

UNIVERSITY OF HAWAII

Amendments and Compilation of Chapter 20-10  
Hawaii Administrative Rules

( \_\_\_\_\_ )

SUMMARY

1. Chapter 20-10, Hawai'i Administrative Rules, entitled "Delinquent Financial Obligations", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 20

UNIVERSITY OF HAWAII

SUBTITLE 1

UNIVERSITY OF HAWAII

BOARD OF REGENTS

CHAPTER 10

DELINQUENT FINANCIAL OBLIGATIONS

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SUBCHAPTER 1

RULES OF GENERAL APPLICABILITY

§20-10-1 **Purpose.** This chapter provides the university with a procedure which provides clear and fair methods in collecting delinquent financial obligations owed to the university. [Eff 6/22/81; am and comp 5/9/98; comp 12/12/02; am and comp 3/18/18; comp ] (Auth: HRS §§26-38, 91-2, 231-58, 304A-105, 304A-604) (Imp: HRS §§91-2, 91-9 to 91-13, 231-53, 304A-105, 304A-602, 304A-604)

§20-10-2 **General statement of policy.** (a) If a person has assumed a financial obligation to the university and payment is [~~overdue,~~] past due, the university shall have the right to impose sanctions under this chapter as it may deem appropriate.

(b) To implement this chapter, the president or the president's designee may issue guidelines consistent with this chapter and as may be appropriate. [Eff 6/22/81; am 4/4/88; am and comp 5/9/98; comp 12/12/02; am and comp 3/18/18; am and comp ] (Auth: HRS §§26-38, 91-2, 231-58, 304A-105, 304A-604) (Imp: HRS §§91-2, 91-9 to 91-13, 231-53, 304A-105, 304A-602, 304A-604)

§20-10-3 **Definitions.** (a) As used in this chapter:

"Appeal" means a timely filed petition disputing the university's notification of delinquent financial obligation, including a request for hearing under subchapter 2 filed on the appropriate form.

"Board" means the board of regents of the university.

"Business office" means the primary business office which receives payments for tuition, fees, and other official charges on the campus at which the delinquent financial obligation occurred.

"Campus" refers to each of the following major organizational units of the University:

- (1) University of Hawaii at Manoa, including the East-West Center and the Kakaako Campus;
- (2) University of Hawaii at Hilo;
- (3) University of Hawaii - West Oahu;
- (4) Honolulu Community College;
- (5) Kapiolani Community College;
- (6) Leeward Community College;
- (7) Windward Community College;
- (8) Kauai Community College;
- (9) University of Hawaii - Maui College; ~~[and]~~
- (10) Hawaii Community College; and
- (11) Any other major organizational unit of the university identified as a campus by the board.

"Chancellor" refers to the chief executive officer of the respective campus, and shall include their authorized designee.

"Claimant" means the university program which initiates the utilization of the setoff procedure provided in subchapter 3.

"Contested case" means the administrative case initiated by a person to contest the setoff under subchapter 3.

"Debtor" means any person who owes a debt to the university.

"Defaulted" means failure to make a scheduled installment payment on a promissory note or failure to comply with other terms of a promissory note.

"Delinquent" means being past due on student loan payments or ~~[other financial obligations, or failing to pay for tuition and fees by a published deadline.]~~ failing to pay or establish a payment plan for other types of financial obligations by the established deadlines.

"Financial obligation" means any amount owed to the university.

"Hearing officer" means a person duly designated by the university to preside over a hearing under this chapter.

"Party" means any person that participates in an appeal hearing or a contested case hearing as a person filing the appeal, a business office, a debtor, or a claimant.

"Person" includes any individual, corporation, partnership, association, or any trustee, assignee, receiver, or legal successor thereof.

"President" means the president of the university.

"Review" means an informal proceeding which affords a person an opportunity to present the person's case to a university staff member duly authorized under this chapter.

"Sanctions" means the range of penalties which the university may invoke in cases of delinquent financial obligations.

"Setoff" means the application of a person's income tax refund or any other sums due to the person from the State, to a valid debt due and owing the university pursuant to the authority granted by sections 231-51 to 231-59, [~~Hawaii Revised Statutes.~~] HRS.

"University" means the University of Hawaii. Any of the provisions in this chapter which affect the standing of a person at any one campus also affect the standing or potential standing at all other campuses.

(b) Words of the masculine gender include the feminine and neuter, and when the sense so indicates, words of the neuter gender may refer to any gender. Words in the singular number include the plural, and words in the plural number include the singular. [Eff 6/22/81; am 4/4/88; am and comp 5/9/98; am and comp 12/12/02; am and comp 3/18/18; am and comp

] (Auth: HRS §§26-38, 91-2, 231-58, 304A-105, 304A-604) (Imp: HRS §§91-2, 91-9 to 91-13, 231-53, 304A-105, 304A-602, 304A-604)

§20-10-4 [~~Categories of delinquent~~] Delinquent financial obligations. A delinquent financial obligation shall be deemed to exist, provided that notice of the financial obligation has been sent to the person, with the exception of those contracts in which notice is not required. [~~Delinquent~~] Sanctions on delinquent financial obligations shall [~~include but are not limited to:~~

- ~~(1) Overdue payment of a contractual obligation, such as but not limited to the following:
  - ~~(A) Loan payments;~~
  - ~~(B) Payments on promissory notes, which include payments on short-term loan and long-term loan promissory notes. Long-term promissory note payments include the loan principal and accrued interest as stated on the promissory note. The applicable collection fees, court costs, attorneys' fees, and any other costs incurred to recover the amount owed may be added to the loan obligation;~~
  - ~~(C) Payments for tuition or other mandatory fees, or both;~~
  - ~~(D) Payments for rent, which include dormitory or university student housing rents, board payments, if required or contracted for, and payments for rental of facilities and equipment for which the person acted for oneself or as an agent for a registered campus organization; and~~
  - ~~(E) Payments for any tuition assistance where the person did not or does not fulfill any eligibility criteria, term, condition, or obligation made pursuant to section 304A-701, Hawaii Revised Statutes, or any term and condition of any other agreement;~~~~
- ~~(2) Overdue payment of fines, fees, and charges, or overdue payment for goods and services~~

~~provided, such as but not limited to the following:~~

- ~~(A) Library fines;~~
- ~~(B) Parking and traffic fines;~~
- ~~(C) Dishonored check fees; and~~
- ~~(D) Other non-tuitional charges;~~
- ~~(3) Overdue payment of restitution for unreturned, lost, damaged, or misused university property, such as but not limited to the following:~~
  - ~~(A) Charges for laboratory losses or breakage;~~
  - ~~(B) Charges for locker or dormitory keys;~~
  - ~~(C) Charges for library books;~~
  - ~~(D) Charges for destruction or damage to property; and~~
- ~~(4) Overdue payment for financial aid where the person fails to meet any eligibility criteria, term, or condition of the financial aid.]~~

be based on dollar limit threshold amounts. The dollar limit threshold amounts shall be established by the board at an open meeting subject to the requirements of Chapter 92, HRS. [Eff 6/22/81; am 4/4/88; am and comp 5/9/98; am and comp 12/12/02; am and comp 3/18/18; am and comp ] (Auth: HRS §§26-38, 91-2, 231-58, 304A-105, 304A-604) (Imp: HRS §§91-2, 91-9 to 91-13, 231-53, 304A-105, 304A-602, 304A-604)

§20-10-5 **[Notification] Collection of delinquent financial obligations.** ~~[(a)]~~ When any payment on an outstanding financial obligation is ~~[overdue,]~~ past due, and the university has made reasonable efforts to collect the delinquent financial obligation, the university shall ~~[forward]~~ commence collection of the outstanding financial obligation [to the appropriate business office.] pursuant to procedures established by the university.

~~[(b) If the amount of the outstanding financial~~

~~obligation is \$25 or more, the university shall send a letter to the last known address of the debtor. Notice shall be presumed to have been received three business days after mailing. The rights of the university to collect outstanding financial obligations and to apply any sanction listed in this chapter are not waived by the failure of the debtor to receive the notification letter.~~

~~(c) The notification letter shall include the following information:~~

- ~~(1) The sanctions the university may impose if the obligation is not paid or arrangements acceptable to the university are not made within fifteen days from the date of the notice;~~
- ~~(2) Notice that any person who deems an alleged financial obligation to have been improperly assessed or who deems a sanction imposed is excessive or unfair may file an appeal with the financial management office at the university;~~
- ~~(3) The place where copies of the applicable appeals procedure and form requesting a hearing may be obtained; and~~
- ~~(4) Statement that in addition to all other sanctions, the university may seek redress under the law to recover moneys owed to it.~~

~~(d) Prior to each registration, the university shall withhold registration materials from any person with a delinquent financial obligation. Any person requesting withheld registration material shall be given the financial obligation statement and shall be directed to the appropriate business office. The business office shall inform the person of the nature and amount of the financial obligation and provide the person with the following information:~~

- ~~(1) The sanctions the university may impose if the obligation is not paid or arrangements acceptable to the university are not made;~~
- ~~(2) If the person requests, the business office shall provide the person with a copy of the applicable appeals procedure and form~~

~~requesting a hearing, or direct the person to the appropriate place where a copy of the applicable appeals procedure and request form can be obtained; and~~

- ~~(3) If the person settles the delinquent financial obligation to the satisfaction of the university, or if the person files the appropriate form requesting a hearing, the university shall release the registration materials to the person.] [Eff 6/22/81; am 4/4/88; am and comp 5/9/98; comp 12/12/02; am and comp 3/18/18; am and comp ] (Auth: HRS §§26-38, 91-2, 231-58, 304A-105, 304A-604) (Imp: HRS §§91-2, 91-9 to 91-13, 231-53, 304A-105, 304A-602, 304A-604)~~

§20-10-6 **Application of sanctions.** [~~(a)~~

~~Cancellation of registration during the semester or academic session shall be imposed as a sanction; provided that no properly filed appeal is in process and:~~

- ~~(1) Tuition or mandatory fee payments are delinquent and no arrangement acceptable to the university has been made for payment; or~~  
~~(2) The hearing officer has determined that the debt is owed and sanctions are proper.~~

~~(b)] (a) Denial of further registration may be imposed as a sanction [in all other cases of] for delinquent financial obligations which occur prior to registration and for which no appeal has been filed.~~

~~[(e)] (b) Revocation of all rights and privileges which were conferred by registration or enrollment may be imposed as a sanction [in all cases of] for delinquent financial obligations. These sanctions shall remain in force during the appeals and contested case processes.~~

~~[(d)] (c) Denial of transcripts, diplomas, and other entitlements may be imposed as a sanction [in all cases of] for delinquent financial obligations.~~

These sanctions shall remain in force during the appeals and contested case processes.

~~[(e)]~~ (d) In all cases of delinquent financial obligations, the university reserves the right to use any procedure to recover moneys which are owed to it, including the following:

- (1) Report delinquent and defaulted amounts, along with other relevant information to credit bureau organizations;
- (2) Setoff against a person's Hawaii state income tax refund or any other sums due to the person from the State, any amount which is due and owing to the university, exceeding the amount of \$25;
- (3) Commence legal action to recover the amount which is owed, including appropriate interest, collection fees, court costs, and attorneys' fees;
- (4) Contract the services of a collection agency to recover moneys owed to it, including applicable court costs and attorneys' fees. The collection agency may collect the applicable collection fees as authorized in a written contract with the university pursuant to federal or state law; and
- (5) Use the services of university personnel to recover moneys owed to it, including applicable collection fees.

~~[(f)]~~ (e) In addition to all other sanctions, the university may seek redress under the law to recover moneys owed to it.

~~[(g)]~~ (f) Costs of implementing the sanctions imposed under this chapter may be assessed to the person owing the delinquent financial obligation.

~~[(h)]~~ (g) Sanctions imposed under this chapter at any campus shall apply to all other campuses.

~~[(i)]~~ (h) No sanction shall be imposed upon a person who has filed a petition for relief under Chapter 7, 11, 12, or 13 of the United States Bankruptcy Code.

~~[(j)]~~ (i) The expiration of the statute of limitations for cases of delinquent financial

obligations shall not serve as a basis for the issuance of transcripts, diplomas, and other entitlements. [Eff 6/22/81; am 4/4/88; am and comp 5/9/98; am and comp 12/12/02; am and comp 3/18/18; am and comp ] (Auth: HRS §§26-38, 91-2, 231-58, 304A-105, 304A-604) (Imp: HRS §§91-2, 91-9 to 91-13, 231-53, 304A-105, 304A-602, 304A-604, 11 U.S.C. §362)

## SUBCHAPTER 2

### APPEALS FROM NOTICES OF DELINQUENT FINANCIAL OBLIGATIONS OR IMPOSITION OF SANCTIONS

§20-10-7 **Hearing officers.** (a) The chancellor of each campus as appropriate shall designate a hearing officer to hear appeals under this chapter except for the hearing officers for the setoff hearings under subchapter 3.

(b) In any case that does or could present a conflict of interest, the chancellor shall designate a substitute hearing officer for that case, except as provided in subsection (c).

(c) For those campuses for which the board has adopted rules governing parking and operation of motor vehicles, the appeals procedure and appointment procedure for hearing officers and final board of appeals as contained within those rules remain in effect. [Eff 6/22/81; am and comp 5/9/98; am and comp 12/12/02; am and comp 3/18/18; comp ] (Auth: HRS §§26-38, 91-2, 231-58, 304A-105, 304A-604) (Imp: HRS §§91-2, 231-53, 304A-105, 304A-602, 304A-604)

§20-10-8 **Appeals from a notification of delinquent financial obligation or an imposition of a sanction under this chapter.** (a) Appeals involving

parking and traffic matters shall be resolved under the procedures provided in chapter 20-12.

(b) Informal review of [~~student loan~~] financial obligations. Any person who is deemed by the university to [~~be~~] have a delinquent financial obligation, [~~in~~] including student loan payments, may file a written request for an informal review with the appropriate business office or director of the university office that handles financial or loan collection, no later than fifteen days after the date of the notification letter of the student financial or loan obligation. After the university has issued a decision on the informal review, any person who still believes that a student financial or loan obligation has been improperly assessed or who believes a sanction imposed is excessive or unfair may file an appeal with the appropriate business office or financial management office at the university within fifteen days from the date of the decision on the informal review. A hearing officer appointed under section 20-10-7 shall hear the case and render a written decision within a reasonable time to each party.

(c) Filing of an appeal. Any person who believes that any alleged financial obligation (other than an obligation involving parking and traffic matters [~~or student loan matters~~]) was improperly assessed or who deems that a sanction imposed under this chapter is excessive or unfair may appeal the matter to the [~~financial management~~] appropriate business office at the university within fifteen days from the date of the official notification of assessment of the obligation or of imposition of a sanction. A hearing officer appointed under section 20-10-7 shall hear the case and render a written decision within a reasonable time to each party.

(d) Appeals procedure. In all appeals where a person has properly filed an appeal (except appeals involving parking and traffic matters covered by chapter 20-12), a hearing officer shall send a written notification of the hearing to the person who filed the appeal by registered or certified mail with return

receipt requested, not less than fifteen days before the date of the hearing.

- (1) The notification letter shall include:
  - (A) The date, time, place, and nature of the hearing;
  - (B) The legal authority under which the hearing is to be held;
  - (C) The particular sections of the statutes and rules involved;
  - (D) A statement in plain language of the issues involved and the facts surrounding the alleged [~~overdue~~] past due financial obligations; and
  - (E) The fact that any party may appear on their own behalf or be accompanied by counsel at the party's own expense;
- (2) The hearing officer shall hear the appeal and render a written decision within a reasonable time and issue a copy of the decision to each party;
- (3) All appeal hearings under this subchapter shall be informal in nature. Either party may be represented by counsel of the party's choice and at the party's own expense, and may summon witnesses as the party may desire. The findings and conclusions of the hearing officer shall be confined to the facts and equities of the case. The person requesting the hearing need not be present at the hearing. The evidence and arguments may be presented in writing;
- (4) The hearing officer shall make a finding in each appeal as to whether the alleged financial obligation exists and all parties shall be bound by the hearing officer's finding;
- (5) The hearing officer, except as provided in subsection (f), may confirm, modify, or cancel any sanction imposed under subchapters 1 and 2, as may be appropriate under the circumstances, in the sound discretion of the hearing officer

(6) All findings of fact and conclusions of law of the hearing officer shall be in writing and shall be effective upon notification of the parties. The hearing officer's decisions shall be final within the university. The parties to the proceeding shall be notified by delivery or mailing of a certified copy of the decision and order.

(e) The chancellor of each campus may extend the time for both the filing of the appeal and issuance of the decision for good reasons, provided that no sanction in an appealed case shall be effective until after the hearing officer's decision is rendered, except as provided in section [~~20-10-6(e)~~] 20-10-6(b) and [~~(d)~~] (c).

(f) If the hearing officer finds that a delinquency of a tuition or mandatory fee charge exists, the hearing officer shall authorize the cancellation of the individual's registration. If the delinquency of a tuition or mandatory fee charge exists for any previous registration, the hearing officer shall authorize the denial of further registration. In both cases additional sanctions may be imposed. [Eff 4/4/88; am and comp 5/9/98; am and comp 12/12/02; am and comp 3/18/18; am and comp ] (Auth: HRS §§26-38, 91-2, 231-58, 304A-105, 304A-604) (Imp: HRS §§91-2, 231-53, 304A-105, 304A-602, 304A-604)

§20-10-9 REPEALED. [R 5/9/98]

§20-10-10 REPEALED. [R 5/9/98]

### SUBCHAPTER 3

#### SETOFF OF A PERSON'S DELINQUENT FINANCIAL

OBLIGATION AGAINST THE PERSON'S HAWAII STATE  
INCOME TAX REFUND OR ANY OTHER SUM DUE TO THE  
PERSON FROM THE STATE

§20-10-11 **Purpose of subchapter.** This subchapter provides guidelines for the university's utilization of the authority granted under sections 231-51 to 231-59, [~~Hawaii Revised Statutes,~~] HRS, to retain the state income tax refund or any other sum due from the State of Hawaii to a person who owes a debt to the university. [Eff 5/9/98; am and comp 12/12/02; comp 3/18/18; am and comp ] (Auth: HRS §§26-38, 91-2, 231-58, 304A-105, 304A-604) (Imp: HRS §§91-2, 91-9 to 91-13, 92-16, 231-53, 304A-105, 304A-602, 304A-604)

§20-10-12 **Procedure for setoff.** (a) When a university claimant decides to utilize the authority granted under sections 231-51 to 231-59, [~~Hawaii Revised Statutes,~~] HRS, to request a setoff of a person's debt to the university against the person's state income tax refund or any other sum due to the person from the State, the claimant shall submit the request for setoff to the appropriate business office.

(b) The business office shall submit the setoff request to the Comptroller of the State Department of Accounting and General Services.

(c) The Comptroller shall issue a written notice to the debtor of the State's intention to apply the debtor's debt to the university against the debtor's state income tax refund or any other sum due the debtor from the State. The Comptroller's written notice shall state that the debtor, within thirty days of the date of the notice, may request an administrative hearing before the university to contest the setoff.

(d) The request for an administrative hearing shall be submitted to the [~~financial management~~] appropriate business office at the university in

writing not more than thirty days from the date of the Comptroller's notice described in subsection (c). The ~~[director of the financial management]~~ appropriate business office at the university may extend the time for the submission of the request for hearing upon a showing of good cause, as determined at the sole discretion of the director of the ~~[financial management]~~ appropriate business office at the university. [Eff 5/9/98; am and comp 12/12/02; am and comp 3/18/18; am and comp ] (Auth: HRS §§26-38, 91-2, 231-58, 304A-105, 304A-604) (Imp: HRS §§91-2, 91-9 to 91-13, 92-16, 231-53, 304A-105, 304A-602, 304A-604)

§20-10-13 **Hearings to contest the setoff.** (a)

The administrative hearings under this subchapter shall be treated as a contested case hearing under the Hawaii Administrative Procedure Act (chapter 91, ~~[Hawaii Revised Statutes]~~ HRS) and shall be conducted in accordance with the statutory requirements for contested case hearings.

(b) The administrative hearings under this subchapter shall be presided by a hearing officer designated by the president or the president's designee.

(c) Upon receipt of a written request for a contested case hearing, the ~~[financial management]~~ appropriate business office at the university shall direct the duly designated hearing officer to issue a written notice to both the debtor and the claimant, which notice shall include a statement of:

- (1) The date, time, place, and nature of the hearing;
- (2) The legal authority under which the hearing is to be held;
- (3) The particular sections of the statutes and rules involved;
- (4) An explicit statement in plain language of the issues involved and the facts alleged by the claimant in support thereof; provided

that if the claimant is unable to state the issues and facts in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved, and thereafter upon application a bill of particulars shall be furnished;

- (5) That the contested case is limited to issues not previously contested by the debtor; and
- (6) The fact that any party may retain counsel if so desired, and the fact that an individual may appear on the individual's own behalf.

The written notice of hearing shall be provided to all parties to the administrative proceeding at least fifteen days before the hearing. [Eff 5/9/98; comp 12/12/02; am and comp 3/18/18; am and comp ] (Auth: HRS §§26-38, 91-2, 231-58, 304A-105, 304A-604) (Imp: HRS §§91-2, 91-9 to 91-13, 92-16, 231-53, 304A-105, 304A-602, 304A-604)

§20-10-14 **Procedures for the administrative hearing on the setoff.** (a) Opportunities shall be afforded all parties in a contested case to present evidence and argument on all issues involved.

(b) Any procedure in a contested case may be modified or waived by stipulation of the parties and informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(c) For the purpose of decisions, the record of the contested case shall include:

- (1) All pleadings, motions, and intermediate rulings;
- (2) Evidence received or considered, including oral testimony, exhibits, and a statement of matters officially noticed;
- (3) Offers of proof and rulings thereon;
- (4) Proposed findings and exceptions;
- (5) Report of the hearing officer who presided at the hearing; and

(6) Staff memoranda submitted to the hearing officer in connection with the hearing officer's consideration of the case.

(d) For the purpose of preserving a record of the proceedings before the hearing officer, the proceedings shall be recorded. It shall not be necessary to transcribe the record unless requested for purposes of rehearing, review by the president or the president's designee, or court review.

(e) Within a reasonable time following the closure of the hearing on the contested case, the hearing officer shall prepare a proposed decision on the case as a recommendation for the president or the president's designee.

(f) No matters outside the record shall be considered by the hearing officer in making a proposed decision, except as provided in this chapter.

(g) Every decision and order rendered by the hearing officer shall be in writing and shall contain a statement of reasons for the decision and shall include a determination of each issue of fact or law necessary to the proposed decision. If any party to the contested case proceeding has filed proposed findings of fact, the hearing officer shall incorporate in the proposed decision a ruling upon each proposed finding so presented.

(h) A copy of the proposed decision shall be served upon both the debtor and the claimant by delivering or mailing a copy of the proposed decision and accompanying findings and conclusions to each party or to the party's attorney of record.

(i) If the debtor is adversely affected by the proposed decision, the debtor shall be afforded an opportunity to file exceptions to the proposed decision and present argument to the president or the president's designee before a final decision on the contested case is rendered by the president or the president's designee. Exceptions shall be filed in the manner set forth in section 20-10-16(b). [Eff 5/9/98; am and comp 12/12/02; am and comp 3/18/18; comp ] (Auth: HRS §§26-38, 91-2, 231-

58, 304A-105, 304A-604) (Imp: HRS §§91-2, 91-9 to 91-13, 92-16, 231-53, 304A-105, 304A-602, 304A-604)

§20-10-15 **Rules of evidence; official notice.**

(a) Any oral or documentary evidence may be received by the hearing officer. The hearing officer, as a matter of policy, shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. No sanction shall be imposed or order be issued except upon consideration of the whole record or the portions thereof as may be cited by any party and as supported by and in accordance with the reliable, probative, and substantial evidence. The hearing officer shall give effect to the rules of privilege recognized by law.

(b) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available; provided that upon request, parties shall be given an opportunity to compare the copy with the original.

(c) Every party shall have the right to conduct a cross-examination as may be required for a full and true disclosure of the facts, and shall have the right to submit rebuttal evidence.

(d) The hearing officer may take notice of judicially recognizable facts. In addition, the hearing officer may take notice of generally recognized technical or scientific facts within the hearing officer's specialized knowledge; but parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed.

(e) Except as otherwise provided by law, the debtor contesting the setoff shall have the burden of proof, including the burden of producing evidence as well as the burden of persuasion. The degree or quantum of proof shall be a preponderance of the evidence.

~~[(e)]~~ (f) Any document filed in a contested case, other than evidence, shall conform to the requirements of ~~[chapter 20-1, as amended.]~~ section 20-1.1-11. In addition, all the documents shall be written in ink, typewritten, or printed, shall be plainly legible, shall be on strong durable paper, not larger than 8-1/2" x 14" in size except that tables, charts, and other documents may be larger, folded to the size of the documents to which they are attached. [Eff 5/9/98; am and comp 12/12/02; am and comp 3/18/18; am and comp ] (Auth: HRS §§26-38, 91-2, 231-58, 304A-105, 304A-604) (Imp: HRS §§91-2, 91-9 to 91-13, 92-16, 231-53, 304A-105, 304A-602, 304A-604)

§20-10-16 **Final decisionmaking for the university in a contested case hearing.** (a) Since the administrative hearing is not presided over by the president or the president's designee but rather delegated to a hearing officer, and the president or the president's designee would not have heard and examined all of the evidence, the final decision for the university shall not be made by the president or the president's designee until the hearing officer's proposed decision containing a statement of reasons and including a determination of each issue of fact or law necessary to the proposed decision has been served upon the debtor and the claimant.

(b) If the debtor is adversely affected by the proposed decision, the debtor shall be afforded an opportunity to file exceptions to the proposed decision and to present written and oral arguments to the president or the president's designee. The exceptions shall be in writing and filed with the ~~[financial management office at the university]~~ president or the president's designee not more than fifteen days from the date of the proposed decision. The president or the president's designee shall provide the aggrieved debtor with an opportunity to

present oral arguments at an adjudicatory meeting with the president or the president's designee.

(c) In rendering the final decision for the university, the president or the president's designee shall personally consider the whole record of the contested case or the portions thereof as may be cited by the parties. No matters outside the record shall be considered by the president or the president's designee in making a decision, except as provided in this chapter.

(d) Every decision and order rendered by the president or the president's designee shall be in writing and shall be accompanied by separate findings of fact and conclusions of law.

(e) Both the debtor and the claimant shall be notified of the president's or the president's designee's final decision by delivering or mailing a copy of the president's or the president's designee's final decision and order and accompanying findings and conclusions to each party or to the party's attorney of record. [Eff 5/9/98; comp 12/12/02; am and comp 3/18/18; am and comp ] (Auth: HRS §§26-38, 91-2, 231-58, 304A-105, 304A-604) (Imp: HRS §§91-2, 91-9 to 91-13, 92-6(a)(2), 92-16, 231-53, 304A-105, 304A-602, 304A-604)

**§20-10-17 Consultation by decisionmaking officials; ex parte communication prohibited.** At no time after the filing of the written request for a contested case hearing shall any hearing officer, the president or the president's designee who renders a decision in an administrative contested case, or any other person who is likely to advise these officials in the decision on the contested case, discuss ex parte any issue of fact or the merits of the contested case with any interested person not performing a decisionmaking function, except by giving notice to both the debtor and claimant providing an opportunity for all parties to participate in the discussion. This prohibition shall not apply to consultations

required for the disposition of ex parte matters authorized by law or to consultations with the decisionmakers' legal counsel covered by the attorney-client privilege. [Eff 5/9/98; comp 12/12/02; am and comp 3/18/18; comp ] (Auth: HRS §§26-38, 91-2, 231-58, 304A-105, 304A-604) (Imp: HRS §§91-2, 91-9 to 91-13, 92-16, 231-53, 304A-105, 304A-602, 304A-604)

§20-10-18 **Appeals from the final decision.**

Appeals from the final decision of the president or the president's designee rendered in a contested case under this subchapter shall be in accordance with chapter 91, [~~Hawaii Revised Statutes.~~] HRS." [Eff 5/9/98; comp 12/12/02; am and comp 3/18/18; am and comp ] (Auth: HRS §§26-38, 91-2, 231-58, 304A-105, 304A-604) (Imp: HRS §§91-2, 91-9 to 91-13, 92-16, 231-53, 304A-105, 304A-602, 304A-604)

2. These amendments to and compilation of chapter 20-10 shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on \_\_\_\_\_ and filed with the Office of the Lieutenant Governor.

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RANDOLPH G. MOORE  
Chairperson, Board of Regents  
University of Hawaii

APPROVED AS TO FORM:

University of Hawaii

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Carrie K. S. Okinaga, Esq.  
Vice President for Legal Affairs and  
University General Counsel

Department of the Attorney General

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Lori Tanigawa, Esq.  
Deputy Attorney General