UNIVERSITY OF PUERTO RICO AT HUMACAO
PROGRAM FOR THE PREVENTION OF VIOLENCE AGAINST WOMEN

PROCEDURES AND POLICY
TO ADDRESS DOMESTIC VIOLENCE, SEXUAL VIOLENCE AND STALKING

NOVEMBER 30, 2001
# TABLE OF CONTENTS

1 Legal Basis ................................................................. 1

2 The Mission of the University of Puerto Rico at Humacao ............... 3

3 Purpose ................................................................. 4

4 Institutional Policy ................................................... 6

5 Definitions ............................................................ 7
  5.1 Domestic Violence .................................................. 7
  5.2 Sexual Violence .................................................... 8
  5.3 Stalking .......................................................... 15

6 Prosecution Options and Available Services for Domestic Violence, Sexual Violence and Stalking Survivors .................................................. 16
  6.1 Emergency Services .............................................. 17
  6.2 Medical Attention ............................................... 20
  6.3 Protection and security services ................................. 21
  6.4 Orientation and counseling .................................... 21
  6.5 Report or Present Complaints at the University ............... 22
  6.6 Formal Disciplinary Procedures ............................... 22
  6.7 Request Civil Legal Remedies .................................. 27
  6.8 Present Criminal Charges ...................................... 27

7 Confidentiality Guaranties ............................................. 28

8 Domestic Violence, Sexual Violence And Stalking Survivors Rights .... 30

9 The Rights of the Complained ......................................... 32

10 Sanctions ............................................................ 33

11 Applicability Provisions (Jurisdiction) ................................ 34

12 Unforeseen Situations ................................................ 36
This policy is adopted and enacted in accordance with the provisions of Article II of the Bill of Rights of the Constitution of Puerto Rico, Section 1, which prohibits discrimination due to race, color, sex, birth, origin, and social circumstances, political or religious beliefs. It is also approved in accordance with the mandates from a number of statutes adopted by the Puerto Rican Commonwealth Legislature such as: Law 54, (Domestic Abuse Prevention and Intervention Act), approved on August 15, 1989; Law 284, (Law Against Stalking), approved on August 21, 1999; and the Articles of the Puerto Rican Penal Code that prohibit behavior that constitutes sexual violence. This policy is approved also in accordance with the following statutes that have been approved by the United States Congress: Title IX of the 1972 Education Amendment Act that prohibits sex-based discrimination in public or private higher education institutions; the Jeanne Clergy Disclosure of Campus Security Policy and Campus Crime Statistics Act, approved in 1998, that requires federally funded institutions to inform the university community about criminal behavior incidents that occur on campuses. The procedures that are herein established will comply with the general philosophy established by the Uniform Administrative Procedure Act, Law 170 approved on August 12, 1988; as well as Certification Number 44, Series 84-85 of the Council on Higher Education, that regulate disciplinary procedures that affect university personnel, with the Council on Higher Education Appellate Administrative Procedures, Certification number 138, 1981-82; and with the bylaws of the University of
Puerto Rico. This policy is adopted in accordance with the Educational Mission of the University of Puerto Rico at Humacao.
2.1 The Mission of the University of Puerto Rico at Humacao is as follows:

2.1.1 To effectively contribute to ethical, cultural and intellectual development, throughout the island in general and of the eastern region in particular, through academic, aesthetic expression, scientific and humanistic research as well as the dissemination of knowledge.

2.1.2 To investigate the main social, cultural, scientific and environmental problems affecting our society and to affirm ecological equilibrium, socio-cultural diversity and inclusion as principles of change in a democratic community in pursuit of justice.

2.1.3 To prepare students as professionals and contributors to the improvement of the quality of life in Puerto Rico through the offering of innovative and relevant undergraduate and graduate academic programs.
The purpose of this policy is to establish rules and mechanisms to handle domestic violence, sexual violence and stalking incidents on campus.

There are legal regulations related to domestic violence, sexual violence and stalking in Puerto Rico; therefore, it is important to establish clearly defined procedures to attend to these situations at the University. This document will notify and orient university personnel, faculty and students regarding the procedures to follow in domestic violence, sexual violence and stalking situations that may occur on campus. It also establishes guidelines for the presentation, investigation and determination of domestic violence, sexual violence and stalking complaints against or presented by members of the University community at Humacao. The procedures herein established are aimed towards the prevention, management and adequate intervention in domestic violence, sexual violence and stalking incidents. The procedures are also specifically designed to focus on the needs of survivors; they are also part of a collective response to address violence on campus.

This policy does not include regulations and procedures related to sexual harassment, despite the fact that it is considered an act of sexual violence; the institution has already implemented a Policy regarding sexual harassment. However, in cases of domestic violence, sexual violence, and stalking that include sexual harassment behavior, complaints will be handled concurrently. Complaints regarding sexual harassment conduct will follow the established procedures in the institution’s Sexual Harassment Policy; for the domestic
violence, sexual violence and stalking incidents the procedures established herein will be followed.

The University of Puerto Rico at Humacao seeks to have a campus that constitutes a safe, dignified and peaceful space. In order to achieve this objective a community and collaborative effort must exist. In addition to this policy’s development and procedures for campus survivors the institution will:

- Develop an educational and prevention program directed toward the eradication of all types of violence, sexual violence and stalking, especially those that are suffered by women.
- Promote the adequate use of an efficient, effective policy, and procedures related to domestic violence, sexual violence and stalking.
- Offer support, counseling and intervention as well as someone to accompany survivors. Improve support services before, during and after the complaint’s investigation.
- Improve compilation procedures and data analysis of related violent situations against women in the institution.
- Improve security measures at the institution.
Institutional Policy

The University of Puerto Rico at Humacao is committed to creating and maintaining an atmosphere in which the members of this community are able to participate in activities and academic programs without encountering, domestic violence, sexual violence and stalking incidents.

Each community member should be aware that the institution will not tolerate this behavior. It is prohibited, wherever it might occur, between heterosexuals or same-gender couples, or among students, faculty or non-teaching personnel.

The university acknowledges the importance of guaranteeing an environment that promotes respect, security, dignity and autonomy for all: students, non-teaching personnel and faculty.

The University is committed to adopt adequate measures to promote, correct or discipline behavior that violates policies and university procedures. In this task, special emphasis will be placed on the needs of the survivor; the defendant’s rights and the principle of confidentiality will be upheld to protect the intimacy and dignity of the parties involved.
The following definitions will be used:

5.1 Domestic Violence

5.1.1 This is defined as the use of force, physiological violence, intimidation or persecution against a person within a partner relationship to cause physical harm to this person, his/her properties or to cause grave emotional harm.

5.1.2 Partner relationship is a relationship between spouses, ex spouses or couples that cohabit the same premises or have lived together; or with a person with whom a child has been conceived. This policy will be applicable to all domestic violence incidents, including those occurring within relationships not protected by Act 54 (Domestic Abuse Prevention and Intervention).

5.1.3 Domestic violence may include the following conduct:

5.1.3.1 Physical abuse or battering: the use of force to cause harm to the partner or to make her do something that she does not desire to do;

5.1.3.2 Emotional abuse: behavior that has the effect a devaluing or ridiculing her partner, thereby, promoting a loss of self esteem;

5.1.3.3 Sexual Abuse: use violence during sexual approaches, to
demand the performance of undesired sexual acts and achieve them without consent or in an offensive manner.

5.1.3.4 Economic abuse: deprive the partner access to her own or common assets and exercise control over them, limit her access to educational or work opportunities.

5.1.3.5 Threats: exercise pressure on the partner through personal threats, or threatening others or her assets.

5.1.3.6 Deprive the partner of freedom of movement. Restrict her freedom by alleging mental illness or other means.

5.1.3.7 Aggression: To employ force or violence against another person to cause harm.

5.1.3.8 To employ behavior prohibited by the Penal Code to exert control or power over an intimate partner to compel her to carry out acts that she does not desire to perform.

5.2 Sexual Violence

5.2.1 This refers to all sexual acts that are carried out without the consent of one of the parties. Sexual violence is not a sexual act and can include vaginal and anal penetration, with objects, as well as oral genital or similar acts. An essential element of sexual violence also refers to behavior that exercises verbal or physical conduct of a sexual nature, without the previous consent of one of the parties.

REAL CONSENT:

5.2.2 Real consent requires an agreement between the parties involved to share some type of sexual activity. The agreement must include the manner, time and place in which the sexual activity will be carried out. Real consent must include the following elements:
5.2.2.1 It must be informed:

This requires excellent and clear communication from the beginning of the relationship about the nature of the sexual activities that will be shared. Parties must be able to effectively communicate and agree in a comprehensible manner on the type of sexual activities that will be shared.

Either partner in a relationship may modify agreements at any time. Consent will then endure on the aspects or activities that have the approval of both parties involved in the relationship.

5.2.2.2 It must be granted without constraints

Consent will be a free choice if it has been granted without the use of force (real or imagined), physical force, threats, intimidation or coercion or fraud.

5.2.2.2.1 Physical force: occurs when a person uses physical control over someone else, over other person’s assets or on a third party, for example: through beatings, or restricting her freedom.

5.2.2.2.2 Threats: when a person, in the circumstances of the survivor, would be forced by words and/or actions to accept or authorize a sexual act that would not have occurred without threats. For example, a death or suicide threat, or threats to cause harm to a loved person.

5.2.2.2.3 Intimidation: when someone uses physical presence to threaten another person, even if there
is no physical contact or when previous knowledge of violent behavior has the effect of causing fear of a possible assault.

5.2.2.2.4 Coercion: when someone uses psychological strategies to pressure another person in participating in an undesired sexual act. Coercion is distinguished from seduction by the repetition of psychological strategies, the degree of pressure and the person's isolation at the time the pressure to participate in undesired sexual activities is being exerted.

5.2.3 Must be given by a person with legal capacity to consent

Consent will not be effective when it is obtained from a person whose capacity to consent is diminished by the circumstances established by the articles of the Puerto Rico Penal Code, that define rape, incest, lascivious acts, and dishonest exposure.

5.2.4 In establishing consent, vocabulary and actions should be understood by all the parties involved.

5.2.4.1 Mutual consent will be considered adequate when a person in similar situations and circumstances as the survivor, would interpret the vocabulary and the other person's actions as an agreement to carry out the activity, in the same manner and on the same occasion.

5.2.4.2 In the absence of words or actions mutually understood by the parties involved, it is the responsibility of the person that initiates any type of sexual activity to assure the other persons
5.2.4.3 Consent to a type of sexual act does not imply consent to other forms of sexual activities. The person who initiates a sexual activity has the responsibility to obtain consent for each phase of the sexual interaction.

5.2.4.4 Silence or a previous sexual relationship or a present relationship with the person who initiates the sexual activity should not be understood as consent.

5.2.4.5 Consent is not implicit in the manner of dressing and must not be inferred as a manner of compensation for expenses incurred in for meals or dates nor by the act of accepting an invitation for a meal or date.

5.2.4.6 Consent has an expiration date and endures as long as both partners are in agreement. Consent ends when one of the parties involved decides not to continue with the act. The decision to end consent must be informed to the other party.

5.2.4.7 Definition of Sexual Violence

5.2.5 Sexual Violence may include the crimes defined as follows: BUT IS NOT LIMITED TO THESE CRIMES

5.2.5.1 Rape (Article 99, Penal Code)

This is defined, as penis-vaginal penetration without consent, even if penis penetration is slight and there is no ejaculation. There will be no consent under the following circumstances:

5.2.5.1.1 If the woman is underage (younger than 14)

5.2.5.1.2 If the act is compelled by the use of irresistible force
or grave threats or immediate bodily harm, accompanied by an apparent aptitude or ability to do so.

5.2.5.1.3 If the person’s capacity to resist has been annulled or reduced by the use of hypnotic methods, narcotics, or substances with similar effects.

5.2.5.1.4 If the person is temporarily or permanently unfit to legally consent.

5.2.5.1.5 If the person was not aware of her disability at the time of the sexual act but the accused had prior knowledge about said disability.

5.2.5.1.6 If a woman submits to a sexual act with the belief that the perpetrator is her husband and was induced to do so by deceptive or simulated means by the perpetrator.

5.2.5.1.7 If the perpetrator or perpetrators penetrated and committed the act in the home of the victim, house or residential building or in a house or residential building where the victim was at the time or in the patio, or personal property or parking area, this act is punishable with a higher penalty.

5.2.6 Conjugal Sexual Aggression (Article 3.5, Act 54)

To incur in a non-consented sexual relationship with a spouse or ex-spouse or with a person with whom the aggressor lives or has lived as partner or with someone that has or had sustained a consensual relationship or had a child; under any of the following circumstances:
5.2.6.1 If a person is compelled to incur in sexual conduct by force or violence or through grave threats or immediate bodily harm.

5.2.6.2 If the capacity of the person to resist has been annulled or reduced by hypnotic methods, narcotics, stimulants or depressants or substances with similar results.

5.2.6.3 If the person is temporarily or permanently mentally disabled to understand the nature of the act at the time it occurs.

5.2.6.4 If a spouse or live-in partner is forced or induced by means of physical, verbal, or psychological violence to participate or become involved in undesired sexual acts with other persons.

5.2.7 Incest (Article 22 Penal Code)

To marry or sustain any sexual act with one of the following relatives:

5.2.7.1 In all degrees of the ascending or descending family line (fathers or mothers with daughters or sons, grandfathers or grandmothers with grandchildren, great-grandparents, etc.).

5.2.7.2 In the collateral consanguinity line to the third degree (brothers with sisters, uncles and aunts with nieces or nephews).

5.2.7.3 With adopted daughters or sons.

5.2.7.4 With adopted brothers and sisters.

5.2.8 Lascivious or Indecent Acts (Article 105, Penal Code)
To carry out any sexual activity without attempting penis-vaginal penetration, (kisses, fondling, undressing the person, anal and vaginal penetration with fingers or objects, penetration of the penis in the mouth, forcing the person to masturbate the aggressor, etc.) when one of the following circumstances occurs:

5.2.8.1 If the person is underage (younger than 14).

5.2.8.2 If the act is compelled by the use of irresistible force or grave threats or immediate bodily harm, accompanied by an apparent aptitude or ability to do so.

5.2.8.3 If the person’s capacity to resist has been annulled or reduced by hypnotic methods, narcotics, stimulants or depressive drugs or substances with similar effects.

5.2.8.4 If the person is not capable of legally consenting due to temporal or permanent mental incapacity.

5.2.8.5 If the person was compelled to participate in a sexual act by deceitful means without her consent that substantially annul or decrease his/ her capacity to resist.

5.2.8.6 If the person is a relative of the perpetrator in any degree of the ascending or descending line, or up to the third degree of the collateral consanguineal line, (including relationships with parents, children or adopted siblings.)

5.2.9 Dishonest Exposure (Article 106, Penal Code)

To voluntarily expose genitals or any other intimate part of their body in public or private spaces in the presence of another person or persons (including police officers) that could be offended or annoyed by said exposure.
5.2.10 The use of any other method or conduct prohibited by the Penal Code to exert sexual violence against another person.

5.3 Stalking

5.3.1 Law 248 Article 3 (a) (Law against Stalking in Puerto Rico) defines stalking as:

5.3.1.1 To incur in a persistent behavior aimed at intimidating a specific person to the effects that she/he or any member of his/her family could suffer physical harm or that his/her or their families’ personal property could be damaged.

5.3.1.2 To incur in this deliberate repetitious behavior knowing that the person could reasonably feel intimidated.

5.3.1.3 A stalking behavioral pattern is established when the intentional purpose to intimidate a specific person or the person’s family is evidenced on two (2) or more occasions. It may include the following behavioral patterns.

5.3.1.3.1 Stare intently at a specific person

5.3.1.3.2 Repeatedly send undesired verbal or written communications to a specific person.

5.3.1.3.3 Repeatedly send verbal or implied threats to a specific person

5.3.1.3.4 Vandalism acts directed toward a specific person

5.3.1.3.5 Repeatedly harass by means of words, gestures or actions with the intent to annoy, persecute or disturb the person or members of her family.
Puerto Rican women of all ages and regardless of their economic income, education level, or appearance, are often subject to domestic violence, sexual violence and stalking incidents.

Universities have traditionally provided a special and adequate environment for the younger generations to explore ideas and learn about the world beyond the university. One of the most important lessons that universities may transmit to their students is the concept; that violence in general and violence against women in particular will not be tolerated.

However, sexual violence, domestic violence and stalking are generalized and considered serious problems in institutions of higher education. Women between the ages of 18 to 29 face a higher risk of suffering incidents of violence. This group includes more than half of stalking survivors as well as a high level of domestic violence survivors.

Sexual violence is the second most frequent violent crime committed in institutions of higher education. In the majority of the cases the survivors knew the perpetrator/perpetrators. Half of the sexual violence acts occur in the survivor’s residence and a third part occurs in off campus housing or in fraternity houses.

The majority of sexual violences and other forms of violence against women are not reported to the authorities, or are processed by means of civil complaints or law suits.
Approximately 81% of the on-campus incidents of sexual violence and 84% of the aggressions against female students that occur off campus are not reported to police officials. For many female students, campuses imply an enclosed and intimate environment that increases the challenges and difficulties that involve notifying violent acts to authorities and initiating formal or informal complaints.

The response of the University of Puerto Rico at Humacao to these limitations and realities is to adopt responses used by other universities to implement adequate strategies to confront this violent behavior, that is, to design services for survivors and coordinate efforts among the diverse programs and offices at the university such as: the Program for the Prevention of Violence Against Women, Health Program services, student organizations, security, disciplinary and administrative forums.

This policy is the result of this effort and offers the following options to violence survivors on campus.

6.1 Emergency Services

6.1.1 Definition of Emergency Situations

Emergency situations include domestic violence, sexual violence or stalking acts that occur in public areas; or when the nature of the acts requires official or professional intervention; or when a person that witnesses the act or receives the complaint is not an authorized official or whose official duties do not include intervention in these areas.

6.1.2 Procedures for emergency situations

Emergency situations will be attended according to the following process:

6.1.2.1 An emergency committee will be established. This committee will be activated when an emergency situation arises; this committee would include the Medical Director, the Security
Office director, the Program for the Prevention of Violence against Women counselor, the campus psychologist and a social worker from the Interdisciplinary Department for Student Integral Development (DIDIE in Spanish)

6.1.2.2 Any member of the campus community that witnesses an emergency situation as defined in this section will refer the case to the advocate from the Program for the Prevention of Violence against Women, a social worker or to the campus psychologist.

6.1.2.3 The Health Services and Security Office personnel will be informed at once if there is physical violence involved.

6.1.2.4 The advocate from the Program for the Prevention of Violence against Women will conduct the initial intervention and evaluate the case. The advocate will decide if the emergency committee should be activated.

6.1.3 When the security personnel receives a complaint or notification about an emergency situation that entails violence against women the incident will immediately be reported to the advocate for support services. The program’s advocate will decide if the emergency committee should be activated.

6.1.4 Health Service personnel will prioritize health care for violence survivors.

6.1.5 All personnel directly or indirectly involved in cases of violence towards women will uphold the principles of confidentiality.

6.1.6 If the emergency committee is activated, it will orient and establish intervention procedures with the survivor, as well as determine other
campus offices including the Chancellor office or external offices that will intervene in the process. The chancellor will be notified and informed of high-risk situations. The office of the chancellor will facilitate administrative processes related to the case. If the survivor is a student the committee will analyze and decide if it is necessary to establish communication with the parents or tutor(s) to request permission for intervention.

6.1.7 In each and every case, survivors will receive orientation on the UPR-Humacao’s bylaws and established procedures as well as on applicable state laws.

6.1.8 Health service personnel will determine and be responsible for the survivor’s transfer to a medical facility or Hospital. The decision to use a personal vehicle or if to call 911 for a private or public ambulance will be determined and ensured by personnel from this office.

6.1.9 If and when an emergency situation occurs after working hours or during weekends, the person that identifies or witnesses it will notify the Campus Security Office. This office will coordinate medical support services for the survivor. Personnel from the security office will immediately use the Program for the Prevention of Violence Against Women’s emergency telephone to officially notify the program’s advocate.

6.1.10 The Security Office will request the 911 ambulance services or will transport the survivor to the nearest hospital in an official UPRH vehicle.

6.1.11 If the survivor decides to prosecute or present an internal or external official complaint, the advocate from the Program for the Prevention of Violence against Women will accompany the survivor to on-campus or off-
campus offices.

6.1.12 The UPRH will offer, according to the availability of its resources, options to protect and provide a safe space for the survivor. The university may also provide, among other options, assistance in obtaining adequate shelter or facilitating a transfer to another university as well as provide an escort for the survivor.

6.2 Medical Attention

6.2.1 The Health Services Program will provide priority medical services to survivors of sexual violence, domestic violence and stalking.

6.2.2 Personnel from the Security Office or other offices will immediately notify and refer the survivor to the Health Services Program for medical evaluation when receiving complaints related with sexual violence on campus.

6.2.3 Health Service personnel will determine if the survivor must be transported to a Hospital. They will also be responsible for the decision to use a personal vehicle or if a 911 ambulance will be used; personnel from this office will ensure the survivors transportation needs for medical attention.

6.2.4 In sexual violence cases the Protocol for Case Attention will be used (Appendix I) and the survivor will be informed of its requirements.

6.2.5 Follow up sessions will be provided for cases requiring additional medical attention as a result of the nature of the violence such as: prevention or treatment of sexually transmitted or other contagious diseases as well as physical injuries.
6.3 Protection and security services

The Security Office will provide escort and transportation services according to provide preventive measures within the survivor’s perimeter as well as assign a parking space that complies with the security measures that have been previously established.

6.4 Orientation and counseling

6.4.1 The survivor will be provided with the services that the Program for the Prevention of Violence Against Women.

6.4.2 The services provided by the Program for the Prevention of Violence Against Women services do not have a statute of limitations, and will be provided to survivors of violence whenever needed.

6.4.3 The Program for the Prevention of Violence Against Women provides the following services to violence survivors:

- Crisis Intervention
- Counseling
- Intervention
- Court Escorts
- Support Groups
- Emergency telephone number 24 hours
- Referral to off-campus resources will be used if needed

6.4.3.1 “Casa de la Bondad” – Agency that provides shelter and counseling services to violence survivors and their children.

6.4.3.2 “Centro de Ayuda a Víctimas de Violación” – Center for rape victims that offers support services to sexual violence survivors as well as to their families.

6.4.3.3 Humacao Municipality Women’s Affairs’ Office - Provides
intervention services and refers domestic violence survivors to other agencies that provide additional services.

6.4.3.5 Puerto Rico Legal Services- Orientation and legal representation

6.5 Report or Present Complaints at the University

The university acknowledges that all violence survivors deserve serious attention and respect as well as consideration for their dignity. For this reason the university is committed towards respecting the decision of the survivor to submit or take other legal actions against the perpetrator.

Despite the provisions mentioned above; the seriousness of the offense and the status of the perpetrator in the institution at times may require the University to file legal action against the perpetrator to protect the survivor and other members of the campus community.

If the survivor only notifies the Program for the Prevention of Violence Against Women personnel, the survivor will have total control on the complaint notification or presenting criminal charges. The Program will guarantee confidentiality according to what was established in Chapter VII of this Policy.

6.6 Formal Disciplinary Procedures

6.6.1 Initial Procedure

All formal disciplinary procedures should be developed in harmony with the statutory provisions mentioned in the Legal Basis of this Policy.

All domestic violence, sexual violence or stalking survivors will have the right to formulate a complaint against the perpetrator. The perpetrator’s rank within the institution will not be taken into consideration. A complaint may be filed against a student, faculty member, non-teaching
personnel or a member of the external community but with whom the university has established contracts or agreements that propitiate contacts between the survivor and the perpetrator.

The complaint may be presented verbally or in writing, within two years after the incident occurred. The complaint may be presented directly to the chancellor or to any of the following officials who in turn will submit the complaint to the chancellor.

6.6.1.1 If the complainant is a student the complaint may be submitted to the Dean of Student Affairs.

6.6.1.2 If the complainant is a non-teaching employee, the complaint should be submitted to the employee’s supervisor, dean, director of the office or department where the employee works. These officials should immediately refer the complaint to the Human Resources Office. The complainant also has the right to present the complaint directly to the Human Resources Office.

6.6.1.3 If the complained is an external community member the complaint may be present to the previously mentioned officials.

6.6.1.4 If the complainant is not a campus community member (in that case the defendant should be) the complaint should be presented to the chancellor.

The campus Chancellor will submit the complaint to an Official Examiner with instructions to immediately investigate the complaint.

6.6.2 Official Examiner Procedure

The Official Examiner shall:
6.6.2.1 Establish an official file. Number it, and adopt necessary and reasonable measures to guarantee its safety and confidentiality.

6.6.2.2 Set a date for administrative proceedings and summon the complainant and complained within fifteen (15) days after the Examiner’s appointment.

6.6.2.3 Advice the complainant and complained on their right to have legal representation throughout the entire process and their right to the due process of law. The Official Examiner will also guarantee these rights to both parties.

6.6.2.4 Issue written summons to witnesses (if any) in accordance with administrative procedures.

6.6.2.5 Advice any person who has presented sworn statements or has collaborated with the investigation on their rights.

6.6.2.6 Consider requests for inhibition by the parties involved and grant them when the Examiner’s believes there is a conflict of interest, or the possibility for prejudice or the investigation will not be conducted objectively.

6.6.2.7 Consider and resolve time extension applications submitted by the parties.

6.6.2.8 Write and submit a report to the Chancellor.

6.6.3 Administrative Hearing

6.6.3.1 The process of administrative hearings for complaints filed under this Policy shall not be extended beyond sixty (60) calendar days.

6.6.3.2 All notifications for administrative hearings will be made by fax,
certified mail or by phone at least five (5) days before the hearing.

6.6.3.3 All administrative hearings will be held in private if either of the parties so requests or if the Official Examiner believes that the presence of an audience will affect the presentation of evidence, or if an open hearing will cause damage or will make the complainant uncomfortable.

6.6.4 Time Extensions and Suspensions

6.6.4.1 Time extension applications and other similar communications shall be presented in writing five (5) calendar days prior to the administrative hearing.

6.6.4.2 Time extension will be conceded only when reasonable justifications mediate and if it will not affect the rapid solution of the complaint.

6.6.4.3 If time extension is conceded, the parties will be notified by telephone or fax. The administrative hearing shall be re-scheduled within five (5) workdays.

6.6.5 Complainant and/or Complained Absences to Administrative Hearings and Evidence Procedures.

6.6.5.1 If the complainant does not attend a scheduled administrative hearing and does not provide a justified reason or does not notify that she is not able to attend it will be understood that there is insufficient interest in the complaint and it will be dismissed.

6.6.5.2 Despite the previous statement, if there are witnesses that corroborate the allegations in the complaint with independent
evidence from that of the complainant’s testimony, the administrative procedure will continue.

6.6.5.3 If the complained does not assist to the hearing without notifying or presenting a reasonable justification, it will be understood that the complained renounces the right to respond to the allegations and the proceedings will be conducted in contempt.

6.6.6 Official Examiner Report

6.6.6.1 The Official Examiner will listen to allegations, testimonies and analyze all the evidence; and will submit a report to the Chancellor.

6.6.6.2 The report will include factual determinations, legal conclusions and recommendations.

6.6.6.3 The report will be presented to the chancellor within fifteen (15) work days after the administrative hearing.

6.6.7 Chancellor’s Determination

6.6.7.1 The chancellor will emit a decision within a reasonable time period. The decision will be notified in writing to the complainant and the complained.

6.6.7.2 This document will instruct the parties on the available administrative appellate procedure.

6.6.7.3 If it is determined that the complainant incurred in domestic violence, sexual violence or stalking, the final determination will indicate the corresponding penalty or penalties.

6.6.7.4 If it is determined that the complained did not incur in the alleged conduct the complaint will be dismissed.
6.7 Request Civil Legal Remedies

University officials that intervene with violence survivors will advice them on their right to pursue civil legal remedies, such as:

6.7.1 The right to present a civil action suit for damages against the perpetrator or any other person or organization that incurred in negligent behavior; within a year after the act.

6.7.2 The right to request a protection order under Act 54 (Prevention of and Intervention with Domestic Violence) or Act 254, (Against Stalking in Puerto Rico) within a reasonable time period. These remedies may be requested in court concurrently with the complaint (s) submitted to University officials.

6.8 Present Criminal Charges

6.8.1 University officials that intervene with violence survivors are compelled to advice them on their right to present criminal charges against the perpetrator or perpetrators of the acts of violence.

6.8.2 Criminal charges and civil suits may be conducted concurrently with complaints presented to University officials.

6.8.3 The period of time available to initiate criminal charges is five years for felony crimes and a year in the case of misdemeanors.

6.8.4 Charges for the crimes or the intent to commit incest, rape, lascivious or indecent acts, dishonest exposure prescribe after five years if the survivor was over twenty-one when the act was committed. If the survivor was under twenty-one or mentally unfit, the statute of limitations will end five years after his/her twenty-first birthday or until the survivor is mentally fit.
CONFIDENTIALITY GUARANTIES

The University is committed to respect the survivor’s decision to present a complaint or take other legal actions against the perpetrator(s). However, the seriousness of the offense and the perpetrator’s status in the institution will at times make it necessary to take legal action to protect the survivor and other campus community members.

The University is obligated to notify the number of domestic violence, sexual violence and stalking incidents complaints received. However, the survivor’s identity is not required for these reports. The survivor has the right to request confidentiality regarding name and other personal information.

The University’s policy on confidentiality establishes a balance between survivor’s need for confidentiality and the public’s right to know about the nature of crimes committed on campus. The survivor’s right for confidentiality is a priority. If however, there is a possibility that the perpetrator will commit a similar act, the University’s duty is to alert the community at large while maintaining the survivor’s identity confidential.

The Program for the Prevention of Violence Against Women guarantees total confidentiality according to applicable laws for survivors.

The information provided by a survivor of violence to University officials and/or the Official Examiner is confidential. Information, documents or other evidence submitted by the parties or witnesses during the proceedings will not be disclosed.

At the request of the survivor, and after considering allegations against this request, the confidentiality ban may be lifted on certain or all information gathered related to the
case. These rules will not be applicable in those situations in which the obligation to inform about abuse or negligence against a minor exists or if there is an intention to commit a crime that puts at risk the physical integrity of the persons involved in the complaint or of third parties. The complainant will be advised at the inception of the investigation.

When university officials intervene in a survivor’s case the following method will be used to protect confidentiality on the following levels:

- Counselors, psychologists, social workers, therapist and other licensed personnel to offer counseling and intervention techniques
- Doctors and nurses
- Security personnel
- Deans
- Faculty
- All the persons not included in the first two categories
DOMESTIC VIOLENCE, SEXUAL VIOLENCE AND STALKING SURVIVORS RIGHTS

The rights of domestic violence, sexual violence and stalking survivors reflect the rights defined in local and federal statutes. The University is committed to provide quality support services to survivors and guarantee the following rights:

8.1 All domestic violence, sexual violence and stalking cases on campus will be seriously and confidentiality attended to.

8.2 Survivors of violence will be treated with dignity, respect, and will not be subjected to biased attitudes or judgment.

8.3 Organizations and offices that provide services to violence survivors will be clearly identified. The campus community will be notified about their names and location.

8.4 University officials or personnel from the University that witness or receive information on a violent act should offer emergency assistance and notify the Security Office. This office will report the incident to the Chancellor and the program’s advocate or investigating personnel. In the case of physical assault the Security Office personnel will notify the Health Services Office immediately.

8.5 If the survivors of violence decides to legally proceed with a complaint or to proceed with criminal charges against the perpetrator or perpetrators, the incident should be investigated and the perpetrator or perpetrators responsibility should be determined.

8.6 University officials and other members of the community should not minimize the facts or incident/s or discourage violence survivors from pressing charges or taking legal
action.

8.7 Survivors of violence may request that counselors from the Program for the Prevention of Violence Against Women or other members of the support services to escort them to administrative hearings and procedures held at the University and/or at all judicial procedures.

8.8 Survivors of violence will be notified in writing about the results and the intervening University official’s decision on the determination of any complaint submitted.

8.9 University personnel will cooperate with the investigation of the incidents; they will guarantee and maintain evidence for legal procedures including medical records.

8.10 Survivors of violence will be advised about the local and federal laws that are applicable to the incident. They will also be informed about any required medical tests to determine if the perpetrator has a sexually transmitted disease.

8.11 Survivors of violence will be informed about the health, counseling, and mental health services, available on campus and in the external community. They will be referred to these services according to their needs and wishes.

8.12 Survivors of violence have the right to receive information about shelters and similar services. They also have the right to rearrange their class schedules or request transfers in order to prevent the perpetrator’s undesired proximity.

8.13 The sexual background of the survivor will not be considered as relevant information for establishing the credibility of the survivor.

8.14 Information concerning the survivors’ drug or alcohol use that may come to the attention of university officials during the course of a complaint under investigation under this policy will not be considered relevant information to establish the credibility of the survivor and will not be used to penalize her.
THE RIGHTS OF THE COMPLAINED

Domestic violence, sexual violence and stalking incidents on campus are grounds for internal complaints, criminal charges or legal civil suits. When an internal complaint is submitted; the complainant has the following rights:

9.1 To have legal representation during the administrative process
9.2 Be advised on their rights by the Advocate of the students.
9.3 Alleged incidents must be proven.
9.4 That the rights of the complained be acknowledged as well as the due process of law guaranteed.
9.5 That the complained is notified about all processes and hearings that will take place in his case.
9.6 That a hearing be held and to present evidence in his/her behalf.
9.7 The complained has the right to contest allegations made against him and the right to present evidence that sustain his/her allegations.
9.8 The complained has the right to request inhibition from University officials that determine the legal validity of the complaint.
9.9 The complained has the right to appeal any adverse decision taken by university officials.
9.10 The complained has the right to receive health services and available orientation on campus.
The determination that a domestic violence, sexual violence or stalking incident has occurred according to the definitions defined in this policy could be grounds for the imposition of the following measures:

Written warning.

Probation for a definite period of time during which a violation of any University bylaws will be cause for suspension or definite separation from the university.

Suspension from the University for a definite period of time. Violation of the terms of suspension could result in a definite separation from the University.

Upon infringement of this policy and if, as a result, there is also property damage; the University may require the perpetrator(s) to cover expenses for the damage.

During the administrative period, provisional measures may be established to guarantee protection and security for the parties involved in the process.

Any other sanction that is specified in the university’s bylaws for students, non-teaching personnel and faculty.
Applicability Provisions (Jurisdiction)

The University aspires that all the members of the campus community work and study in safe and dignified conditions, therefore, this Policy applies to:

11.1 Personal Jurisdiction

11.1.1 Domestic violence, sexual violence, and stalking incidents that occur among students and faculty members or among students and non-teaching personnel.

11.1.2 Incidents that occur between faculty and between the faculty and non-teaching personnel.

11.1.3 Incidents that occur between personnel.

11.1.4 Violent acts carried out by any of the previously mentioned towards people that are not members of the campus community.

11.1.4 In the case of violent acts committed by members of the external community, within the campus or campus geographical areas, towards campus community members will be investigated. The university will determine the corresponding legal action and proceed according to its jurisdiction.

11.2 Geographical Jurisdiction

The University will have the authority to determine complaints regarding acts occurring within the following areas:
11.2.1 University of Puerto Rico at Humacao Campus
11.2.2 “Villa Universitaria”
11.2.3 “Tejas Avenue” (Intersection with PR-3 up to the intersection at the “Petra Mercado” High School)
11.2.4 “Petra Mecado” Intersection
11.2.5 “Antonio López” Street (Intersection of “Carreras” Street up to “Esmeralda” Street)
11.2.6 Practice sites at places where official activities are carried out such as: athletic activities, field trips, or research activities.
UNFORESEEN SITUATIONS

Any situation that is not considered in this document should be resolved in a manner consistent with public policy and valid dispositions in legislation on domestic violence, sexual violence, and stalking.

Whenever a member of the campus community is legally processed for a crime related to domestic violence, sexual violence or stalking, the University will take disciplinary measures according to the procedures established in this Policy and Protocol.

In all unforeseen situations, the University will take into consideration the safety and health of all the members of its campus community.

In Humacao, Puerto Rico, _________________ of 2002.

Enrique Alvarado Hernández
Acting Chancellor