

UNIVERSITY OF HAWAII

COMMUNITY COLLEGES POLICY

UHCCP #8.102A

June 2007

SUBJECT: Affiliation Agreements, Sponsored Class, and Sheltered Class Memoranda of Agreements

I. Purpose

Campuses may enter into affiliation agreements and/or memoranda of understanding for sponsored class or sheltered class contracts with external agencies. This policy delegates authority to enter into these agreements to the Chancellors and establishes policy guidelines in the execution of the agreements and memoranda.

II. Related University Policies

This policy implements the following University policies:

- A. Board of Regents Policy, Chapter 8, Section 8-1, Contracts and Official Documents (<http://www.hawaii.edu/offices/bor/policy/borpch8.pdf>)
- B. UH Systemwide Administrative Procedures, A8-910, Procedures for the Preparation and Submission of Proposals to External Sponsors and the Review/Approval Requirements for Sponsored Agreements (<http://www.hawaii.edu/apis/apm/congrant/a8910.pdf>)
- C. UH Systemwide Executive Policies E8-102, Authority to Sign and Execute Extramural Research and Training Grants/Contracts, Agreements and Contract Assignments and Releases (<http://www.hawaii.edu/apis/ep/e8/e8102.pdf>)
- D. Delegation of signature authority from Vice President for Research James Gaines to Vice President for Community Colleges John Morton, dated March 24, 2006
- E. Delegation of signature authority from Vice President for Community Colleges John Morton to Chancellors, dated May 1, 2006

III. Definitions

Affiliation Agreement – An agreement between the College and an external agency that delineates responsibilities between the two parties when students are placed in clinical settings or internships within the external agency. No financial remuneration can be included in an affiliation agreement.

Sponsored Class – An agreement where an external agency pays all or part of the cost of offering a class in lieu to charging tuition to students.

Sheltered Class – An agreement between the College and an external agency to deliver a non-credit class for the agency where the funds will be deposited into the Community Colleges Special Fund accounts and provided that the contract or agreement is not for the type of awards listed below:

- A. Curriculum development projects at any level, including projects involving evaluation of curriculum or teaching methods.
- B. Projects which involve students in community service activities for which they are receiving academic credit (e.g. service learning).
- C. Activities funded by awards to departments or schools in support of students.
- D. Dissertation work funded by grants, including grants for travel in relation to a dissertation.
- E. Upward Bound program.
- F. Source of funding from Federal funds

IV. Responsibilities

The Vice-President for Community Colleges shall have the responsibility to:

- A. Monitor execution of affiliation agreements and sponsored/sheltered class memoranda of agreements in accordance with University policies and procedures and reasonable risk tolerances by conducting post-audit reviews of affiliation agreements and memoranda of agreements.
- B. Provide technical assistance, as requested, to campuses in the development of affiliation agreements and sponsored/sheltered class memoranda of agreements.
- C. Review Affiliation Agreement Reports and Sponsored/Sheltered Class Reports to determine if the affiliation agreements and sponsored/sheltered class memorandum of agreements are consistent with the academic/instructional direction of the Community Colleges.

The Chancellors shall have the responsibility to:

- A. Approve affiliation agreements and sponsored/ sheltered class memoranda of agreements on behalf of the University, based on a delegation of this authority from the Vice-President of Community Colleges. The authority may not be further delegated on campus. The delegation to the Chancellor(s) may be revoked at the discretion of the Vice-President for Community Colleges.
- B. Ensure that affiliation agreements and sponsored/sheltered class memorandum of agreements are in compliance with all applicable Board of Regents Policies, UH Systemwide Executive Policies, UH Systemwide Administrative Procedures, and delegation memoranda.
- C. Where possible, use the University affiliation agreement and memoranda of agreement templates. The template for affiliation agreements is included as Attachment A. The template for sponsored/sheltered classes are included as Attachment B.
- D. Ensure that affiliation agreements and sponsored/sheltered class memoranda of agreements are approved and executed prior to the start of any activity covered by the agreement.
- E. When agreements may involve risk to the University, consult with the Office of Risk Management prior to executing the agreement. A checklist for risk assessment is attached to this policy as Attachment C.

- F. Submit the hardcopy and electronic file for the Affiliation Agreement Report (Attachment D) and the Sponsored/Sheltered Class Agreement Report (Attachment E) to the Associate Vice President for Administrative Affairs on a quarterly basis by the end of the month following the end of each calendar quarter. The reports are to be compiled cumulatively on a fiscal year to date basis (i.e. reflects all agreements for the fiscal year on each quarterly report).

**AFFILIATION AGREEMENT
BETWEEN
UNIVERSITY OF HAWAII _____
AND
_____**

This Affiliation Agreement (hereafter "Agreement") is entered into between the University of Hawai'i, on behalf of _____ (hereinafter "University") and _____ (hereinafter "Affiliate"). The University and the Affiliate shall sometimes be collectively referred to as the "Parties."

The purpose of this Agreement shall be to establish an affiliation between the University and the Affiliate to provide [*field/clinical/internship*] experience, (hereinafter "field experience") for the University's students enrolled in [*name of class/program*].

It is therefore agreed that this Agreement shall set forth the terms and conditions which will govern the field experience of University students with the Affiliate.

The University and Affiliate agree to the following:

1. This Agreement incorporates commitments mutually agreed upon by the University and the Affiliate.
2. By this Agreement, the University designates the Affiliate as an approved setting for field instruction. Both the University and the Affiliate shall commit themselves to cooperatively provide field experience for the students.
3. There shall be no financial obligation by or to the University or the Affiliate.
4. The field experience will cover a period arranged between the University and the Affiliate. Days and times the student spends at the Affiliate will be arranged by the student and the designated representative of the Affiliate.
5. The number of students eligible to participate in the field experience with the Affiliate shall be determined by agreement of the Parties.
6. The University and the Affiliate understand that it shall be the students' responsibility to provide transportation to and from the Affiliate's facility for their assignments.
7. The students participating in the field experience should be considered students and not employees of either party and thus are not covered by the University or the Affiliate for purposes of compensation, fringe benefits, workers' compensation, unemployment compensation, minimum wage laws, income tax withholding, social security or any other purpose, because of their participation in the field experience program.

8. Each student is placed with the Affiliate to receive field experience as part of his or her academic curriculum; those duties performed by a student are not performed as an employee, but in fulfillment of these academic requirements and are performed under supervision. At no time shall students replace or substitute for any employee of the Affiliate. This provision shall not be deemed to prohibit the employment of any such student by either party under a separate employment agreement. The University shall notify each student of the contents of this paragraph.
9. Each party agrees to comply with and be separately responsible for compliance with all laws which may be applicable to their respective activities under this program. Both parties agree to comply with all applicable federal and state laws prohibiting discrimination against any person on the basis of race, sex, age, disability or national origin.
10. This agreement is intended solely for the mutual benefit of the parties hereto, and there is no intention, express or otherwise, to create any rights or interest for any party or person other than the Affiliate and the University; without limiting the generality of the foregoing, no rights are intended to be created to any patient, student, parent or guardian of any student, employer or prospective employer of any student.

Responsibilities of the University

1. The University will provide the name of each student in the field experience program and any other relevant information requested by the Affiliate in order to support the education and training of the student with the Affiliate.
2. [The University shall send the Affiliate only such students who have completed appropriate academic education and are ready for the field experience.] *[If the Affiliate selects the interns, then delete this paragraph and use paragraph 2 of "Responsibilities of the Affiliate."]*
3. The University will support mutually agreed upon policies that govern the student at the Affiliate.
4. The University will designate a faculty member as the liaison between the University and the Affiliate. *[Include name of faculty member and a short description of the liaison's role.]*

Responsibilities of the Affiliate

1. The Affiliate shall designate one or more supervisors who shall be responsible for the field experience program (hereinafter "Affiliate Supervisor"). *[The Affiliate shall provide the University with the name and academic credentials of the*

Affiliate Supervisor.] The Affiliate Supervisor will maintain contact with the University's liaison to assure mutual participation in and surveillance of the program.

2. [The Affiliate shall review all applications for internships and conduct interviews, as necessary, of applicants. The Affiliate shall make the selection of the student(s) for the internship.]
3. The Affiliate shall provide the University with all rules, regulations, procedures, policies and information necessary and applicable to the students' experience with the Affiliate.
4. The Affiliate shall provide orientation for the students beginning the field experience program.
5. The Affiliate shall provide qualified supervision of students during their field experience program.
6. The Affiliate shall administer all aspects of [insert appropriate description i.e., patient care, clinical services, facility's operations, etc.] at its facilities. The Affiliate has primary and ultimate responsibility for the quality of [insert appropriate description i.e., care, service, facility's operations] and as such, Affiliate staff shall have final responsibility, authority, and supervision over all aspects of [insert appropriate description, i.e., patient care, client services, facility's operations etc.]. University students and faculty shall at all times abide by such supervision.
7. The Affiliate will maintain records on each student's performance to provide an evaluation to the University.
8. [The Affiliate may request that the University withdraw from the field experience program, any student whose performance is unsatisfactory, whose personal characteristics prevent effective professional relationships within the program or who violates the applicable policies of the University or the Affiliate. Pursuant to this paragraph, the Affiliate may temporarily relieve a student of a particular assignment or require that a student leave an area or department pending a final determination of the student's future status by the Parties.]
9. [The Affiliate may immediately remove from the Affiliate's facility any student who poses an immediate threat or danger or if warranted by the circumstances.]
10. The Affiliate shall notify the University of any change or proposed change in the field experience program, including changes in personnel.

11. The Affiliate shall, on reasonable request, permit the University to inspect its facility, its services, student's records, and other such items pertaining to this program.
12. Except to the extent required by law or by order of a court or government agency, the Affiliate shall treat all student background information, whether provided by the University or the student, as confidential material. All records provided to the Affiliate by the University shall remain University property and shall be returned to the University following the completion of the student's field experience.

Miscellaneous Terms

1. This Agreement shall in no way be interpreted as creating an agency or employment relationship between the Parties. Each party is responsible only for its own conduct.
2. This Agreement shall automatically renew annually, provided that either party shall have the right to terminate this agreement upon not less than two months written notice to the other. Provided, however, that students then participating in the field experience program shall be given the opportunity to complete the full program during that instructional period.
3. It is understood and agreed that the parties to this Agreement may revise or modify this Agreement by written amendment executed by both parties.
4. This Agreement shall be effective when executed by both parties.

University of Hawai'i

Affiliate

Chancellor
[Full name of Campus]

Date

Print Name _____
Title _____

Date

Additional Terms for agreements involving nursing, psychiatric, social work or medical services:

- The Affiliate agrees to continue its accreditation/certification by the appropriate agencies: _____ (specify agencies).
- Each student will be required, as a condition for participation, to submit the results of a health examination to the University and, if requested, to the Affiliate to verify that no health problems exist which would jeopardize student or patient welfare. Students (and faculty, if applicable) will present the health records on the first day of field instruction at the Affiliate's facility (individuals will not be allowed to commence the program until all records have been presented): (List immunizations/tests needed).
- No provision of this Agreement shall prevent any (*patient, client, etc.*) from requesting not to be a teaching (*patient, client*), or prevent any member of the Affiliate's staff from designating any (*patient or client*) as a non-teaching patient. The Affiliate is responsible for notifying the (*patient, client etc.*) of the choice to decline student participation.

Other Terms that may be applicable:

- The faculty and students participating in the field experience program will be permitted to use the Affiliate's library in accordance with the Affiliate's policies.
- The Affiliates assumes no responsibility for the cost of meals, uniforms, housing, parking or health care of any student participating in the field instruction program. The Affiliate will permit University faculty and students who are participating in the field instruction program to use any cafeteria on the same basis as employees of the Affiliate. The Affiliate will permit University faculty to use Affiliate parking spaces under the same policies governing Affiliate personnel.
- The University agrees to inform each student of the following responsibilities:
 - a. Each student shall conform to the Affiliate's holiday schedule and the University's annual calendar;
 - b. Students shall abide by the Code of Ethics (cite applicable code); and
 - c. The University's expectation is that students are to conduct themselves as professionals in all of their interactions at the Affiliate's organization.

Issues to Consider

- Who will brief the student on the Affiliate's policies and practices?
- Who will give the student day-to-day instructions?
- Who will instruct the student as to general approaches to assignments?
- Who will monitor the student's work to insure the student, clients, employees or Affiliate's property is not in jeopardy?
- Who is to evaluate the student's work?
- What are the responsibilities regarding grading?
- What role does the Affiliate's evaluation have in the grading process?

Contact Risk Management if the field instruction involves any of the following:

1. Activities which have a potential fire or explosion risk or use of hazardous materials;
2. Activities involving the use of vehicles, aircraft or ocean vessels;
3. Athletic activities or physical exertion;
4. Activities which involve a risk of serious injury;
5. Construction related activities; or
6. Activities involving work with minors.

Contact Risk Management if the following issues arise:

1. Affiliate seeks indemnification, hold harmless or similar provision assigning responsibility for liability; or
2. Affiliate requires insurance coverage.

MEMORANDUM OF AGREEMENT
between the
UNIVERSITY OF HAWAI'I, _____
and

This Memorandum of Agreement, (hereinafter "Agreement") is entered into on this ____ day of _____, _____, by and between the University of Hawai'i, [Full name of UH campus], (hereinafter "[UH campus abbreviation]"),¹ and [Full Name of Other Party], (hereinafter "[Other Party Abbreviation]"). The parties mutually agree as follows:

I. RESPONSIBILITIES OF [UH CAMPUS ABBREVIATION]

1. [UH campus abbreviation] shall provide [name of course], (hereinafter the "Class"). The Class shall be presented in [number of sessions] on [date(s)], at [location and time(s)]. The cost for the Class is [dollar amount].²
2. [If field instruction/field trip is included, insert the following information: Location, description of activities involved, who will be providing transportation.]³
3. The cost will cover expenses for honoraria, hotel and room rentals, food and refreshment, printing and mailing, airfare and per diem, rental of audio-visual equipments, conference supplies and materials, and other costs associated with conducting the Class.⁴

II. RESPONSIBILITIES OF [OTHER PARTY ABBREVIATION]

1. All costs and fees for the Class shall be paid in full by [Other Party Abbreviation] to [entity to whom payment is due] at [address to remit payment to]. Payment shall be made no later than _____.⁵
2. [Other Party Abbreviation] will provide the names of each participant in the Class and any other information requested by [UH campus abbreviation] in order to support the education and training of the participant.
3. [Other Party Abbreviation] (hereinafter "Indemnitor" for purposes of this paragraph only) shall indemnify, defend and hold harmless the University of Hawai'i, its officers, agents, employees or any person acting on its behalf from and against: (1) any claim or demand for loss, liability or damage, including, but not limited to, claims for property damage, personal injury or death, by whomsoever brought, arising from any act or omission of Indemnitor, its officers, employees, agents, subcontractors or any person acting on its behalf in the performance of this agreement; and

(2) all claims, suits, and damages by whomsoever brought, by reason of the non-observance or non-performance by Indemnitor, its officers, employees, agents subcontractors, or any person acting on its behalf of any of the terms, covenants and conditions herein or the rules, regulations, ordinances, and laws of the federal state, municipal or county governments. Furthermore, Indemnitor shall reimburse the University of Hawai'i, its officers, employees, agents, or any person acting on their behalf for all attorneys' fees, costs, and expenses incurred in connection with the defense of such claims. This provision shall survive termination or expiration of this Agreement.⁶

4. [Other Party Abbreviation] agrees to require each participant to read, understand and knowingly and voluntarily sign the attached Waiver and/or Assumption of Risk forms (or any other forms), prior to the start of the Class. A co-signature of a parent or guardian is required if participant is under 18 years of age. The [Other Party Abbreviation] understands and agrees that any participant that fails to provide a signed Waiver and/or Assumption of Risk form shall not be allowed to attend or participate in the Class.⁷
5. _____ agrees to provide participants with a copy of the attached safety procedures. [Other Party Abbreviation] agrees to obtain a signed written acknowledgment from each participant that they have read and understand the procedures and agree to abide by same.⁸
6. [List any other obligation.]

III. MUTUAL AGREEMENTS

1. This Agreement may be amended through a mutually acceptable written statement.
2. This Agreement may be terminated upon thirty (30) days written notice. In the event of any termination of this Agreement prior to the end date, the Indemnitor shall reimburse [UH campus abbreviation] all costs and non-cancelable commitments made prior to termination.
3. The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties to this Agreement, shall be governed by the laws of the State of Hawai'i. Any action at law or in equity to enforce or interpret the provision of this Agreement shall be brought in a state court of competent jurisdiction in the State of Hawai'i. The [Other Party Abbreviation], by execution of this Agreement, acknowledges the jurisdiction of the courts of the State of Hawai'i in this matter.

- 4. This Agreement represents the entire agreement and understanding between the parties with respect to its subject matter and supersedes any prior and/or contemporaneous discussions, representations, understandings or agreements, whether oral or written, of the parties regarding this matter.
- 5. This Agreement may be executed by the parties in counterparts, all of which taken together shall be deemed one and the same instrument.

IV. APPROVALS

By:

_____ Date: _____
Chancellor, [Full name of UH campus]

By:

_____ Date: _____

Print Name: _____

Title: _____

-
1. Insert name of appropriate campus in the first blank and the appropriate abbreviation (i.e., KCC, LCC, HonCC etc. in the second blank).
 2. If there is any restriction on the number of students that may enroll, include that limitation in this section.
 3. Risk Management must be contacted for review if the class involves the following types of activities:
 - a. Activities involving alcohol;
 - b. Activities which have a potential fire or explosion risk;
 - c. Activities involving travel, use of vehicles or where transportation is to be provided by the University;
 - d. Athletic activities;
 - e. Activities which involve a risk of serious injury or which require special certification (for example, use of tools such as a band saw or operation of heavy equipment); or
 - f. Activities which require special skill.
 4. This section should list the items in addition to instruction that will be provided. This paragraph should be edited as appropriate.
 5. Insert the date by which payment is desired. If a deposit is necessary, then the following suggested language may be inserted in this paragraph: "A Non-refundable Deposit in the amount of \$ _____ is due no later than ____ calendar days before the first day of Class. It is agreed that the Class will be subject to cancellation if the Non-Refundable Deposit is not received by this date."

This additional language may be revised as necessary.
 6. Questions regarding the need or applicability of indemnity provision should be directed to the Office of Risk Management. **Note:** The University is prohibited from entering into agreements which indemnify the other party. Should the other party request indemnification, please contact the Office of Risk Management or the Office of the General Counsel.
 7. Waivers and/or Assumption of Risk forms will not be necessary for every class. In general, these forms will be required for classes involving activities listed in endnote 6 above.
 8. This paragraph is should be included when applicable. (For example, classes involving labs or use of equipment.) Insert the name of the party providing the safety procedures in the first blank. The procedures may be provided by the UH Campus, the Other Party or the owner of the premises where the class is taking place.

CHECKLIST FOR SHELTERED CLASS MOA TEMPLATE

		Yes	No
1.	The originating department has indicated that it can fully perform all the obligations of this agreement.		
2.	The originating department has contacted any other university departments impacted by this agreement and has assurances that they can fulfill their obligations		
3.	The agreement clearly describes the college's obligations. Ensure all verbal understandings included in the Agreement.		
4.	Contact Risk Management if the class involves any of the following: a. Activities involving alcohol; b. Activities which have a potential fire or explosion risk or use of hazardous materials; c. Activities involving travel, use of vehicles, aircraft ocean vessel (owned or rented) or where transportation is to be provided by the University; d. Athletic activities or physical exertion; e. Activities which involve a risk of serious injury or which require special certification (for example, use of tools such as a band saw or operation of heavy equipment); f. Activities which require special skill; g. Students are minors (under age 18); h. Ocean activities; i. Outdoor activities; j. Construction related activities; k. Medical services or research on human subjects; l. University to provide childcare; m. Other party to have care, custody or control of University property or equipment; n. Volunteers.		
5.	Class location. If the class will be held on campus, identify the specific room/facility. <i>If the class will be held on premises owned or controlled by another party contact Risk Management.</i> In either event, ensure that the venue is adequate for the class.		
6.	The agreement sets forth the amounts to be paid. Ensure the agreement clearly identifies the party responsible for any costs associated with the contract.		
7.	The agreement sets forth the payment terms (i.e., date payment is due, date payment must be received, method of payment).		
8.	The agreement requires the University/college to indemnify, defend or hold harmless the other party. If so, this provision must be deleted. <i>If the other party does not agree to deletion, contact Risk Management.</i>		
9.	The agreement requires the University to obtain insurance or a bond? <i>If so, contact Risk Management.</i>		
10.	The other party changed any of the terms of the template agreement. <i>If so, investigate the reason and contact Risk Management or Office of General Counsel as to whether the changes are acceptable.</i>		



UNIVERSITY OF HAWAII

OFFICE OF THE VICE PRESIDENT FOR RESEARCH
UNIVERSITY OF HAWAII

MEMORANDUM

March 24, 2006

TO: John F. Morton
Interim Vice President for Community Colleges

FROM: James R. Gaines *JRGaines*
Interim Vice President for Research

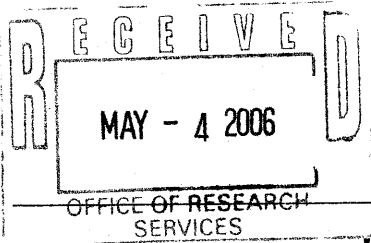
SUBJECT: Delegation of Authority to Sign and Execute Agreements

Under the authority delegated to me by Executive Policy E8.102, I hereby authorize John F. Morton, Interim Vice President for Community Colleges authority to sign and execute affiliation and sheltered class contracts and agreements between the University of Hawaii'i Community College(s) and an external agency, which are defined as:

1. Educational training affiliation agreements, which do not include any financial remuneration.
2. Loans and scholarships.
3. Payment of tuition and fees, regardless of source of funding; provided the fees are for (a) credit courses using established BOR rates or (b) non-credit courses with established rates, either as published tuition rates and fees, or rates established using approved campus policy.
4. Non-credit classes that do not involve federal funds where the funds will be deposited into the Community Colleges special or revolving fund accounts and provided the contract or agreement is not for the type of awards listed below:
 - (a) Curriculum development projects at any level, including projects involving evaluation of curriculum or teaching methods.
 - (b) Projects which involve students in community service activities for which they are receiving academic credit (e.g., service learning).
 - (c) Activities funded by awards to departments or schools in support of students.
 - (d) Dissertation work funded by grants, including grants for travel in relation to a dissertation.
 - (e) Upward Bound Program.

The Office of Research Services shall continue to review, negotiate, and execute all extramurally sponsored agreements. This delegation of authority is effective as of the date above.

c: Secretary of the Board of Regents
President
VP for Legal Affairs & University General Counsel
Chancellors
Director of Risk Management
Office of Research Services



UNIVERSITY OF HAWAII

JOHN MORTON
INTERIM VICE PRESIDENT FOR COMMUNITY COLLEGES

Memorandum

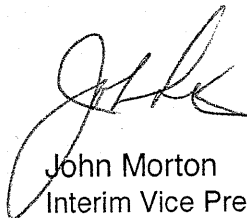
May 1, 2006

TO: Chancellors

SUBJECT: Delegation of Authority for Affiliation Agreements, Sponsored Classes, and Sheltered Classes

Effective immediately, I am delegating to you signature authority for affiliation agreements, sponsored classes and sheltered classes. This authority may not be further delegated.

The Community College Policy governing this delegation is near completion and a draft copy will be provided to you. Please follow this draft pending the final issuing of the official policy. I particularly ask you to exercise caution in your risk assessment for these agreements and to use the risk management checklist and consult with the Office of Risk Management as appropriate.



John Morton
Interim Vice President for Community Colleges

c: James Gaines
Kevin Hanaoka
Kari Wilhelm
Michael Unebasami