



V Fall 2021

Executive Policy Chapter 9, Personnel

Executive Policy EP 9.4XX, Safety and Protection of Minors

Effective Date: 2021

Prior Dates Amended: None

Responsible Office: Office of the Vice President for Academic Strategy and Office of the Vice President for Administration

Governing Board of Regents Policies RP 5.212 – Early Admission Policies, RP 10.206 – Child Care Programs, and RP 11.205 – Public Health, Safety and Security

Review Date: 2023

## I. Purpose

The University of Hawai'i ("University") engages in a wide range of academic, recreational, and community outreach service programs that involve minors. The purpose of this executive policy is to set forth the University's requirements and expectations for a safe and secure environment for minors, both on and off campus, in accordance with applicable state and federal laws, rules, and regulations.

## II. Definitions

- A. Applicant: An individual who is seeking employment or appointment with the University and who will interact with Covered Program Minors. Appointments may be paid or unpaid.
- B. Background Check Coordinator: A designated individual(s) employed within the UH System Office of Human Resources responsible for conducting background checks for University Community Members and/or Volunteers.
- C. Candidate: University Community Members, Applicants, and/or Volunteers applying to be a Covered Person in a Covered Program and will undergo a background check.
- D. Covered Person: A person who is responsible for the custody, control or supervision of minors participating in the Covered Program *and* who is:
  - 1. A University Community Member (defined below);
  - 2. A Volunteer for a Covered Program (defined below);
  - 3. A member of a non-University organization that operates programs for minors in University facilities, where the organization is covered by an

agreement like facilities use agreement with the University, and its employees, agents, and volunteers; or

4. A contractor, including an independent contractor, external consultant, worker hired through an outside employment agency, and worker employed on campus through service vendors.

If there is a question about whether a person is a “Covered Person,” in any given situation, the Responsible Campus Official or designee shall make that determination.

- E. Covered Program: Any organized event or activity that includes participants who are Covered Program Minors, *and* that is offered, sponsored or approved by:
1. The University, a University-affiliated organization, or a Chartered Student Organization, whether on or off University premises, or
  2. A non-University organization using University facilities pursuant to a facilities use agreement, or other contractual arrangement with the University.

Covered Programs include University on-campus child care centers and the University Laboratory School, which must have detailed policies and procedures that comply with applicable State and federal laws and regulations, and have sufficient liability coverage.

- F. Covered Program Administrator: A University Community Member or a member of a University-affiliated organization, who has oversight and responsibility for a Covered Program and is the primary contact for the Covered Program. Section III.D describes the Covered Program Administrator’s responsibilities.
- G. Covered Program Minor: A “minor” is any person under the age of 18. For purposes of this policy, a Covered Program Minor is any person under the age of 18, who is participating in a Covered Program. The definition of Covered Program Minor **excludes**:
1. Persons enrolled as University students or persons admitted into the University as a student;<sup>1</sup>
  2. Minors participating in early college or dual enrollment programs (including, but not limited to, Running Start and Early Admit); and
  3. Persons receiving medical or dental care from the University that is open to the general public.

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<sup>1</sup> University students are covered by other University policies and procedures pertaining to students, e.g., EP 1.202, EP 1.204, and EP 9.210.

H. Mandated Reporter: All persons working in a Covered Program or who have contact with Covered Program Minors, including University employees, contractors, and volunteers, are required to immediately make an oral report to at least one of the following agencies when, in their professional capacity, they have reason to believe that child abuse and/or neglect has occurred or that there exists a substantial risk that child abuse and/or neglect will occur in the reasonably foreseeable future:

1. The Department of Human Services (Child Welfare Services); or
2. The police department.

For more information, refer to Section I, Reporting Abuse and Inappropriate Activity Involving Minors and the following guide for mandated reporters by Child Welfare Services:

<https://humanservices.hawaii.gov/wp-content/uploads/2018/07/GUIDE-FOR-MANDATED-REPORTERS-Rev.-6-28-18-1.pdf>

- I. Responsible Campus Official: An executive employee of the University designated by the Chancellor/Provost of each campus to be responsible for the oversight of Covered Programs. The Responsible Campus Official approves Covered Programs and maintains records of Covered Program; and evaluates and determines participation of University Community Members and/or Volunteers for those whose background checks reflect past violations. Section III.C describes the Responsible Campus Official's responsibilities in more detail.
- J. University Community Member: University Community Members who interact with Covered Program Minors in any official University capacity are expected to foster and maintain an appropriate and secure environment for Covered Program Minors. This includes ensuring that Covered Program Minors are supervised by adults (including parents or guardians) at all times. For purposes of this policy only, a University Community Member is any person who is:
1. An officer or other University official;
  2. A staff member or employee of the University or University-affiliated organizations (defined below);
  3. A University student;
  4. A University faculty member, including lecturers;
  5. A University academic appointee whether paid or unpaid (including post-doctoral fellows, research fellows, and teaching assistants); or

A person's status in a particular situation shall be determined by the designated Responsible Campus Official. University Community Members do not include volunteers who are non-employees.

- K. University-affiliated Organizations: For purposes of this policy only, University-affiliated organizations include the Research Corporation for the University of Hawaii (RCUH), University of Hawaii Foundation (UHF), any campus foundation, campus alumni association, campus auxiliary services corporation, and any other entity so designated by the Chancellor of each campus.
- L. Volunteer: Any person who is not a University Community Member and who is applying for or has been deemed suitable for interacting with Covered Program Minors. Similar to University Community Members, Volunteers are expected to foster and maintain an appropriate and secure environment for Covered Program Minors. This includes ensuring that Covered Program Minors are supervised by adults (including parents or guardians) at all times.

### III. Executive Policy

#### A. Policy Statement

The University is committed to providing a safe environment for everyone participating in the University's programs and activities, whether on or off campus, and in non-University programs and activities using University facilities, including but not limited to sports camps, academic and personal enrichment programs, and research studies.

#### B. Scope

This policy applies to University Community Members, Applicants, Volunteers, members of University-affiliated organizations, and contractors or other individuals employed or otherwise affiliated with non-University organizations who take part in Covered Programs. The policy also establishes minimum standards for performing background checks and training for individuals who take part in a Covered Program.

This policy is **not** applicable to:

1. Events or activities that are open to the general public, where parents/guardians/teachers are expected to provide supervision of minors, e.g., fairs, festivals, entertainment events, sporting events, youth visiting the campus on their own or simply using University facilities;

2. Official University admissions-related activities for prospective students, including alumni interviews, visits by candidates for admission, and visits by prospective students and student athletes; however, University Community Members engaged in such activities are responsible for understanding and complying with the Guidelines for Interacting with Minors (see Appendix 1). Covered Programs will provide copies of the guidelines to relevant parties and determine whether additional procedures, such as training and screening, are required;
3. Minors who are student employees are covered by other University policies pertaining to students and employees.

Note, however, this policy may still be applicable to minors who are paid, e.g., paid internships, that are part of a Covered Program. Hiring managers are responsible for understanding and complying with the Guidelines for Interacting with Minors (Appendix 1). Covered Programs will determine whether additional procedures, such as training and screening, are required;

4. Research protocols involving minors as human subjects, which are subject to the requirements specified by the relevant Institutional Review Board; and
5. Educational activities offered to schools where teachers are expected to provide supervision of minors or other activities, e.g., field trips and campus tours by the Department of Education schools.

### **C. Covered Programs**

1. Covered Programs shall develop specific policies and procedures tailored to the complexity and scale of their programs that meet or exceed the minimum standards set forth of this policy. To the extent there are inconsistencies between this policy and the policies of such Covered Programs, the policies of such Covered Programs shall control.
2. If a Covered Program seeks to incorporate more rigorous background checks on Candidates than described herein, they may do so upon approval of the Responsible Official.
3. Covered Programs must submit a new Covered Program registration request annually.
4. Covered Programs are responsible for covering the cost of expenditures associated with the background check process.

### **D. Responsible Campus Official's Responsibilities**

The Provost/Chancellors of UH four-year campuses and the Vice President for Community Colleges shall designate an executive University employee as a Responsible Campus Official. The Responsible Campus Official shall:

1. Review, approve, and maintain registration requests for Covered Programs submitted by the Covered Program Administrators;  
In cases where it is unclear whether a program can be considered a "Covered Program," the Responsible Campus Official may consult with the Vice President for Academic Strategy or his or her designee;
2. Determine the suitability of a Covered Person for the Covered Program based on the Covered Person's background check results;
3. Ensure that all required screening in accordance with Section III.G, Background Checks, has occurred, and that any person whose screening produces information that bears adversely upon their ability to provide for the safety and well-being of minors is prohibited from having contact with Covered Program Minors;
4. Ensure that the Mandated Reporter requirements are followed and documented, as related in Section J, Reporting Abuse and Inappropriate Activity Involving Minors. In cases where Mandated Reporter obligations may be triggered, the Responsible Campus Official should also consult with the appropriate Title IX Coordinator.

#### **E. Covered Program Administrator's Responsibilities**

The responsibilities of a Covered Program Administrator are to:

1. Register and obtain approval from the respective Responsible Campus Official to host a Covered Program.
2. Upon approval of the Covered Program, ensure all required permissions are obtained for:
  - a. the use of any University facilities
  - b. authorization by the Candidate to check the Candidate's criminal history
3. Ensure that Candidates are:
  - a. screened in accordance with Section III.G, Background Checks. After the initial background check, Covered Persons must undergo background checks every three (3) years to remain eligible to participate in a University Covered Program.
  - b. deemed suitable for participation in the Covered Program; and

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- c. successfully trained as required in Section III.H. The Covered Program Administrator is also responsible for creating and facilitating additional Covered Program-specific training, if applicable.
  4. Notify relevant Candidates that their fingerprints will be retained by the Hawaii Criminal Justice Data Center (“HCJDC”) and the FBI.<sup>2</sup>
  5. Provide Covered Persons with the following:
    - a. A copy of the Guidelines for Interacting with Minors (Appendix 1), as well as to other adult participants for broader circulation.
    - b. Identification to designate them as Covered Persons.
  6. Ensure that Covered Persons have acknowledged that they have read and understood Executive Policy EP9.4XX, Safety and Protection of Minors prior to participating in the Covered Program.
  7. Determine whether a Covered Person may be alone with a minor on a limited basis due to the pedagogical or health-related nature of the Covered Program. Examples may include tutoring, music lessons, speech therapy, and medical, dental or optical services which may require one-on-one contact with a minor.
  8. Establish specific policies and procedures that promote the safety and well-being of participants in Covered Programs, including the development of emergency plans and requisite participation and consent forms commensurate with Covered Program characteristics such as type, participant profile, duration, etc.

For Covered Programs with residential and/or overnight components, additional considerations include curfews, quiet hours, overnight guests, overnight absences, residence supervision, restricted physical access, drugs and alcohol, gambling, parties, emergency contacts, etc.
  9. Immediately contact the Responsible Campus Official to open an investigation if there is suspected physical abuse or sexual abuse, and a reasonable cause to believe a crime has been committed;
  10. Establish a grievance procedure to handle complaints from Covered Program participants, parents and/or guardians in a prompt and equitable manner.

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<sup>2</sup> HRS § 846-2.7 states that, “The agencies and other entities named in subsections (b) and (c) shall notify applicants, employees, and volunteers subject to a criminal background check pursuant to this section that their fingerprints shall be retained by the Hawaii criminal justice data center and the Federal Bureau of Investigation for all applicants, employees, and volunteers subject to the rap back program.”

## F. Background Check Coordinator's Responsibilities

The responsibilities of a Background Check Coordinator ("BCC") are to coordinate the background check process for programs, pursuant to Sections III.B and III.C of Administrative Procedure AP9.4XX, Background Check Process for University Community Members and Volunteers. The BCC will:

1. Clarify with the Candidate, as needed, the information the Candidate submitted during the background check process;
2. Notify the Responsible Campus Official if a background check reveals a prior criminal record for a Candidate; and
3. Ensure the background check was conducted in a manner consistent with State and federal criminal history record checks, which includes fingerprinting and searches of the Hawaii Sex Offender Registry and National Sex Offender Public Registry.
4. Be responsible for securing each Candidate's background check results into the University's repository.

## G. Background Check

1. Candidates (i.e., University Community Members and Volunteers) who qualify and wish to participate in a Covered Program will be required to submit background check application forms and must be cleared to serve.
2. University Community Members will be subject to the following:
  - a. State criminal history record check
  - b. National criminal history record check, which involves a fingerprinting requirement
  - c. Sex offender registry check through the Hawaii Sex Offender Registry and National Sex Offender Public Registry
  - d. Motor vehicle driving record search, if driving is a requirement of the Covered Program
3. Volunteers will be subject to the same requirements with the exception of item 2.b. No action is required by Volunteers.

Specific responsibilities, requirements and procedures for background screening are set forth in Administrative Procedure **AP 9.4XX**.

4. Any Covered Person participating in a program with the State of Hawaii Department of Education ("DOE") including, but not limited to, Early College programs (where sheltered college classes are offered to groups of high school students) who has undergone a background check through the DOE does not need to complete a background check through the

University.

5. Any Covered Person who has undergone a background check process with a Covered Program that uses the services of a third party, and whose process is consistent with this policy and Administrative Procedure AP 9.4XX, may not need to complete a background check through the University. The Responsible Campus Official will make a determination during the background check application process.
6. The BCC will conduct the requisite criminal history record, sex offender, and motor vehicle driving record checks for Candidates. A complete review of such checks/searches must be completed not more than 90 calendar days prior to the commencement of a Covered Program.

## H. Training

University Community Members and Volunteers who are specifically responsible for the custody, control or supervision of minors participating in University “Covered Programs” are expected to adhere to training and screening requirements.

1. University Community Members or Volunteers who have been accepted to participate in a Covered Program are considered Covered Persons. Covered Persons must complete the University’s Safety and Protection of Minors training module prior to their start date. The training materials are available at [\(insert link\)](#). The training program covers the following.
  - a. University policies regarding interactions with Covered Program Minors;
  - b. Background check requirement under this policy;
  - c. Examples of appropriate and inappropriate behavior with minors, as outlined in the Guidelines for Interacting with Minors;
  - d. Behavioral signs that a minor may be a victim of abuse or neglect; and
  - e. Reporting requirements and procedures for suspicion that a minor may be a victim of abuse or neglect.
2. The training program pursuant to this policy is a minimum requirement. The need for additional training specific to a Covered Program will be determined by the Responsible Campus Official, as appropriate. Additional training regarding child abuse and neglect is offered by Department of Health and Human Services, Child Welfare Services.<sup>3</sup>

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<sup>3</sup> Hawaii Revised Statutes §350-1.15.

3. The Covered Program Administrator shall be responsible for ensuring that all Covered Persons in their Covered Program(s) have successfully completed training prior to involvement in the Covered Program. Training for Covered Persons must be retaken every two (2) years .
4. Training for Responsible Campus Officials and Covered Program Administrators must be retaken every two (2) years.

#### **I. Data Security and Retention**

1. Background check information is highly confidential therefore access to the data is limited to only a handful of individuals who require it to fulfill their professional responsibilities. The data are classified as Sensitive and must therefore be protected according to EP2.214, Institutional Data Classification Categories and Information Security Guidelines.
2. Results from the state and federal criminal history record checks for Covered Persons who are University Community Members and Volunteers shall be retained for three (3) years after which they shall be destroyed.

#### **J. Reporting Abuse and Inappropriate Activity Involving Minors**

1. For purposes of this policy, the applicable definition of “child abuse or neglect” is that used in Hawaii Revised Statutes Chapter 350 which provides in relevant part, “Child abuse or neglect” means “the acts or omissions of any person who, or legal entity which, is in any manner or degree related to the child, is residing with the child, or is otherwise responsible for the child's care, that have resulted in the physical or psychological health or welfare of the child, who is under the age of eighteen, to be harmed, or to be subject to any reasonably foreseeable, substantial risk of being harmed.”
2. Any Covered Person who has reason to believe that child abuse and/or neglect, as defined by Hawaii Revised Statutes Chapter 350, has occurred on University property or while off campus during official University business or at a University-sponsored event or has reason to believe that there exists a substantial risk that child abuse and/or neglect will occur in the reasonably foreseeable future shall have an affirmative obligation to immediately report such conduct to at least one of the following agencies:
  - a. The Department of Human Services (Child Welfare Services) <http://humanservices.hawaii.gov/ssd/home/child-welfare-services/>; or
  - b. The police department.

3. An initial verbal report shall be followed as soon as possible by a written report. All written reports shall contain the name and address of the child and the child's parents or other persons responsible for the child's care, if known, the child's age, the nature and extent of the child's injuries, and any other information that the reporter believes might be helpful or relevant to the investigation of the child abuse or neglect.
4. Upon receiving a report, the applicable Responsible Campus Official shall promptly notify the applicable campus Provost/Chancellor and the Vice President for Academic Strategy or his or her designee of the incident(s). The Vice President for Academic Strategy or his or her designee will ensure the relevant policies and procedures have been followed.

## **VI. Delegation of Authority**

The authority to oversee the Covered Programs' compliance with the requirements and responsibilities set forth in this policy is delegated to the Provost/Chancellors of UH four-year campuses and the Vice President for Community Colleges who will appoint an executive University employee as the Responsible Campus Official for each respective campus.

## **VII. Contact Information**

Office of the Vice President for Academic Strategy and Office of the Vice President for Administration

## **VIII. Appendix**

1. Guidelines for Interacting with Minors

## **IX. References**

- A. Link to superseded policies: None
- B. List of sources which relate to or impact the policy:
  1. AP 9.4XX, Background Check Process for University Community Members and Volunteers
  2. RP 5.212, *Early Admission Policies*
  3. RP 10.206, *Child Care Programs*
  4. RP 11.205, *Public Health, Safety and Security*
  5. EP 1.202, *University Statement of Nondiscrimination and Affirmative Action*

6. AP 9.920, *Discrimination Complaint Procedures for Students, Employees, and Applicants for Admission or Employment*
7. Hawaii Revised Statutes (HRS), Chapter 350, *Child Abuse*
8. HRS § 378-2.5, *Employer inquiries into conviction record*
9. HRS § 78-2.7, *Criminal history record checks*
10. HRS § 831-3.1, *Prior convictions; criminal records; noncriminal standards*

**Approved:**

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David Lassner  
President

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Date