

UNIVERSITY OF HAWAII

Repeal of Chapter 20-40 and
Adoption of Chapter 20-40.1
Hawaii Administrative Rules

(August 18, 2022)

SUMMARY

1. Chapter 20-40, Hawaii Administrative Rules, entitled "Rules of Practice and Procedure", is repealed.

2. Chapter 20-40.1, Hawaii Administrative Rules, entitled "Rules of Practice and Procedure", is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 20

UNIVERSITY OF HAWAII

SUBTITLE 3

STATE POST-SECONDARY EDUCATION COMMISSION

CHAPTER 40

RULES OF PRACTICE AND PROCEDURE

REPEALED

§§20-40-1 to 20-40-29 Repealed. [R **OCT 13 2022**]

HAWAII ADMINISTRATIVE RULES

TITLE 20

UNIVERSITY OF HAWAII

SUBTITLE 3

STATE POST-SECONDARY EDUCATION COMMISSION

CHAPTER 40.1

RULES OF PRACTICE AND PROCEDURE

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\$20-40.1-1 **Statement of policy.** The following rules set forth the practices and procedures

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established by the State post-secondary education commission for carrying out its functions pursuant to sections 304A-3151 through 304A-3154, HRS. [Eff
OCT 13 2022] (Auth: HRS §§91-2, 304A-3152) (Imp:
HRS §§91-2, 304A-3151, 304A-3152)

§20-40.1-2 **Definitions.** (a) As used in this chapter, unless the context specifically requires otherwise:

"Administrative officer" means the president of the University of Hawaii.

"Board" means the board of regents of the University of Hawaii.

"Chairperson" means the chairperson of the commission.

"Commission" means the State post-secondary education commission.

"Persons" includes individuals, partnerships, corporations, associations, or public or private organizations of any character other than agencies.

"President" means the president of the University of Hawaii.

"Rule" as used in these rules means each agency statement of general or particular applicability and future effect that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of the commission. The term does not include matters concerning only the operation and management of internal affairs of the commission not affecting private rights of or procedures available to the public nor does it include declaratory rulings issued pursuant to section 91-8, HRS, nor intra-agency memoranda.

"Rulemaking hearings" mean all meetings where proposed rules or amendments or repeal thereof are to be presented for public comment as provided by chapter 91, HRS.

"University" means the University of Hawaii.

(b) Unless otherwise specifically stated, the terms used in rules adopted by the commission pursuant to powers granted by statute shall have the meaning defined by that statute.

(c) A rule which defines a term without express reference to the statute or to the rules of a portion thereof, defines such terms for all purposes as used both in the statute and in the rules, unless the context otherwise specifically requires.

(d) Use of gender and number. Words importing the singular number may extend and be applied to several persons or things, and words importing the plural may include the singular. Words importing the masculine gender may be applied to the feminine and neuter gender. [Eff **OCT 13 2022**] (Auth: HRS §§91-2, 304A-3152) (Imp: HRS §§91-2, 304A-3151, 304A-3152)

§20-40.1-3 **The commission; administrative officer; other officers.** (a) The commission shall consist of the members of the board and four other members who shall be appointed in accordance with section 26-34, HRS.

(b) The president shall be the administrative officer of the commission. The administrative officer shall carry out the policies adopted by the commission.

(c) The commission may elect a chairperson and/or such other officers from among the members of the commission as may be necessary to exercise and perform such other powers and duties as may from time to time be assigned by the commission. [Eff **OCT 13 2022**] (Auth: HRS §§91-2, 304A-3152) (Imp: HRS §§91-2, 304A-3151, 304A-3152)

§20-40.1-4 **Office; hours.** (a) The office of the commission is in the office of the administrative officer, situated in Honolulu, Hawaii. All

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communications to the commission shall be addressed to the "State Postsecondary Education Commission, University of Hawaii, Office of the President, Bachman Hall 202, 2444 Dole Street, Honolulu, Hawaii 96822," unless otherwise specifically directed.

(b) The office of the commission shall be open from 7:45 a.m. to 4:30 p.m. of each weekday except holidays and unless otherwise provided by statute or executive order. [Eff **OCT 13 2022**] (Auth: HRS §§91-2, 304A-3152) (Imp: HRS §§91-2, 304A-3151, 304A-3152)

§20-40.1-5 **The commission's powers and authority.** The commission may cooperate with the federal government to qualify the State to provide administrative action and/or receive funds made available under the Higher Education Act of 1965, Public Law 89-329, as amended from time to time, and in addition may serve as the state agency for the receipt of federal student information and/or federal funds when federal legislation dealing with higher education or post-secondary education requires, as a condition of state receipt of such funds, the designation of a state agency that is broadly representative of the general public and of post-secondary education in the state and when agencies other than the commission may not qualify.

The commission may exercise and perform any other powers and duties that the commission considers necessary, proper, or desirable in order to carry out effectively the duties and responsibilities of the commission as prescribed in this chapter or by statute. [Eff **OCT 13 2022**] (Auth: HRS §§91-2, 304A-3152) (Imp: HRS §§91-2, 304A-3151, 304A-3152)

§20-40.1-6 **Meetings.** (a) The commission shall meet as needed for administrative action and/or the receipt of federal student information and/or federal

funds. The commission may from time to time meet in any of the counties of the State of Hawaii. The commission may meet in executive session, from which the public may be excluded as provided by chapter 92, HRS.

(b) The commission may, at the request of the administrative officer or the members of the commission, hold meetings as it may deem necessary from time to time for the purpose of obtaining information necessary or helpful in carrying out its duties. [Eff **OCT 13 2022**] (Auth: HRS §§91-2, 304A-3152) (Imp: HRS §§91-2, 304A-3151, 304A-3152)

§20-40.1-7 **Quorum and voting; Robert's Rules of Order.** (a) A majority of the members to which the commission is entitled shall constitute a quorum at any commission meeting. The concurrence of a majority of all the members to which the commission is entitled shall be necessary to make any action of the commission valid.

(b) The current (or most recent) edition of *Robert's Rules of Order* shall guide the conduct of the commission meetings except where in conflict with this chapter. No action of the commission shall be invalid or ineffective by reason of noncompliance with *Robert's Rules of Order*. [Eff **OCT 13 2022**] (Auth: HRS §§91-2, 304A-3152) (Imp: HRS §§91-2, 304A-3151, 304A-3152)

§20-40.1-8 **Government records; inspection; cost of copies.** (a) The term "government record" as used in this chapter is defined as in chapter 92F, HRS.

(b) All government records of the commission shall be available for inspection during established office hours of the administrative officer, subject to the limitations prescribed in chapter 92F, HRS.

(c) All government records of the commission except as limited by chapter 92F, HRS, shall be

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available to any person who requests them and pays the fees necessary, if any, as set by law.

(d) Requests for public information, for permission to inspect government records or for copies of government records will be handled with due regard for the dispatch of other public duties, subject to chapter 92F, HRS. [Eff **OCT 13 2022**] (Auth: HRS §§91-2, 92F-11, 92F-12, 304A-3152) (Imp: HRS §§91-2, 92-21, 92F-11, 92F-12, 304A-3151, 304A-3152)

§20-40.1-9 **Counsel for the commission.** The university general counsel shall be designated as legal counsel for the commission. The university general counsel or the university general counsel's representative, in the capacity as legal counsel for the commission, may be present at all meetings and hearings governed by this chapter. [Eff **OCT 13 2022**] (Auth: HRS §§91-2, 304A-1005, 304A-3152) (Imp: HRS §§91-2, 304A-1005, 304A-3151, 304A-3152)

§20-40.1-10 **The university's administrative practice and procedure.** The rules applicable to rulemaking hearings and declaratory rulings, as set forth in the rules of practice and procedure of the board of regents for the university within subchapter 3 and subchapter 4 of chapter 20-1.1, Hawaii Administrative Rules, shall be incorporated by reference and made a part of this chapter. [Eff **OCT 13 2022**] (Auth: HRS §§91-2, 304A-3152) (Imp: HRS §§91-2, 304A-3151, 304A-3152)

§20-40.1-11 **Severability.** If any provision of these rules, or the application of them to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the

rules which can be given effect without the invalid provision or application, and to this end the provisions of these rules are severable. [Eff] (Auth: HRS §§91-2, 304A-3152) (Imp: **OCT 13 2022**)
HRS §§91-2, 304A-3151, 304A-3152)

UNIVERSITY OF HAWAII

The repeal of chapter 20-40 and the adoption of chapter 20-40.1, Hawaii Administrative Rules, on the Summary Page dated August 18, 2022, were adopted on August 18, 2022, following a public hearing held on July 28, 2022, after public notice was given in The Maui News on Saturday, June 25, 2022, and the Honolulu Star-Advertiser, Hawaii Tribune Herald, West Hawaii Today and The Garden Island on Sunday, June 26, 2022.

The repeal of chapter 20-40 and the adoption of chapter 20-40.1 shall take effect ten days after filing with the Office of the Lieutenant Governor.



DAVID LASSNER
Administrative Officer,
State Post-Secondary
Education Commission

APPROVED:



DAVID Y. IGE
Governor
State of Hawaii

Dated: _____

OCT 03 2022

Filed

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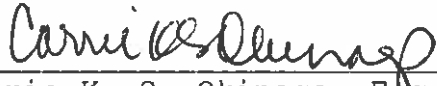
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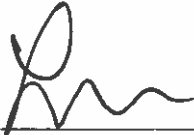
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