using a pseudonym (e.g., Jane or John Doe) instead of his or her true name.

#### **On-Campus Reporting Options**

Incident(s) of past sexual misconduct or concerns about future incidents that affect any HNU student should be initially reported as follows:

- By requesting an in-person meeting with one of the below Intake Officers, or

- By submitting a written complaint by email to one of the below Intake Officers

Below are the designated Intake Officers at HNU for cases involving students exclusively, to assess any conduct believed to be or that is an actual or anticipated incident of sexual misconduct:

- **Ang Banez**, Assistant Director of Housing & Residential Life
  - 510.436.1442 | [banez@hnu.edu](mailto:banez@hnu.edu)
- **Casey LaBarbera**, Director of New Student Programs, Involvement & Leadership
  - 510.436.1144 | [labarbera@hnu.edu](mailto:labarbera@hnu.edu)
- **Eleanor McFarlin**, Associate Dean and Director of Student Success
  - 510.436.1280 | [mcfarlin@hnu.edu](mailto:mcfarlin@hnu.edu)

The Title IX Coordinator at HNU is the Vice President for Student Affairs, Laura Lyndon. Laura can be reached at 510.436.1658 or [lyndon@hnu.edu](mailto:lyndon@hnu.edu).

HNU has also designated the following Deputy Title IX Coordinators:

- **Nicole Whitner**, Dean of Students
  - 510.436.1294 | [whitner@hnu.edu](mailto:whitner@hnu.edu)
- **Pat Barton**, Director of Human Resources
  - 510.436.1220 | [barton@hnu.edu](mailto:barton@hnu.edu)

*Note:* All staff members and faculty members who believe that they have received a report of sexual misconduct affecting a student, or who have a concern about a future incident need to immediately inform the Title IX Coordinator.

### **Regarding Incidents Occurring Off-Campus**

The Reporting Procedures for incidents to HNU students occurring off-campus are the *same* as the Reporting Procedures outlined in Sections A and B above. HNU will do everything feasible to respond to reports of sexual misconduct committed by a person of another institution or entity; however, HNU may be limited in its authority to take actions involving third parties, but it will help students with actions that HNU can take to protect them and help them.

Measures such as no-contact orders, changes in classes or programs of study, excused absences, changes in internships, changes in academic advisors, and so forth can be of help to students who are victims and HNU will consider these as possible effective corrective action for misconduct by persons not under HNU control.

In addition, HNU students whose programs of study involve internships at external locations or non-HNU entities, may also (in addition to reporting to HNU) choose to report incident(s) of sexual misconduct that occur in connection with their internships, by using the policies and procedures available (if any) by non-HNU entities. HNU may work in conjunction with another institute or entity in investigating and resolving reported incidents and will so notify the student if it does on a case-by-case basis.

### **Anonymous Reporting**

Anonymous reports, or reporting without disclosing the reporter's name, can be made, but anonymous reporting is not the preferred way. Depending on the information received, HNU's ability to respond to an anonymous report may be limited. The Title IX Coordinator and/or Deputy Title IX Coordinator(s) will review anonymous reports received by HNU and determine whether an investigation and response is appropriate.

### **Amnesty for Sanctions from Other Misconduct**



HNU encourages the reporting of conduct prohibited under this Policy. A student who reports sexual misconduct, either as a Claimant or a third-party witness, will not be subject to disciplinary action by HNU for the person's own personal consumption of alcohol or drugs, or other nonsexual misconduct, that happened at or near the time of the incident, unless HNU finds the violation(s) to be egregious, including but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating or academic dishonesty.

### **Prohibition Against Retaliation**

It is a violation of HNU policy to retaliate against any person making a report of possible sexual misconduct, or against any person cooperating in the investigation of any report of possible sexual misconduct. Retaliation against any member of the HNU community may result in disciplinary action, including termination of employment or expulsion from HNU. Please immediately report any retaliation just as you would report sexual misconduct.

### **A NOTE ON PRIVACY AND CONFIDENTIALITY**

HNU is committed to assisting students throughout the processes outlined in this Policy. Efforts will be made to respect the privacy of all persons involved in this process in a manner consistent with the need for a thorough review of the report and carrying out the processes.

This means that the information related to a report under this Policy will only be shared with a limited circle of individuals who, in the judgment of HNU, have a "need to know" basis in order to assist HNU and/or its designees in its investigation and response and to prevent the recurrence of any such conduct found to have been committed.

If there is a request that the names remain confidential, HNU will take steps to investigate and respond to the report in a manner that is consistent with that request. However, HNU's ability to fully respond to the incident may be limited, and so that HNU can meet its desire to protect students, HNU cannot guarantee complete confidentiality.

HNU is also required by law to report certain types of reported sexual misconduct in its annual crime statistics report. Neither names, nor other identifying details of the incident, will be made public in the annual crime report.

HNU is also required by law under certain circumstances to report any incident that might be classified as a violent crime, hate crime, or sexual assault to law enforcement. However, it is up to the Claimant on whether or not to separately file his or her own report with the Police and/or to contact Rape Trauma Services.

Except if required by governmental agencies, HNU will not disclose a victim's identity unless the victim consents to being identified after being informed of their right to have identifying information withheld. If a victim does not consent to disclosing their identity, the alleged perpetrator's identity will not be disclosed either, unless required by governmental authorities.

### **Discussing Sexual Misconduct, without Making a Report or Record of the Incident**

If a student would like to discuss the details of an incident of possible sexual misconduct, without making a report or record of the incident to the University, or in an otherwise confidential manner, the student should speak with those individuals who hold a relationship with the person of which there is a legal duty of confidence, such as with their physicians, mental health therapists, or clergy members. These individuals generally will maintain confidentiality if they are acting in their capacity as your physician, mental health therapist, or clergy member, except in extreme cases of immediacy of threat or danger, or abuse of a minor.

The staff, faculty and administrators of HNU do not have such a relationship with HNU students, and are required to promptly forward all reports of possible sexual misconduct that become known to them to the Title IX Coordinator and/or Deputy Title IX Coordinators, except if they are serving as a licensed mental health provider as described below.

HNU's Counseling Center provides confidential psychological counseling services. The HNU Counseling Center staff is not required to forward reports of possible sexual misconduct to HNU's administrators.

## **VI. General Timeline of Receiving a Report**

### **INTAKE MEETING WITH REPORTING STUDENT**

The University will conduct an intake meeting with the reporting student in order for the student to be able to inform the University about the incident(s) of sexual misconduct and to give the University an opportunity to provide support.

For purposes of this part of the policy, a student who makes a report of sexual misconduct that this student or another student may have experienced is called a "Claimant."

HNU will promptly schedule the intake meeting with the Claimant, to be held as soon as possible. A trained Intake Officer will hold the meeting with the Claimant and will afford the opportunity for the Claimant to provide an overview and details of the incidents. The Intake Officer will also discuss the contents of this Policy with the Claimant and will discuss possible forms of support for the Claimant (see the Resources section below).

All University Intake Officers will have training in victim-centered approaches. The Deputy Title IX Coordinators or Title IX Coordinator at times can also serve as Intake Officer. In some cases, the Title IX Coordinator may assign the intake meeting to a trained professional who is external of the University.

At the intake meeting, the Intake Officer will also discuss whether there are any interim measures (see Interim Measures section below) that may be implemented. The preferences of the Claimant on such measures will be taken into consideration by the Intake Officer.

At the intake meeting, the Intake Officer will also discuss the following:

- A student's right to report the incident(s) to local law enforcement agencies;
- A student's right to seek medical treatment and the importance of preservation of evidence;
- Requests for confidentiality, if any;
- HNU's obligation to consider all reports of incidents and the inability of HNU to guarantee complete confidentiality;
- HNU's policy against retaliation of any person making a report or participating in the investigation or adjudication of an incident under this Policy;
- The possibility of an investigation by an external impartial and neutral fact-finder selected by HNU;
- The possibility for informal resolution where appropriate;
- The possibility for sanctions as determined by HNU;
- The use of an Advisor or Support Person in any meeting under this Policy; and
- HNU's obligation to report crime statistics into its daily crime log.

## **MEETING TO INFORM THE RESPONDENT**

For purposes of this part of the policy, the person whose conduct has been reported, is called a “Respondent.”

After there is a report of an incident, in many but not all cases, the University will schedule a meeting with the Respondent. If the Respondent is a student of HNU, the Intake Officer will normally hold the meeting with the Respondent. If the Respondent is a faculty member of HNU, the Title IX Coordinator and/or the Provost may assign an Intake Officer or other person to meet with the Respondent.

When there is a meeting with the Respondent, there will be a discussion of the contents of this Policy and whether there are any interim measures that may be implemented at the discretion of HNU to avoid any problems or harm during the remaining steps to take place. The preferences of the Claimant and the Respondent on such measures may be stated and will be taken into consideration by the Intake Officer.

When there is a meeting with the Respondent, the following matters will also be discussed:

- A student’s right to report the incident(s) to local law enforcement agencies;
- A student’s right to seek medical treatment and the importance of preservation of evidence;
- Requests for confidentiality, if any;
- HNU’s obligation to consider all reports of incidents and the inability of HNU to guarantee complete confidentiality;
- HNU’s policy against retaliation of any person making a report or participating in the investigation or adjudication of an incident under this Policy;
- The possibility of an investigation by an outside impartial and neutral fact-finder selected by HNU;
- The possibility for informal resolutions where appropriate;
- The possibility for sanctions as determined by HNU;
- The use of an Advisor or Support Person in any meeting or proceeding under this Policy; and
- HNU’s obligation to report crime statistics into its daily crime log.

## **INITIAL WITNESS INTERVIEWS**

The Intake Officer may also collect additional information or speak with any person(s) that may have relevant information concerning a reported incident, in an effort to gather preliminary information to make an initial assessment of the matter. The preferences of the Claimant and the Respondent as to witnesses to be interviewed may be stated by them and will be taken into consideration by the Intake Officer.

## **INITIAL ASSESSMENT**

The Intake Officer will then consider the nature of the report, the safety of the individuals involved and of the campus community, the Claimant and Respondent’s expressed preferences for resolution, and will make a recommendation to the Deputy Title IX Coordinator on whether the matter can be resolved without further investigation or whether to refer the matter for further investigation.

The Deputy Title IX Coordinator or the Title IX Coordinator will make the final decision on whether to refer the matter for further investigation. If the matter is referred for further investigation, the matter will follow the procedures for investigation and resolution described below. The Title IX Coordinator or the Deputy Title IX Coordinator, or the Intake Officer if so designated by the Title IX Coordinator and/or Deputy Title IX Coordinator, will inform the Claimant and Respondent in writing if the matter will be referred for further investigation.

If the matter is not referred for further investigation, the Title IX Coordinator or the Deputy Title IX Coordinator, or the Intake Officer if so designated by the Title IX Coordinator and/or Deputy Title IX

Coordinator, will inform the Claimant and Respondent of what the outcome is, including possible interim or final measures (see next section) for protection and safety. This is called the Outcome Letter.

### **POSSIBLE INTERIM OR FINAL MEASURES**

Interim measures will be considered and implemented at the discretion of Deputy Title IX Coordinator or the Title IX Coordinator, or the Intake Officer if so designated by the Title IX Coordinator and/or Deputy Title IX Coordinator, in order to protect students and maintain a safe and healthy environment at the University. Interim measures, which may be applied to the Claimant and/or the Respondent, include such things as:

- Issuance of a “no-contact” order or directive that restricts persons from having contact with one another in person or through electronic means;
- Change in class schedule;
- Change in student residence;
- Change in student-related employment;
- Rescheduling of exams or assignments (in conjunction with appropriate faculty);
- Voluntary leave of absence;
- Providing escort services for movement between classes and HNU activities;
- Interim suspension or HNU-imposed leave;
- Administrative hold on student accounts, including a hold on the release of transcripts while an investigation is pending;
- Denial of access to campus, campus facilities and/or HNU activities; and
- Other measures.

These measures may also be part of the plan of final measures that are required by the Outcome Letter.

### **VII. When Investigation Is Needed, HNU Sometimes Uses an External Investigator**

As already explained, following the initial assessment, the Deputy Title IX Coordinator or the Title IX Coordinator decides whether to have further investigation, and if so, will designate an investigator who has specific training and experience. The investigator may be an employee of HNU or an external investigator engaged to assist HNU in fact gathering. The Title IX Coordinator retains the right to designate an external investigator because sometimes the University will not have enough or the right kind of resources.

Whether the investigator is internal or external, the role of the investigator is to be a neutral fact-finder. The investigator may also designate another trained colleague to assist in interviewing parties, identifying and locating witnesses, and in gathering other facts and evidence. The investigator will conduct an investigation in a manner deemed appropriate in light of the circumstances of the case and will cooperate with law enforcement authorities to the extent necessary.

### **VIII. Outcome & Resolution**

All sexual misconduct reports will result in an Outcome Letter. Whenever an investigation takes place, the investigative report will be forwarded to the Deputy Title IX Coordinator and/or the Title IX Coordinator of HNU, who will review the fact-finding determination by the investigator and take any recommendations for sanctions or corrective action into consideration.

The Title IX Coordinator and/or the Deputy Title IX Coordinator will decide whether the matter requires further proceedings; whether to accept the recommendations for sanctions/corrective action (if any); or whether to issue or recommend to an officer of HNU, different or alternative sanctions/corrective action.

The Title IX Coordinator and/or the Deputy Title IX Coordinator can recommend to the proper HNU officer any sanctions against a student who committed sexual misconduct that are appropriate based on the results of the investigation. These include cease and desist and stay away instructions; warnings, disciplinary probation, suspension, expulsion, revocation of admission and/or degree, or withholding a degree, or any lesser sanctions.

The Title IX Coordinator, or designee as assigned by the Title IX Coordinator, can recommend to the proper HNU officer, any sanctions against a faculty or staff member or other nonstudent person deemed to have committed sexual misconduct, which are appropriate based on the results of the investigation. These include cease and desist and stay away instructions, warnings, censure, disciplinary probation, suspension, or dismissal from employment or from any other relationship with the University or any other lesser sanctions.

Past violations of the responsible student may be considered in the determination of an appropriate resolution. HNU will also consider whether the action will bring an end to the violation in question, whether it will reasonably prevent a recurrence of a similar violation and/or whether it will mediate any effects the violation had on the Claimant and the HNU community.

Within ten (10) business days of the decision, both the Claimant and the Respondent will be notified in the Outcome Letter, of the results of the investigation, including any sanctions or remedies imposed, along with notification of the rights to appeal.

The Title IX Coordinator, or any designee of the Title IX Coordinator, also may meet separately with the Claimant or the Respondent to discuss the results of the investigation and explain any resolution action that will be taken or imposed. A summary of the investigative report will be available for review by both the Claimant and the Respondent, if so requested.

The University seeks to resolve all reported incidents of sexual misconduct within sixty (60) days of the initial report. All time frames expressed in this policy are meant to be guidelines and depending on the complexity of the matter, additional time may be needed.

*Note:* A preponderance of the evidence standard will be used under this Policy, that is, whether it was more likely than not that the conduct prohibited under the Policy occurred. All proceedings under this Policy will be prompt, fair, impartial, and conducted by those who are adequately trained.

## **IX. Appeals**

If the Respondent or Claimant is dissatisfied with the resolution stated in the Outcome Letter or with some element of the process, either may appeal. An appeal must be made in writing, within ten (10) business days of the Outcome Letter. The appeal should clearly state the remedy sought. The written appeal must be delivered to the Title IX Coordinator, who will delegate review of the appeal as follows:

- If the person who appeals is a student of HNU, the Vice President for Student Affairs shall review and make the decision on the appeal.
- If the person who appeals is a faculty or staff member of HNU, the Director of HR shall review and make the decision on the appeal.

The final decision on the appeal will be issued in writing and a copy given to the appealing person. The final decision is binding on the appealing person, except for Arbitration in section X below.

Appeals should normally be completed within three University work weeks unless there is good reason to extend the time necessary to review the appeal. Normally, the grounds for granting an appeal will be limited to the following considerations:

- Is there compelling new evidence that was not available previously? Was the decision based on use of the proper criteria? Were improper or extraneous facts used that substantially affected the decision?
- Were there procedural irregularities that substantially affected the outcome of the investigation and decision for action that were detrimental to the Respondent or Claimant?

## **X. Arbitration**

If either the Claimant or the Respondent is not satisfied with the decision following a timely appeal in section IX above, they may request review by an impartial arbitrator under the Rules of the American Arbitration Association by submitting a request in writing to the Title IX Coordinator of HNU, no later than forty-five (45) calendar days after issuance of the decision following a timely appeal.

The request shall consist of a plain, concise and complete written statement outlining the grounds for disagreement with the outcome and all relevant information to substantiate the basis for doing so.

The Title IX Coordinator of HNU will then decide whether the case is suitable for arbitration; if so, under written agreement between HNU and the party seeking arbitration review, providing as a final and binding alternative to civil litigation, an arbitrator will be mutually selected between the parties, and the costs of the arbitrator's fees shall be agreed to in writing by an authorized representative of the parties.

Any matter submitted to binding arbitration under this Policy shall be submitted in accordance with the Rules of the American Arbitration Association. Attorneys or advisors of the party's choice may be present at and participate in the binding arbitration review process. This binding arbitration review process is the exclusive method of external review and is final and binding on both HNU and the student, and the arbitrators' award shall be final, binding and conclusive upon the parties and may be entered in any state or federal court having jurisdiction.

## **XI. Privacy of Records**

The Office of the Title IX Coordinator will receive and retain records of reports and related documents. Documents that are prepared in anticipation of the investigation and resolution of the matter (including the investigative report and any other documents) will not be disclosed outside of the review process, except as required by law.

The final Outcome Letter will be issued concurrently to both the Complaining and the Respondent. HNU neither encourages nor discourages the further disclosure of the final Outcome Letter by either the Claimant or the Respondent. HNU acknowledges that sharing the final outcome letter with others may be an important part of a student's healing process.

## **XII. Dissemination of Policy; Training and Prevention**

The Title IX Coordinator is responsible for overseeing the HNU's efforts at training, prevention and education as it relates under this Policy. As a part of HNU's commitment to maintaining its campus and programs free from sexual misconduct, this Policy shall be disseminated widely to the HNU community through publications, websites, student orientations, and other appropriate channels of communication.

All students, staff and faculty will receive an email each academic year with references to the policies on the website. The Title IX Coordinator, the Deputy Title IX Coordinators, and the Intake Officers will

receive appropriate training for the intake and handling of reports of sexual misconduct under this Policy, including those that are victim-centered and trauma informed. HNU will also provide all other supervisory employees with online training every two years.

In addition, the Division of Student Affairs will provide programs and materials to students that educate students on sexual misconduct and how to prevent it from occurring. Education programs shall promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking, and shall be designed to prevent all misconduct prohibited under this Policy from occurring, to empower victims, to identify safe and positive options for bystander intervention, and to help recognize warning signs of abusive behavior and how to avoid potential attacks.

Students, faculty and staff of HNU are all encouraged to take part in education and training designed to prevent sexual misconduct.

### **XIII. Resources**

#### **GETTING HELP**

HNU encourages all members of the HNU community who believe they have been victims of sexual misconduct to report these incidents to local law enforcement authorities and to seek medical attention where appropriate.

HNU also encourages all members of the HNU community to report any incident(s) of possible sexual misconduct to HNU under these Policies and to get help from as many resources as possible.

#### **For Emergency Needs:**

- For Emergencies call: 9-1-1
- City of Oakland Police Department Emergency: 510.777.3211
- City of Oakland Sexual Assault Hotline: 510.637.0298
- [Bay Area Women Against Rape](#) provides free 24-hour comprehensive services to victims of sexual assault. 24-hour hotline: 510.845.7273
- Men Overcoming Violence: 1385 Mission Street, Suite 300, San Francisco. 415.626.6704
- La Casa de La Madres: 24-hour crisis support hotline: For adults: 1.877.503.1850; for teens: 1.877.923-0700
- A Safe Place, Inc.: 24-hour crisis hotline: 510.536.7233 (SAFE)

There are also several national organizations that may be able to provide the HNU community with important information and assistance:

- National Domestic Violence Hotline, 800.799.SAFE (7233)
- National Sexual Assault Hotline, 800.656.HOPE (4673)
- Stalking Resource Center, 202.467.8700
- National Teen Dating Abuse Helpline, 866.331.9474

#### **For Medical Needs:**

HNU does not offer on-campus medical services. The following hospital is the resource nearest to campus to obtain services to address matters related to sexual misconduct.

- [Alameda County Medical Center, Highland Hospital Sexual Assault Center](#) provides 24-hour assistance, including medical treatment and examination, advocacy and counseling support for victims of sexual assault. They also offer Sexual Assault Forensic Examinations and other services for the collection of evidence.

*Contact Info:* 1411 E. 31st Street, Oakland, CA  
510.437.4688.

**On-Campus Counseling and Psychological Services (CAPS):**

Professional, confidential counseling is available at HNU free of charge to all students. Counseling can help students cope with personal issues and assist them in meeting the challenges of an academic environment.

HNU's Counseling and Psychological Services offers brief individual therapy, crisis intervention, assessments, and referrals to community resources. In addition to personal counseling, CAPS provides workshops on topics related to college student life.

Contact Info: Durocher Hall, Room A7  
Phone: (510) 436-1530  
Email: [counseling@hnu.edu](mailto:counseling@hnu.edu)

**CONFIDENTIAL REPORTING OPTIONS**

Students who would like to speak to someone in confidence about an experience of sexual misconduct or about another's experience of sexual misconduct, should contact off-campus rape crisis counselors, domestic violence resources, private agencies, external mental health agencies and external clergy members. Persons may also speak in confidence to licensed psychologists or counselors who provide service through HNU's Counseling and Psychological Services.