

NOTICE OF BOARD OF REGENTS MEETING

Board business not completed on this day will be taken up on another day and time announced at the conclusion of the meeting.

Date: Thursday, April 18, 2019

Time: 9:45 a.m.

Place: Leeward Community College
Education Building, Room 201 A/B
96-045 Ala Ike Street
Pearl City, Hawai'i 96782

AGENDA

- I. Call Meeting to Order**
- II. Public Comment Period:** All written testimony on agenda items received after posting of this agenda and up to 24 hours in advance of the meeting will be distributed to the board. Late testimony on agenda items will be distributed to the board within 24 hours of receipt. Written testimony may be submitted via US mail, email at bor@hawaii.edu, or facsimile at 956-5156. Individuals submitting written testimony are not automatically signed up for oral testimony. Registration for oral testimony on agenda items will be provided at the meeting location 15 minutes prior to the meeting and closed once the meeting begins. Oral testimony is limited to three (3) minutes. All written testimony submitted are public documents. Therefore, any testimony that is submitted verbally or in writing, electronically or in person, for use in the public meeting process is public information and will be posted on the board's website.
- III. Report of the President**
- IV. Committee and Affiliate Reports**
 - A. Report from the Committee on Budget and Finance
 - B. Report from the Committee on Planning and Facilities
 - C. Affiliate Reports
- V. Report on AGB Conference on Trusteeship**
- VI. Agenda Items**
 - A. For Action Consent Agenda
 1. Approval of Lease Agreement Between the State of Hawai'i and the University of Hawai'i Covering a Portion of Sand Island for Snug Harbor Relocation and Marine Education Training Center (METC) Facility Use Purposes, Honolulu, O'ahu (Tax Map Key No.: (1) 1-5-041: portions of 006, 130, and 334)
 2. Acknowledge Receipt of the Real Property Development Project Summaries for the University of Hawai'i – West O'ahu, Atherton YMCA, and Former Oceanic and Atmospheric Administration (NOAA) Site projects

3. Appointment of a Permitted Interaction Group to Review and Make Recommendations on Regents Policies Related to Investments
- B. Approval to Request the Governor's Approval to Hold Public Hearings Regarding Amendments to Hawai'i Administrative Rules Title 20: (A) Chapter 10, "Delinquent Financial Obligations"; and (B) Chapter 12, "Parking and Operation of Motor Vehicles"
- C. Approval of Administration's Recommendation to Hold a Second Round of Public Hearings on the Revised Draft of Chapter 20-26, Hawai'i Administrative Rules, entitled "Public and Commercial Activities on Mauna Kea Lands"
- D. Approval to Elevate the Donor Recognition Naming Opportunity for the Hon Kau and Alice Lee Endowed Faculty Fellowship to the Hon Kau and Alice Lee Distinguished Professorship at the University of Hawai'i at Mānoa Shidler College of Business
- E. Approval of the Establishment of the First Insurance Company of Hawai'i Distinguished Professorship in Insurance at the Shidler College of Business, University of Hawai'i at Mānoa
- F. Approval of the Re-Naming of the First Insurance Company of Hawai'i Distinguished Professorship at the Shidler College of Business, University of Hawai'i at Mānoa
- G. Legislative Update
- H. Performance Evaluation Process for the President of the University of Hawai'i

VII. Executive Session (closed to the public):

- A. Legal Matters: *(To consult with the board's attorneys on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities, pursuant to Section 92-5(a)(4), Hawai'i Revised Statutes (HRS))*
 1. Quarterly Status Report on Litigation
- B. Personnel: *(To consider the hire, evaluation, dismissal, or discipline of an officer of employee, where consideration of matters affecting privacy will be involved, pursuant to Section 92-5(a)(2), HRS)*
 1. Discussion of Personnel Actions (A-1 for approval)
 2. Honorary Degree Nominations

VIII. Agenda Items (continued)

- A. Personnel Actions (A-1 for approval)

IX. Announcements

- A. Next Meeting: May 16, 2019, at Windward Community College

X. Adjournment

ATTACHMENTS

Attachment A1 – Personnel actions posted for action

Attachment A2 – Personnel actions posted for information only

AMENDED

Executive/Managerial

Campus	Last Name	First Name & Middle Initial	Proposed Title	Unit	Nature of Action	Monthly Salary	Effective Date
Community College System	Lacro	Erika	Interim Vice President for Community Colleges	Community College System	Appointment	\$18,334	June 1, 2019 - May 31, 2020

UNIVERSITY OF HAWAII
PRESIDENT'S OFFICE

19 APR 11 P4:08

RECEIVED

19 APR 11 P4:14

UNIVERSITY OF HAWAII
BOARD OF REGENTS

DLS 19/5/13

Recommendation: That the Board approve the personnel action as recommended.

David Lassner
President

AMENDED

Attachment A-2: Pursuant to §89C-4, Hawai'i Revised Statutes, the following proposed compensation actions for excluded Executive/Managerial are disclosed for purposes of public comment.

Executive/Managerial

Campus	Last Name	First Name & Middle Initial	Proposed Title	Unit	Nature of Action	Monthly Salary	Effective Date
UH Mānoa	Manin	Lois	Associate Athletic Director and Senior Woman Administrator	Intercollegiate Athletics	Appointment	\$10,834 + \$1,000 stipend	April 22, 2019
Honolulu Community College	Lee	Karen	Interim Chancellor	Honolulu Community College	Appointment	\$13,918	June 1, 2019 - May 31, 2020

UNIVERSITY OF HAWAII
PRESIDENT'S OFFICE

19 APR 11 P4:08

RECEIVED

19 APR 11 P4:14

UNIVERSITY OF HAWAII
BOARD OF REGENTS

OTS 19513

Item III.

Report of the President

**NO MATERIALS
ORAL REPORT**

Item III.

Report of the President -
LeeCC Chancellor & Faculty
Senate Chair Reports

MATERIALS



welcome

Leeward Community College

April 18, 2019

highlights



Student Focused Student Success

Marc Douglas Kahala-Earley
2019 DREAM Scholars



Future Health Professionals
Team Gold: Shania Kim Kahana,
Seyla Prum, Chelsea Billaber



Destiny Apilado
2019 New Century Transfer
Pathway Scholar

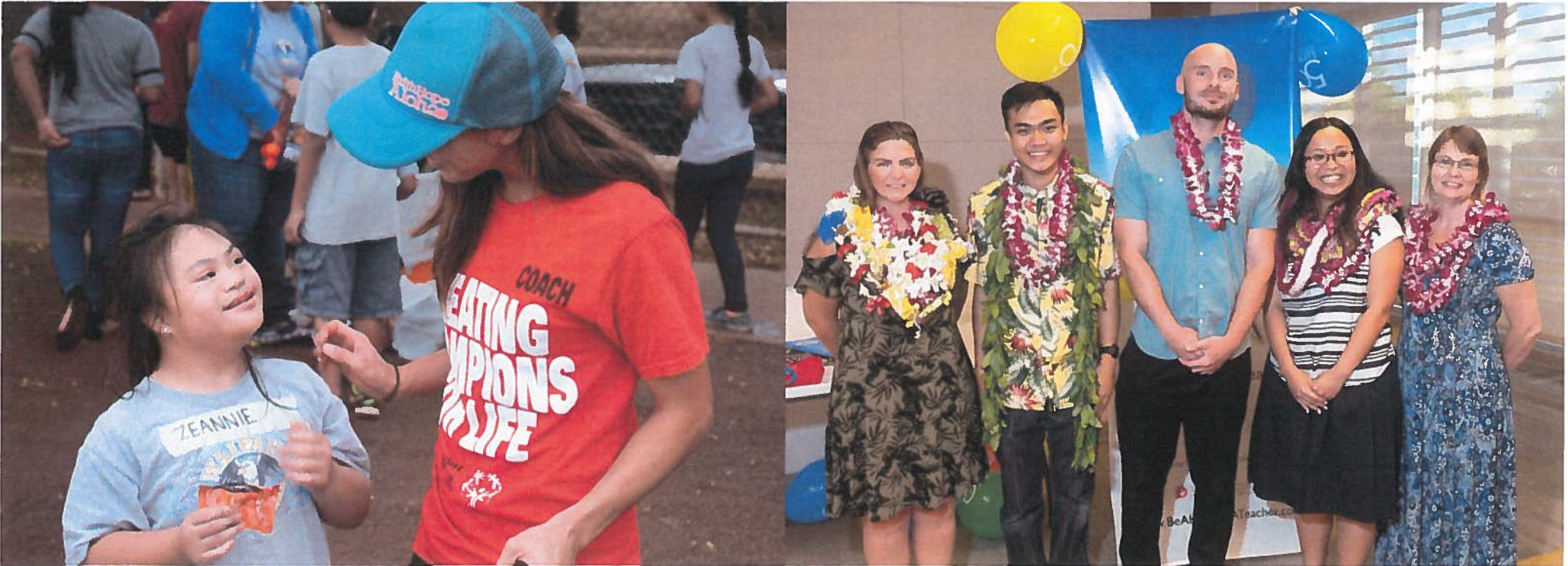


Isaac Serrano
Phi Theta Kappa
Pacific Region Transfer
Scholarship

Kevin O'Neill
& Kelvin Tso
Grainger Scholarships

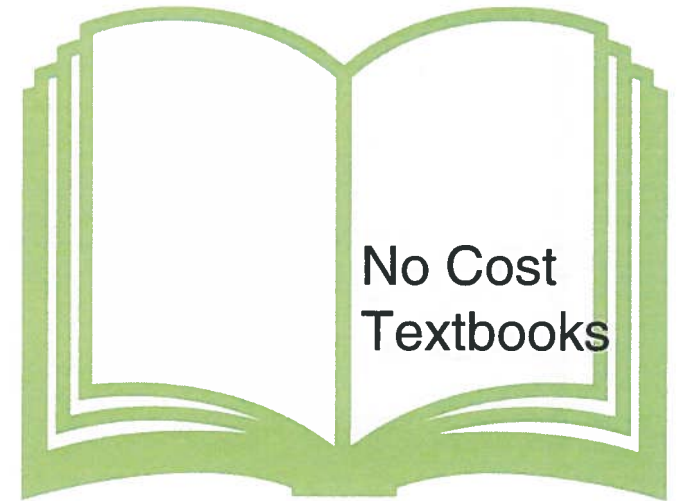


highlights



Teacher Education, Special Ed
Advance Professional Certificate
Stipends & First Graduates

highlights reducing cost barriers



highlights

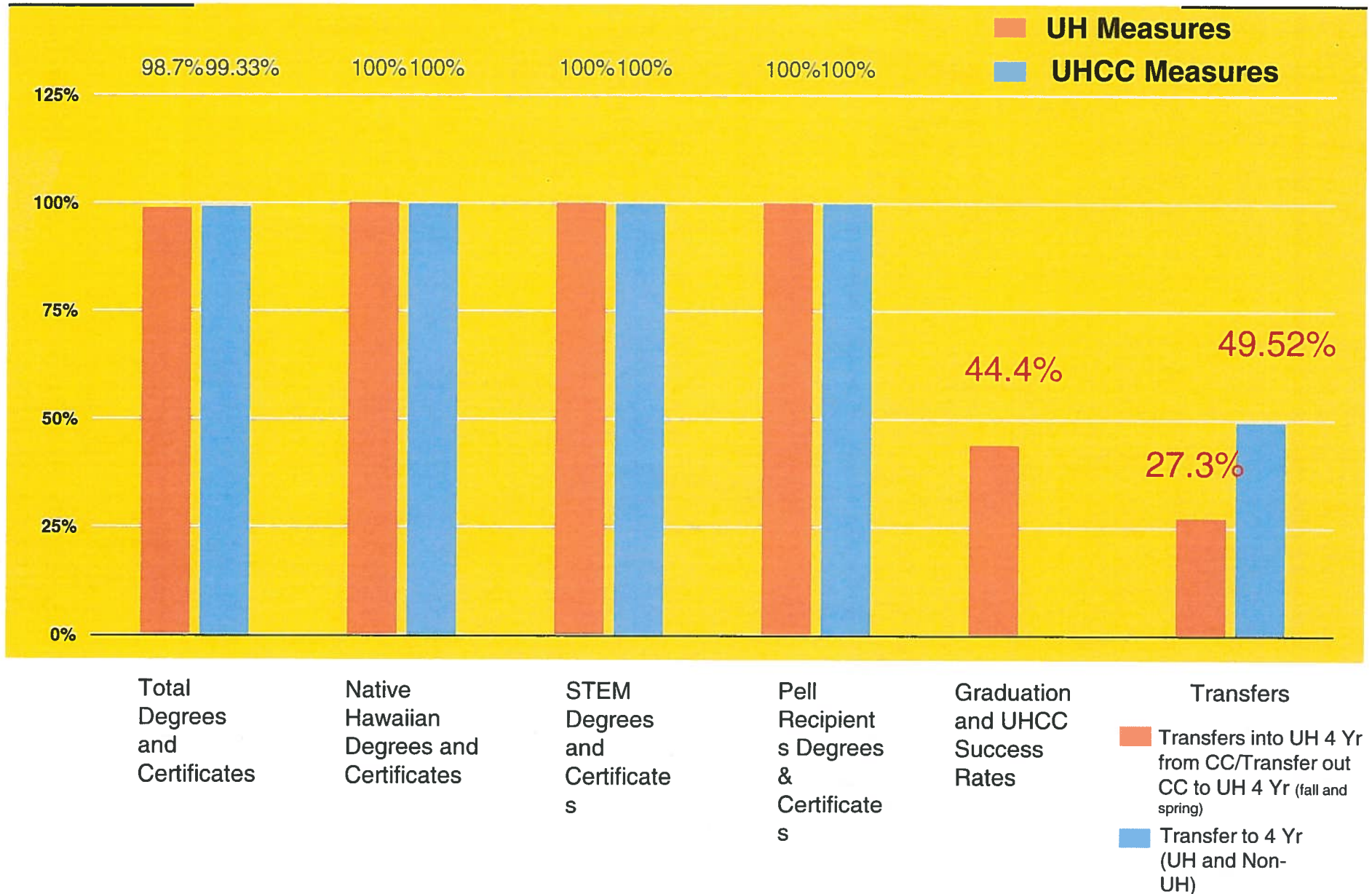


Photovoltaic Project

highlights

- **Accreditation for 7 years and 7 commendations**
- **Early College Growth**
- **Acceleration Initiative**
- **5-week online courses**
- **Recognized as National Center of Academic Excellence in Cyber Defense 2-Year Education through academic year 2023**

challenges



strategies

- UH Transfer Day
- Matching Momentum Scholarship
- Digital Marketing Campaign
- Returning Adult “concierge” liaison



UH Transfer Day

Learn how to save time money
on your way to a bachelor's degree

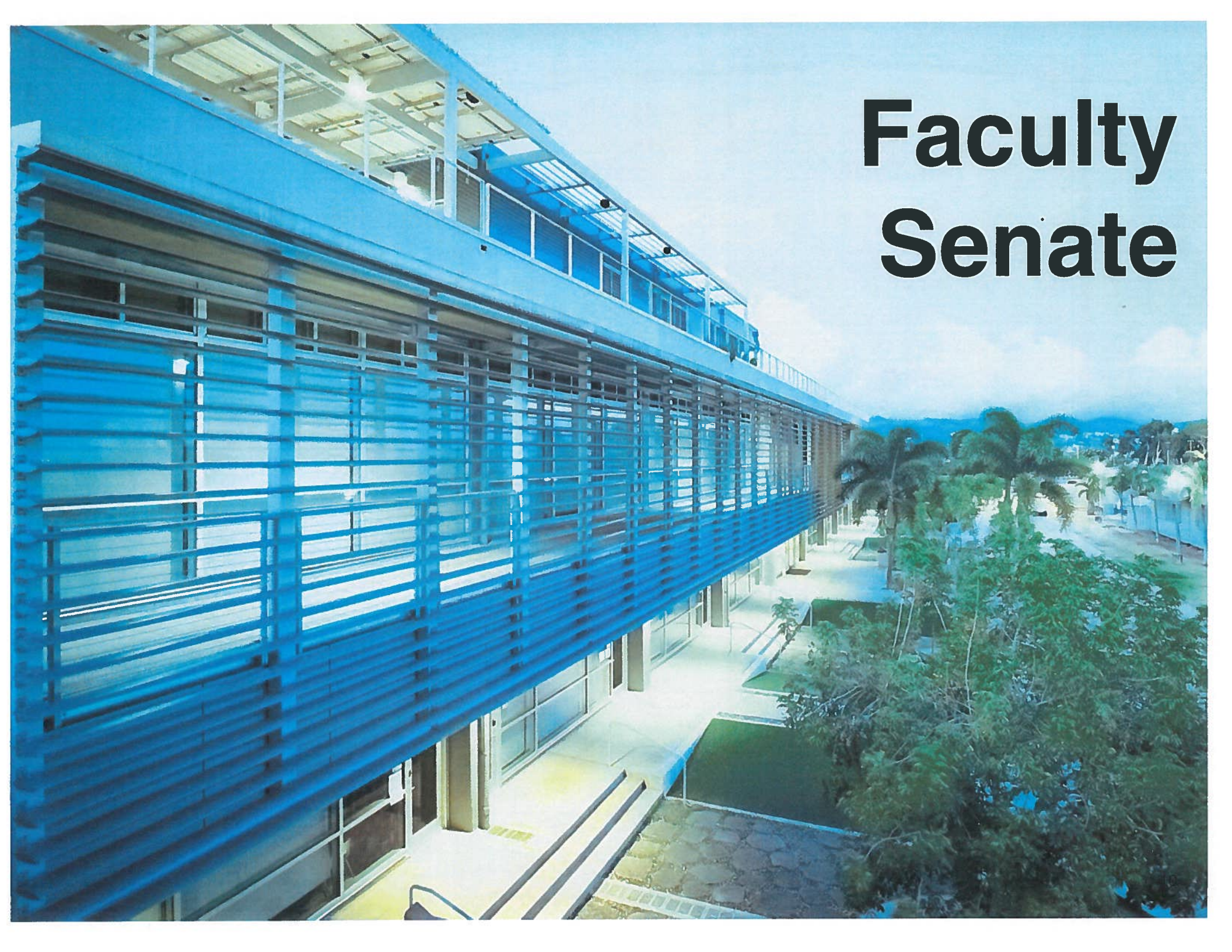
Thursday, Feb 21
10am - 1pm
The Concourse

FB LIVE FROM 11A-12NOON
AKA!

 UNIVERSITY OF HAWAII
LEEWARD
COMMUNITY COLLEGE



Faculty Senate



Minutes: Approved.

Testimony: None.

Agenda Items:

A. Discussion on Legacy Endowment Fund Benchmarks

The committee and invited guests from the Associated Students of the University of Hawai'i (ASUH) engaged in a discussion on benchmarks. Carl Choy of CKW Financial Group, the former Treasurer of the Associated Students of the University of Hawai'i (ASUH) in 1979 when the stock was originally sold, provided background on CKW, and a history on the ASUH Stadium Stock Fund. Discussion ensued on various issues related to benchmarks, Regents Policies related to investments, and the relationship of the Board and ASUH regarding ASUH-related investments.

B. Discussion on Regents Policy (RP) 8.207, Investments; RP 8.211, Resolution on Use of New Income, Principal, and Investment of ASUH-Mānoa Stadium Stock Fund dated January 18, 1979; and RP 8.212, Guidelines of Use of Income from the University of Hawai'i at Mānoa Stadium Stock Fund, Proceeds from the Sale of the Kaimuki Observatory Lot and from the Rental of University Property

It was noted that the investment policies are being reviewed this year. The committee recommended the board appoint a task group that would include regents and ASUH representatives to review the policies and make recommendations to the committee before the end of the fiscal year.

Action: The committee unanimously supported recommending the appointment of a task group to review the investment policies.

C. Discussion on RP 8.204, University Budget (Operating and Capital Improvements)

The committee discussed ways in which the budget process could be more effective for regents and administration, and whether policy changes are necessary. Administration was requested to review and report back on the possibility of creating a dashboard of metrics; whether financial management best practices are being followed; and whether the budget is comprehensive.

D. Report on the Newly Created Office of Strategic Development and Partnerships

VP Young provided a status update on the establishment of the Office of Strategic Development and Partnerships, which will lead and coordinate real estate development transactions. The 2018 Legislature appropriated \$90,000 and one position, and two other existing positions will be administratively restructured for the new office. Recruitment is underway and administration anticipates having the office established and partially functional by the end of the fiscal year, and fully functional by the end of the calendar year.

Minutes: Approved.

Testimony: None.

Agenda Items:

A. University of Hawai'i – West Oahu Campus Land Plan Update

VP Gouveia provided historical background and an overview of the development of the UHWO land and explained that if there is conceptual agreement, administration will work on planning utilities and infrastructure before further action occurs. Chancellor Benham presented a conceptual plan for the campus lands. Highlights included the proposed state film production studio, a core academic zone, multi-use space, campus housing, intramurals and recreation space, and permeable walking spaces.

B. Honolulu Community College Transit-Oriented Development Update

The committee received an update on the Honolulu Community College (HonCC) Transit-Oriented Development (TOD) study from HHF Planners that included conceptual options, infrastructure needs, and challenges facing HonCC as the rail project is developed. The committee provided suggestions regarding the best use of the property to maximize the use of space and revenue-generating potential, and considering changing workforce needs when developing learning space.

C. Review and Approval of Real Property Development Project Summaries

- 1. University of Hawai'i – West Oahu**
- 2. Atherton YMCA**
- 3. Former National Oceanic and Atmospheric Administration (NOAA) site**

VP Gouveia explained that templates were developed in response to a request by the regents to provide a more structured way of presenting projects to the board. The project summaries will allow regents to provide input on planning projects in the early stage and acknowledge receipt of a project plan, with the understanding that administration will keep the regents apprised of progress. There was extensive discussion on whether approval of these summaries was inconsistent with existing board policy and whether formal board action is necessary for the project summaries.

Action: The committee recommended the board acknowledge receipt of the real property development project summary reports on progress made by administration on the UHWO, Atherton YMCA, and former NOAA site projects.

D. Review and Recommend Board Approval of Lease Agreement Between the State of Hawai'i and the University of Hawai'i Covering a Portion of Sand Island for Snug Harbor Relocation and Marine Education Training Center (METC) Facility Use Purposes, Honolulu, O'ahu (Tax Map Key No.: (1) 1-5-041: portions of 006, 130, and 334

VP Young provided an overview of a 65-year lease agreement between the State of Hawai'i and the University of Hawai'i covering a portion of land on Sand Island. There is no cost for the lease, although the university will be responsible for operating and maintenance costs. HonCC currently utilizes the METC facility for educational and training purposes, and UHM's School of Ocean and Earth Science and Technology uses a portion of the lease

Summary of April 4, 2019 Meeting

area. The lease would formally establish an agreement for use of land that the university has been utilizing for a number of years. VP Young will respond to a list of questions at the next meeting for information purposes.

Action: The committee recommended board approval of the lease.

E. Atherton YMCA Project Status Update

F. Waialeale Livestock Research Station Property Transfer Status Update

G. Kauai Tropical Fruit Disinfestation Facility Property Transfer Status Update

H. Fiscal Year 2019 Second Quarter Capital Improvement Project Status Report as of December 31, 2018

These items were deferred due to time constraints.

Item IV.C.

Affiliate Reports

**NO MATERIALS
ORAL REPORTS**

Item V.

Report on AGB Conference on Trusteeship

**NO MATERIALS
ORAL REPORT**



RECEIVED

March 29, 2019

MEMORANDUM

'19 MAR 29 P2:48

TO: Lee Putnam
Chair, Board of Regents
University of Hawai'i

UNIVERSITY OF HAWAII
PRESIDENT'S OFFICE

VIA: David Lassner
President
University of Hawai'i

VIA: Kalbert K. Young
Vice President for Budget and Finance/Chief Financial Officer
University of Hawai'i

VIA: John Morton
Vice President for Community Colleges
University of Hawai'i

VIA: David Lassner
Chancellor
University of Hawai'i at Mānoa

FROM: Erika Lacro
Chancellor
Honolulu Community College

Brian Taylor
Dean, School of Ocean and Earth Science and Technology
University of Hawai'i at Mānoa

SUBJECT: APPROVAL OF LEASE AGREEMENT BETWEEN THE STATE OF HAWAII AND THE UNIVERSITY COVERING A PORTION OF SAND ISLAND FOR SNUG HARBOR RELOCATION AND METC FACILITY USE PURPOSES, HONOLULU, O'ahu (Tax Map Key No.: (1) 1-5-041: portions of 006, 130 and 334.

Honolulu Community College ("**HonCC**") and the University of Hawai'i at Mānoa ("**UH Mānoa**") request that the Board of Regents approve a proposed 65-year lease agreement ("**DLNR Lease**") between the State of Hawai'i, by its Board of Land and Natural Resources ("**BLNR**") and the University of Hawai'i ("University") covering a

19 MAR 29 P2:49

UNIVERSITY OF HAWAII
BOARD OF REGENTS

portion of Sand Island located adjacent to the Kalihi Channel of Honolulu Harbor, consisting of approximately 7.675 acres and designated as Tax Map Key No. (1) 1-5-041: portions of 006, 130 and 334) ("**Leased Area**"), for the benefit of HonCC in its operation of the Marine Education and Training Center ("**METC**") facility and UH Mānoa's School of Ocean and Earth Science and Technology ("**SOEST**") in its management of smaller research vessel operations that have been relocated from the University's previous pier in Honolulu Harbor. This DLNR Lease will confirm the University's right to the long term use of the Leased Area and ratify the University's past and present uses of the Leased Area. HonCC uses the METC facility for educational and training purposes and SOEST uses portions of the Leased Area to operate and maintain a floating pier, smaller research vessels (including repair and upkeep), equipment and sample storage, and parking.

DLNR also plans to seek BLNR approval for two easements that support the University's use of the Leased Premises: (a) submerged lands easement for a floating pier and (b) roadway easement for primary access to and from the Leased Area. DLNR and the University have reached tentative agreement on the terms of both easements.

SPECIFIC ACTION REQUESTED:

In accordance with Board of Regents Policy RP 10.201, it is requested that the Board of Regents authorize: (1) the University to enter into the DLNR Lease upon terms consistent with that described in the major term sheet (attached) and (2) the President and/or his designees to conclude the negotiations, finalize, and execute the DLNR Lease on behalf of the University, consistent with the terms described herein and in the attached major term sheet for the DLNR Lease.

RECOMMENDED EFFECTIVE DATE:

BLNR previously approved the DLNR Lease in concept in 2015, subject to certain conditions, including that the lease terms be consistent with the State's standard lease template. DLNR and the University have tentatively agreed upon the terms of the DLNR Lease, which contain a number of changes to the DLNR's lease template to adapt it for use between state agencies. DLNR and the University have agreed to seek approval of the DLNR Lease terms from their respective governing boards. Consequently, DLNR is currently in the process of seeking BLNR approval for the proposed DLNR Lease terms.

As mutual approval by both governing boards is required, the expectation is that the term of the Lease would start on the date by which both governing boards would have approved the Lease terms (or shortly thereafter).

ADDITIONAL COST:

The approval and execution of the DLNR Lease will result in the University incurring costs to manage and administer the DLNR Lease and the two easements, including the costs of operating, maintaining, and keeping in good repair and condition the METC facility, the Leased Area, and the two easement areas. BLNR, however, is not charging the University any lease rent for its use of the Leased Area.

PURPOSE:

The proposed DLNR Lease will enable the University to secure the long term use of the Leased Area both as a base for METC facility operations and educational programs and for a portion of the SOEST Marine Center operations, namely the smaller research vessel operations. UH Mānoa sailing team will also be allowed to continue using the Leased Area to store its vessels and as a launching point for its practices and competitions. In addition, the proposed DLNR Lease permits continued use of the Leased Area by the Polynesian Voyaging Society ("**PVS**") as a base for its voyaging operations and educational programs, subject to certain conditions.

BACKGROUND INFORMATION:

METC Facility Construction and Use. In the early 1990s, the State of Hawai'i Department of Business, Economic Development and Tourism was tasked to implement the Honolulu Waterfront Master Plan. Construction of the METC facility, which was a part of this plan, was completed around May 1996 by the State of Hawai'i Department of Transportation ("**HDOT**"), who subsequently transferred control of the METC facility to the University. HonCC thereafter assumed responsibility for operating and maintaining the METC facility and has continued to operate and maintain the METC facility since that time.

The METC Facility is one of the premier training facilities of its kind in the U.S., featuring four large work bays to allow work on vessels up to 45 feet, a concrete pier equipped with two cranes to allow work on the vessels in the water, and finger piers for removing vessels from the water. HonCC currently uses the METC facility to provide a variety of credit and non-credit courses that give students an experience-driven format of training.

The METC facility provides an unparalleled location for unique Hawaiian Studies classes where HonCC students and HonCC Early College students are exposed to traditional knowledge of Hawaiian voyaging and navigation. Students learn the skills needed to navigate double hulled voyaging canoes, study canoe design and sailing dynamics in Hawai'i and the Pacific, understand weather and sea conditions in Hawai'i and the Pacific, and begin sail planning using methods utilized by traditional navigators.

Non-credit classes meeting the needs of the community are also held at the METC facility. For example, in partnership with the PVS, HonCC offers three levels of voyaging crew training to the public. This popular training series covers the history of voyaging in Hawai'i, life on the wa'a, seamanship basics, safety, weather forecasting, sail selection, and includes actual sail time. In addition to classes that provide opportunities to learn how to be a crew member aboard a wa'a, HonCC will also offer coursework regarding how to safely repair and maintain such vessels. The intent is to help to continue to perpetuate the cultural practices and traditions of way finding.

HonCC has likewise partnered with the Ship Repair Association of Hawai'i to better understand the training and education needs of their workforce. The objective is to offer additional focused or sheltered non-credit programs to help enable the University to provide a trained and prepared workforce to be employed by the military and other ship repair organizations.

In 2003, HonCC and PVS entered into a memorandum of understanding ("**PVS MOU**") that confirmed the parties' desire to form an alliance "to broaden the present educational curriculum and facilities/equipment of both parties and to pursue the development of new curriculum." Founded on a legacy of Pacific Ocean exploration, PVS, through its educational programs, seeks to perpetuate the art and science of traditional Polynesian voyaging and the spirit of exploration. Under the PVS MOU, PVS was permitted to use portions of the METC facility as its headquarters for PVS' voyaging canoes. Under the terms of the proposed Lease, BLNR is requiring that the University update its agreement with PVS to include a number of terms and conditions. More recently, the METC facility was used as PVS' base of operations for the Hōkūle'a's worldwide voyage, which concluded with its return to Hawai'i in June 2017.

Snug Harbor Relocation.

HDOT desired to initiate the construction of its Kapalama Container Terminal project which was to be located on a portion of the Kapalama Military Reservation site and involving several Honolulu Harbor piers, including Pier 45, otherwise known as Snug Harbor. Snug Harbor was at the time was being used by the University for all SOEST Marine Center operations, including docking, supporting, operating, maintaining, and repairing the SOEST research vessels. In order to start this project, HDOT required that the University vacate Snug Harbor. HDOT and the University thereafter entered into memorandum of agreement dated March 12, 2014 ("**HDOT MOA**") under which HDOT would issue a lease to the University to permit SOEST to relocate its larger research vessel operations to Piers 34-35 at Honolulu Harbor ("**HDOT Lease**").

HDOT agreed to commit and did expend about \$17 million to improve the Piers 34-35 area for the University's use. Consistent with the HDOT MOA, the University and HDOT negotiated and finalized the HDOT Lease. The HDOT Lease was approved by the BLNR at its meeting on January 9, 2015 and by the Board of Regents at its meeting on January 22, 2015..

The HDOT MOA also mentioned that DLNR was prepared to lease to the University an area on Sand Island to facilitate the relocation of SOEST Marine Center smaller research vessel operations. DLNR and the University thereafter began working toward a lease that would cover the area needed for the METC facility operations and to relocate the SOEST Marine Center smaller vessel operations.

SOEST plans to use the Leased Area and the floating pier/dock to: (a) launch and recover smaller research vessels and loading and offloading them (including moving containers and equipment using forklifts and similar equipment), (b) test equipment, (c) store and stage oceanographic instrumentation and vessel equipment, small vessels and trailers, buoys and equipment for ocean deployment (including fish aggregation devices) in the storage yard area, (d) maintain a scientific sample storage facility in the storage area for geological samples, and (e) undertake minor maintenance and repair of equipment.

BLNR Approval of DLNR Lease.

At the time of the METC facility construction, it appears that the Leased Area had been set aside to HDOT under two separate Governor executive orders. The BLNR had approved the issuance of a lease to the University covering the METC facility area at five separate BLNR meetings over a 9-year period between 1992 and 2001. A lease agreement was not executed. It was not until 2014 that DLNR brought the matter back to the BLNR and the BLNR: (a) approved in principle the issuance of the DLNR Lease, (b) approved recommending to the Governor the withdrawal of the METC facility area from Governor's Executive Order No. 2704, and (c) approved the issuance of a right of entry to the University for "management, maintenance, pre-construction activities, storage of containers, temporary tent structures, and related security fencing purposes."

Subsequently, the DLNR requested that the BLNR approve: (1) the issuance of the DLNR Lease to the University, subject to certain conditions and (2) recommending to the Governor the withdrawal of the SOEST Marine Center area from Governor's Executive Order No. 2704. The BLNR approved this request at its meeting on September 25, 2015.

DLNR and the University have tentatively agreed upon the terms of the DLNR Lease (see major term sheet attached). DLNR has indicated that it plans to present the updated DLNR Lease terms to the BLNR sometime around mid-April. In the DLNR Lease, the BLNR and the DLNR are recognizing and approving HonCC's METC operations, SOEST's Marine Center operations, and subject to certain conditions, the use of the Leased Area by PVS and the UH Mānoa Department of Intercollegiate Athletics sailing team (which uses a portion of the Leased Area to store its vessels and as a launching and recovery point for practices and competitions).

Submerged Lands Easement and Roadway Easement.

During the DLNR Lease negotiations, the DLNR informed the University that the parties would need to enter into separate easement agreements covering the University's use of: (i) submerged lands to anchor the floating pier and (ii) DLNR's roadway to access the Leased Area. The parties have now tentatively agreed upon the terms of both the submerged lands easement and the roadway access easement (see major term sheets attached). In order to finalize the submerged lands easement, the University was required to and did obtain legislative and Governor's approvals to use the submerged lands to anchor the University's floating pier. The perpetual easements are being presented here for informational purposes.

Board of Regents Policy RP 10.201 Criteria.

The DLNR Lease is expected to promote and support the University's mission and goals in the areas of education, research, and community service. HonCC will continue to utilize the METC facility for its educational programs, SOEST will use its portion of the Leased Area to support continued ocean related research through its Marine Center smaller research vessel operations and HonCC plans to continue its alliance with PVS to further mutual educational programs and curriculum and allow PVS to use portions of the METC facility to support its voyaging canoe operations.

One of the goals of SOEST's research and HonCC's educational programs is to advance principles and practices of sound environmental stewardship and sustainability. To advance and/or try to achieve this objective, SOEST has, in operating its Marine Center smaller research vessel operations, implemented environmental stewardship and sustainability measures similar (but smaller in scope) to that used for its Marine Center larger research vessel operations at Honolulu Harbor, particularly in the provisioning of vessels, the offloading and disposal of trash, wastewater, and other waste, and the servicing and repair of the smaller SOEST research vessels.

For its part, HonCC, in advancing or trying to achieve this objective, has implemented the following measures in its curriculum:

- Removal and disposal of vessel bottom cleaning water to prevent biocides and metals from being put back into the water.
- Introduction of oysters into the harbor water to filter the water.
- Introduction of low VOC coatings.
- Reducing the carbon footprint on some sailing vessels by utilizing solar panels and electric motors as auxiliary engine propulsion.
- Researching utilizing fuel cells and bio fuels in place of diesel.

Before the METC facility was constructed, a number of alternatives were considered (see the Environmental Impact Statement for the Marine Education and Training Center dated April 1992 prepared by Wilson & Okamoto & Associates, Inc.). Before the SOEST Marine Center smaller research vessel operations were relocated to the Leased Area, an environmental assessment was prepared and alternatives to operating from the Leased Area were considered (see the Environmental Assessment for SOEST Marine Center operations dated May 2015, prepared for the University by Wilson Okamoto Corporation).

Under the DLNR Lease, BLNR is not charging the University any lease rent but is requiring the University to keep in the Leased Area and the improvements thereon in good condition and repair, at the University's expense. While HonCC and SOEST Marine Center operations are anticipated to further the University's core mission, such operations are not expected to generate significant amounts of revenue.

Finally, the HonCC METC facility operations are consistent with the latest HonCC Long Range Development Plan that had been approved by the Board of Regents in that the METC facility is used as an off-campus training facility. The SOEST Marine Center operations at the Leased Area are consistent with the latest Integrated Academic and Facilities Plan approved by the Board of Regents in that the DLNR Lease enables SOEST to continue to conduct its Marine Center smaller vessel operations, advancing its earth and ocean science research programs, in a manner similar to the SOEST Marine Center research operations at the former Snug Harbor site.

ACTION RECOMMENDED:

It is recommended that the Board of Regents:

1. Approve the DLNR Lease. Approve the DLNR Lease consistent with the terms of the DLNR Lease described herein and the attached major term sheet.
2. Authorize the President to finalize and execute the DLNR Lease. Authorize the President and/or the President's designee to: (a) complete or have completed negotiations for the DLNR Lease, consistent with the terms described herein and in the attached major term sheet for the DLNR Lease, (b) finalize and execute the DLNR Lease, in accordance with Board of Regents Policy RP 10.201, and (c) take such other action as may be deemed necessary, including the execution of additional documents, in connection with and to implement the DLNR Lease.

c: Executive Administrator and Secretary to the Board Kendra Oishi

Attachments:

- DLNR Lease major term sheet (Attachment 1).
- DLNR Submerged Lands Pier/Dock Easement major term sheet (Attachment 2).
- DLNR Roadway and Access Easement major term sheet (Attachment 3).

MAJOR TERM SHEET

LEASE AGREEMENT
BETWEEN

STATE OF HAWAII, by its Board of Land and Natural Resources

AND

UNIVERSITY OF HAWAI'I
(for the benefit of Honolulu Community College and the
UH Manoa School of Ocean and Earth Science and Technology)

Marine Education and Training Center
Sand Island, Honolulu, Oahu, Hawaii

1. Parties.
 - a. Lessor: State of Hawaii, by its Board of Land and Natural Resources ("**BLNR**").
 - b. Lessee: University of Hawaii ("**University**") for the benefit of Honolulu Community College ("**HonCC**") and the University of Hawai'i at Mānoa ("**UH Mānoa**") School of Ocean and Earth Science and Technology ("**SOEST**").
2. Premises. The leased area or "**Premises**" are located on Sand Island, Honolulu, O'ahu, adjacent to the Kalihi Channel of Honolulu Harbor (which flows under the Sand Island Bridge), consisting of approximately 7.675 acres, designated as Tax Map Key No. (1) 1-5-041: portions of 006, 130 and 334, and shown on the map attached hereto as Exhibit A.
3. Term. Sixty-five (65) years.
4. Rent and Other Charges. Under the lease agreement between BLNR and the University covering the Premises ("**Lease**"), the University is not obligated to pay any lease rent.
 - a. Taxes. The University is obligated to pay all taxes and assessments that may be applicable to the Premises, any improvements thereon, the BLNR or the University.
 - b. Utility services. The University is responsible for obtaining and paying for all utility services for the Premises, including water, sewer, gas, and refuse collection.
 - c. Other Charges. None.
5. Use.
 - a. Authorized Use. The University will use Premises solely for education, research, and marine related purposes.
 - b. BLNR approval of existing programs. BLNR approves the University's present and planned

uses of the Premises as part of the education and research programs of HonCC and SOEST, including the HonCC METC programs and the SOEST Marine Center operations. The BLNR approved all of the University uses and activities being conducted within the Premises as of the start of the Lease, including the educational and technical training activities and their supporting administrative uses, athletic related uses and activities, and research, preservation and support activities relating to Native Hawaiian cultural and educational uses.

- c. Observe Laws. The University and BLNR are to observe all Applicable Laws.

6. Improvements.

- a. Existing Improvements. BLNR approves all existing improvements upon or within the Premises as of the start of the Lease. This would include the METC Facility.
- b. New Improvements. The University may not construct any new improvements without first obtaining the approval of the State of Hawai'i Department of Land and Natural Resources ("*DLNR*"). BLNR acknowledges that the University intends to construct certain new improvements to accommodate the relocation of a portion of the SOEST Marine Center operations from Snug Harbor (Pier 45, Honolulu Harbor), including the installation of a new floating pier and construction of paved backup and storage areas and security fencing.
- c. Repairs. The University is obligated, at the University's cost, to repair and maintain all improvements in good order and condition during the Lease term.
- d. Ownership of improvements. The University will own all improvements until the expiration or termination of the Lease at which time BLNR may elect to assume ownership or require the University to remove the improvements, at the University's cost.

7. Subletting and Assignment. The University may not sublease, transfer, assign, or permit any other person to occupy or use the Premises (collectively a "*Transfer*") without BLNR's prior written approval, except for the following:

- a. University or State of Hawai'i entities. Any employee, officer, department, unit, center, or group within the University or a State of Hawai'i entity affiliated with the University, such as The Research Corporation of the University of Hawai'i.
- b. Lessee/University Affiliates. The University is obligated to notify DLNR of any persons employed by or affiliated with any higher education, research and government organizations and entities (such as the National Oceanic and Atmospheric Administration and San Jose State University) that are collaborating with the University on ongoing research projects (collectively "*Lessee Affiliates*").
- c. Polynesian Voyaging Society. BLNR acknowledges that the Polynesian Voyaging Society ("*PVS*") has been using portions of the Premises to manage, oversee, and administer PVS operations, including organizing and conducting its voyages and educational outreach and programs and maintaining, repairing, overhauling, docking, and storing the PVS vessels. BLNR approves PVS' continued non-exclusive use and occupancy of designated portions of the Premises in connection with PVS' operations and the conduct of PVS' educational outreach and programs.

8. University Limitations.

- a. University Responsibility. The University is responsible for damage or injury caused by its officers and employees in the course of their employment to the extent that the University's liability for such damage or injury has been determined by a court or otherwise agreed to by the University. The University will pay for such damage or injury to the extent permitted by law and provided that funds are appropriated, allotted, and otherwise properly made available for that purpose.
- b. University Not Authorized to Indemnify or be Responsible for Others. BLNR agrees that the University is not authorized to indemnify, defend, hold harmless BLNR or other persons and cannot be responsible for the acts or omissions of any persons or entities other than the University's employees, including under any circumstances arising out of or related to the Lease or University's occupancy of the Premises. Any provision or obligation that purports to require the University to so indemnify, defend, hold harmless or be responsible shall be deemed void and of no force or effect.
- c. Subject to Funding. To the extent that the University is obligated to perform, make any payments, or satisfy a liability under the Lease, the University's ability to satisfy such obligations or liabilities, particularly any obligations to pay monies, is limited to that which is permitted by law and is subject to the condition that funds are properly appropriated, allotted, or otherwise properly made available for the purpose of satisfying such obligations or liabilities.
- d. University Limitations definition. The parties agree that sections entitled "University Responsibility," "University not authorized to indemnify," "University not responsible for others," and "Subject to funding" are collectively the "*University Limitations.*" Notwithstanding and superseding anything to the contrary contained in the Lease (and any exhibits attached to the Lease), any and all University obligations, duties, responsibilities, and liabilities under the Lease are expressly subject to and limited by the University Limitations
- e. BLNR Right to notice. If the University learns that it will not obtain sufficient funding or be able to fulfill any obligations or cover any liabilities, the University will notify BLNR within thirty (30) days of the University obtaining such knowledge and DLNR may issue the University a notice or breach/default.

9. BLNR/Lessor Limitations. BLNR requested a mirror image of the University Limitations in BLNR's favor. All such provisions were inserted except that the University does not have the right to immediately issue BLNR a notice of breach/default if BLNR notifies the University that BLNR will be unable to perform an obligation under the Lease.

10. Hazardous materials. The University will not cause or permit the escape, disposal, or release of any hazardous materials except as permitted by law. The University must obtain DLNR's prior written consent to use or store any hazardous materials within the Premises. If any government agency requires testing to confirm whether there has been a release of hazardous materials, the University will be responsible for such reasonable testing costs. To the extent that it can be proven that the presence, discharge, or release of hazardous materials on or within the Premises can be attributable to the University's actions, then the University's responsibility to clean up or remediate such hazardous materials condition shall be subject to and governed by the University Limitations. The University will require that its contractors, at their sole cost, clean up and remediate any such hazardous materials conditions caused by such contractors.

11. University to require contractors to indemnify and insure BLNR. Under the Lease, the University is required to have its contractors and consultants, in conducting or performing

their activities, to: (a) indemnify and defend BLNR against any claims or actions, (b) provide certain minimum commercial general liability insurance coverage, (c) comply with all Applicable Laws, (d) maintain work areas and keep them in a clean condition, and (e) clean up and restore any work areas to a condition satisfactory to DLNR, including removing and disposing all trash generated.

12. Breach.

- a. Notice of breach/default. If the University fails to perform an obligation, DLNR may issue a notice of breach/default and the University will have 60 days to cure or correct such breach/default.
- b. DLNR may terminate. If the University fails to timely cure the breach/default, DLNR may terminate the Lease.
- c. Dispute resolution. Upon the University's receipt of a breach/default notice, DLNR and the University shall enter into good faith discussions (not to exceed a 60-day period) to address and resolve any issues relating to the breach/default before DLNR takes any further action against the University for such breach/default.

13. Surrender/Termination. Upon expiration or sooner termination of the Lease, the University will peaceably surrender to BLNR possession of the Premises in a clean and orderly condition, reasonable wear and tear and damage due to casualty not caused by the University excepted.

- a. Deliver improvements. The University is also to deliver possession to BLNR of any improvements that BLNR elects to assume ownership or remove such improvements at the University's cost.
- b. Remove personal property. The University must remove all of the University's personal property (such as fixtures, furnishings, and equipment) and if the University fails to do so, the BLNR may either consider the personal property abandoned and dispose of it or store it at the University's cost.
- c. Environmental assessment. Prior to termination or assignment of the Lease, the University is required to conduct a Phase 1 environmental site assessment and a complete abatement and disposal, if necessary, satisfactory to the applicable standards of the U.S. Environmental Protection Agency, the State of Hawai'i Department of Health, and DLNR. If the University fails to perform this obligation, BLNR may have it performed at the University's cost.

14. Withdrawal. BLNR reserved the right to withdraw any portion of the Premises from the Lease, without compensation to the University, for public uses or purposes, such as residential, commercial, industrial, or resort developments and/or constructing roads. Such withdrawal will be without compensation to the University except the BLNR would be obligated to compensate the University for any damage or destruction of any permanent improvements caused by such withdrawal.

15. Compliance with CDUP conditions. BLNR had approved a Conservation District Use Permit at its meeting held on January 8, 1993, which was subsequently issued by DLNR as CDUP OA-2587 ("CDUP"), covering the University's use and development of the METC Facility and associated docking and berthing facilities. The University confirmed its commitment to comply with all of the conditions contained in the CDUP.

16. Easements. Under the Lease, BLNR is acknowledging that it will be granting to the University separate easements to use submerged lands to anchor a new floating pier/dock and to use an existing roadway for access to the Premises.

Exhibit A

Location Map



Exhibit A

Lease Area Map

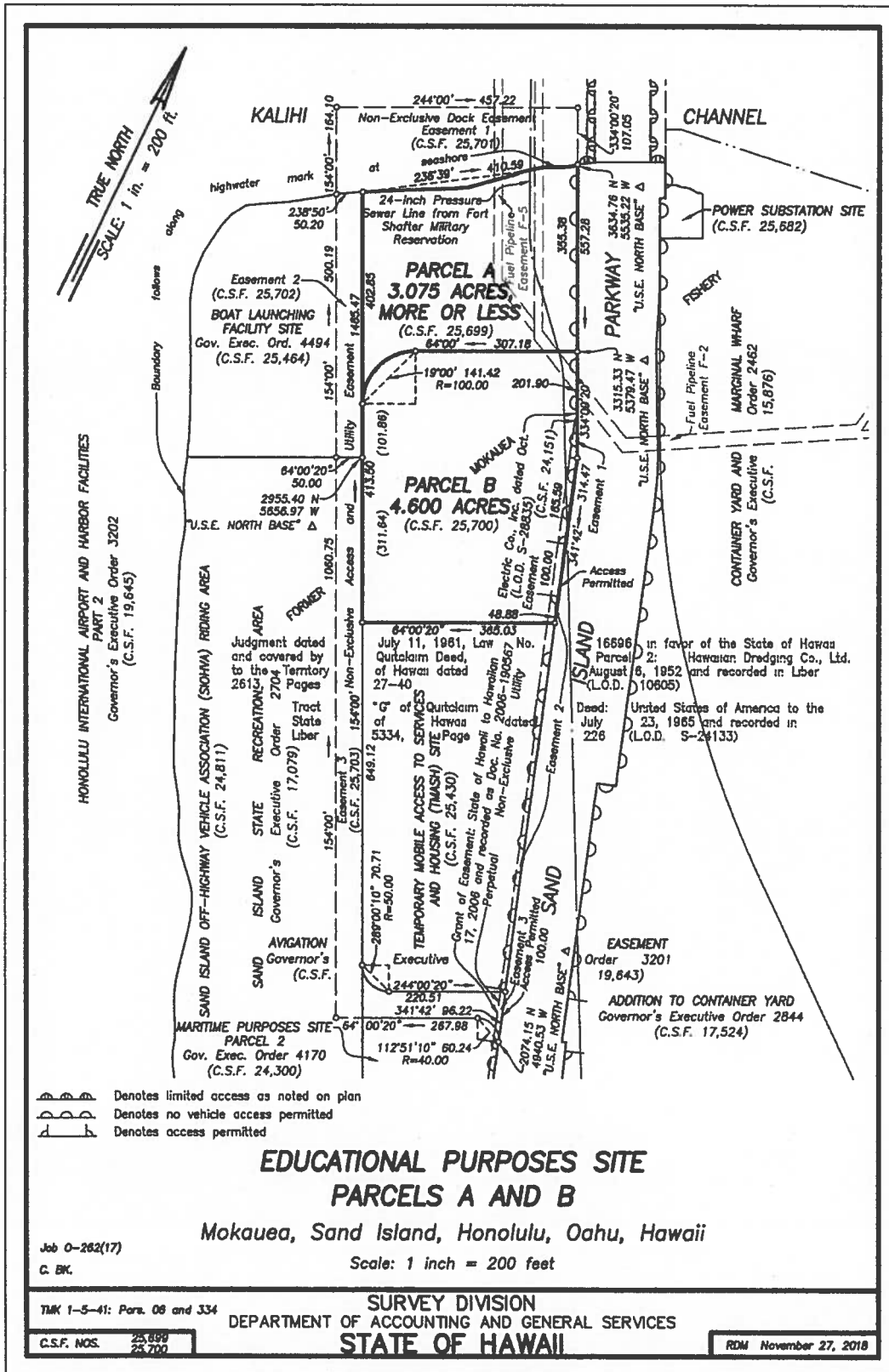


Exhibit A

Lease Area



MAJOR TERM SHEET

GRANT OF NON-EXCLUSIVE EASEMENT
(Submerged Lands – Floating Pier/Dock)

BETWEEN

STATE OF HAWAII, by its Board of Land and Natural Resources

AND

UNIVERSITY OF HAWAI'I
(for the benefit of Honolulu Community College and the
UH Manoa School of Ocean and Earth Science and Technology)

Marine Education and Training Center
Sand Island, Honolulu, Oahu, Hawaii

1. Parties.
 - a. Grantor: State of Hawaii, by its Board of Land and Natural Resources (“**BLNR**”).
 - b. Grantee: University of Hawaii (“**University**”) for the benefit of Honolulu Community College (“**HonCC**”) and the University of Hawai’i at Mānoa (“**UH Mānoa**”) School of Ocean and Earth Science and Technology (“**SOEST**”).
2. Easement Area. The easement area is located adjacent to Sand Island, Honolulu, O’ahu, and within the Kalihi Channel of Honolulu Harbor (which flows under the Sand Island Bridge), consisting of approximately 64,602 square feet, designated as Tax Map Key No. (1) 1-5-041: portions of 006, and shown on the map attached hereto as Exhibit A (“**Easement Area**”).
3. Term. Sixty-five (65) years.
4. Rent and Other Charges. Under the non-exclusive easement agreement between BLNR and the University covering the Easement Area (“**Easement**”), the University is not obligated to pay any lease rent or other charges.
5. Authorized Use. The University has been granted the right to construct, use, operate, maintain, repair, improve, and/or replace a floating pier/dock with berths for vessels that will be anchored and secured to the Easement Area, together with associated and supporting facilities and improvements.
6. Observe Laws. The University is to observe all Applicable Laws.
7. Improvements.
 - a. Placement of Improvements. Placement of any improvements within the Easement Area by the University shall be done at the University’s cost and without cost to BLNR

(collectively the "*UH Improvements*").

- b. Ownership of UH Improvements. The University will own all UH Improvements until the expiration or termination of the Easement at which time BLNR may elect to assume ownership or require the University to remove the UH Improvements, at the University's cost.
 - c. Removal of UH Improvements. Any removal will be done with minimum disturbance to the Easement Area which shall be restored to its original condition or as close thereto as possible within a reasonable time. If the University does not timely remove the UH Improvements, BLNR may have such removal completed at the University's cost.
8. Maintenance. The University is obligated, at the University's cost, to maintain and keep the Easement Area and UH Improvements in a safe, clean, and orderly condition.
- a. Maintenance cost sharing. To the extent that BLNR authorizes others to use the Easement Area (collectively the "*Users*"), BLNR shall require such Users to: (1) contribute to and pay the cost of maintenance and repair of the Easement Area and improvements ("*Maintenance Cost*") on a pro rata basis commensurate with each User's use (each a "Proportionate Share") and (2) enter into an agreement with the University and all other Users that establishes a process for calculating and paying each User's Proportionate Share of the Maintenance Cost ("*Other Agreement*").
 - b. BLNR obligation as to Users. Any User's failure to pay its Proportionate Share of the Maintenance Cost will not constitute a breach or default by BLNR and any dispute between the Users as to payment or other matters will be resolved in accordance with the terms of the Other Agreement. BLNR will require that all Users do not unreasonably interfere with any other User's use of the Easement Area and/or improvements.
 - c. Resolving disputes. The University is to work cooperatively with the other Users to reach agreement on the Other Agreement. Any disputes arising under the Other Agreement (including failure to reach agreement on the Other Agreement) will be resolved by non-binding mediation with a mutually agreeable alternative dispute resolution firm or mediator, consistent with its or their mediation rules, process and procedure. All Users will equally share in the cost of the mediator services and the sessions, with each bearing the cost of making its presentation to the mediator.
9. Assignment and transfer. The University may not sell, assign, convey, lease, or otherwise transfer any interest in this Easement without BLNR's prior written consent; any attempted transfer without BLNR's prior written consent is null and void.
10. University Limitations.
- a. University Responsibility. The University is responsible for damage or injury caused by its officers and employees in the course of their employment to the extent that the University's liability for such damage or injury has been determined by a court or otherwise agreed to by the University. The University will pay for such damage or injury to the extent permitted by law and provided that funds are appropriated, allotted, and otherwise properly made available for that purpose.
 - b. University Not Authorized to Indemnify or be Responsible for Others. BLNR agrees that the University is not authorized to indemnify, defend, hold harmless BLNR or other persons and cannot be responsible for the acts or omissions of any persons or entities other than the University's employees, including under any circumstances arising out of

or related to the Easement or University's use of the Easement Area. Any provision or obligation that purports to require the University to so indemnify, defend, hold harmless or be responsible shall be deemed void and of no force or effect.

- c. Subject to Funding. To the extent that the University is obligated to perform, make any payments, or satisfy a liability under the Easement, the University's ability to satisfy such obligations or liabilities, particularly any obligations to pay monies, is limited to that which is permitted by law and is subject to the condition that funds are properly appropriated, allotted, or otherwise properly made available for the purpose of satisfying such obligations or liabilities.
 - d. University Limitations definition. The parties agree that sections entitled "University Responsibility," "University not authorized to indemnify," "University not responsible for others," and "Subject to funding" are collectively the "*University Limitations.*" Notwithstanding and superseding anything to the contrary contained in the Easement (and any exhibits attached to the Easement), any and all University obligations, duties, responsibilities, and liabilities under the Easement are expressly subject to and limited by the University Limitations
 - e. BLNR Right to notice. If the University learns that it will not obtain sufficient funding or be able to fulfill any obligations or cover any liabilities, the University will notify BLNR within thirty (30) days of the University obtaining such knowledge and DLNR may issue the University a notice of breach/default.
11. BLNR/Grantor Limitations. BLNR requested a mirror image of the University Limitations in BLNR's favor. All such provisions were inserted except that the University does not have the right to immediately issue BLNR a notice of breach/default if BLNR notifies the University that BLNR will be unable to perform an obligation under the Lease. In addition, the BLNR/Grantor Limitations do not apply to BLNR's obligation to pay the University just compensation for taking any of the University's improvements in BLNR's exercise of its withdrawal and taking rights.
12. Hazardous materials. The University will not cause or permit the escape, disposal, or release of any hazardous materials except as permitted by law. The University must obtain DLNR's prior written consent to use or store any hazardous materials within the Premises. If any government agency requires testing to confirm whether there has been a release of hazardous materials, the University will be responsible for such reasonable testing costs. To the extent that it can be proven that the presence, discharge, or release of hazardous materials on or within the Premises can be attributable to the University's actions, then the University's responsibility to clean up or remediate such hazardous materials condition shall be subject to and governed by the University Limitations. The University will require that its contractors, at their sole cost, clean up and remediate any such hazardous materials conditions caused by such contractors.
13. University to require contractors to indemnify and insure BLNR. Under the Lease, the University is required to have its contractors and consultants, in conducting or performing their activities, to: (a) indemnify and defend BLNR against any claims or actions, (b) provide certain minimum commercial general liability insurance coverage, (c) comply with Applicable Laws, (d) maintain work areas and keep them in a clean condition, and (e) clean up and restore any work areas to a condition satisfactory to DLNR, including removing and disposing all trash generated.
14. Breach.
- a. Notice of breach/default. If the University fails to perform an obligation, DLNR may issue a notice of breach/default and the University will have 60 days to cure or correct

such breach/default.

- b. DLNR may terminate. If the University fails to timely cure the breach/default, DLNR may terminate the Easement.
 - c. Dispute resolution. Upon the University's receipt of a breach/default notice, DLNR and the University shall enter into good faith discussions (not to exceed a 60-day period) to address and resolve any issues relating to the breach/default before DLNR takes any further action against the University for such breach/default.
15. Surrender/Termination. Upon expiration or sooner termination of the Easement, the University will peaceably surrender to BLNR possession of the Easement Area.
- a. Deliver improvements. The University is also to deliver possession to BLNR of any improvements that BLNR elects to assume ownership or remove such improvements at the University's cost, and restore the Easement Area to its original conditions or as close thereto as possible, within a reasonable time.
 - b. DLNR may remove. If the University fails to timely remove the improvements and restore the Easement Area, DLNR may do so at the University's sole cost.
 - c. Remove personal property. The University must remove all of the University's personal property and if the University fails to do so, the BLNR may either consider the personal property abandoned and dispose of it or store it at the University's cost.
16. Withdrawal. BLNR reserved the right to withdraw any portion of the Easement Area from the Easement for public uses or purposes, at any time during the Easement term, upon giving the University reasonable notice. If the Easement Area is withdrawn, BLNR and the University will work together to identify a mutually agreeable alternative site that the University may use that is within the reasonable vicinity of the initial Easement Area.
17. Environmental requirements. The University will comply with all applicable federal and state, environmental impact regulations. The University will maintain and employ debris, pollution and contamination control measures to prevent debris, pollution or contamination to the ocean waters, streams or waterways resulting from the University's use of the Easement Area and shall take immediate corrective action in the event of such pollution or contamination, including cleaning the Easement Area and its surrounding waters of such pollutant or contaminant and restoring such affected areas to DLNR's satisfaction, all at the University's own cost.

Exhibit A

Submerged Lands Area Map

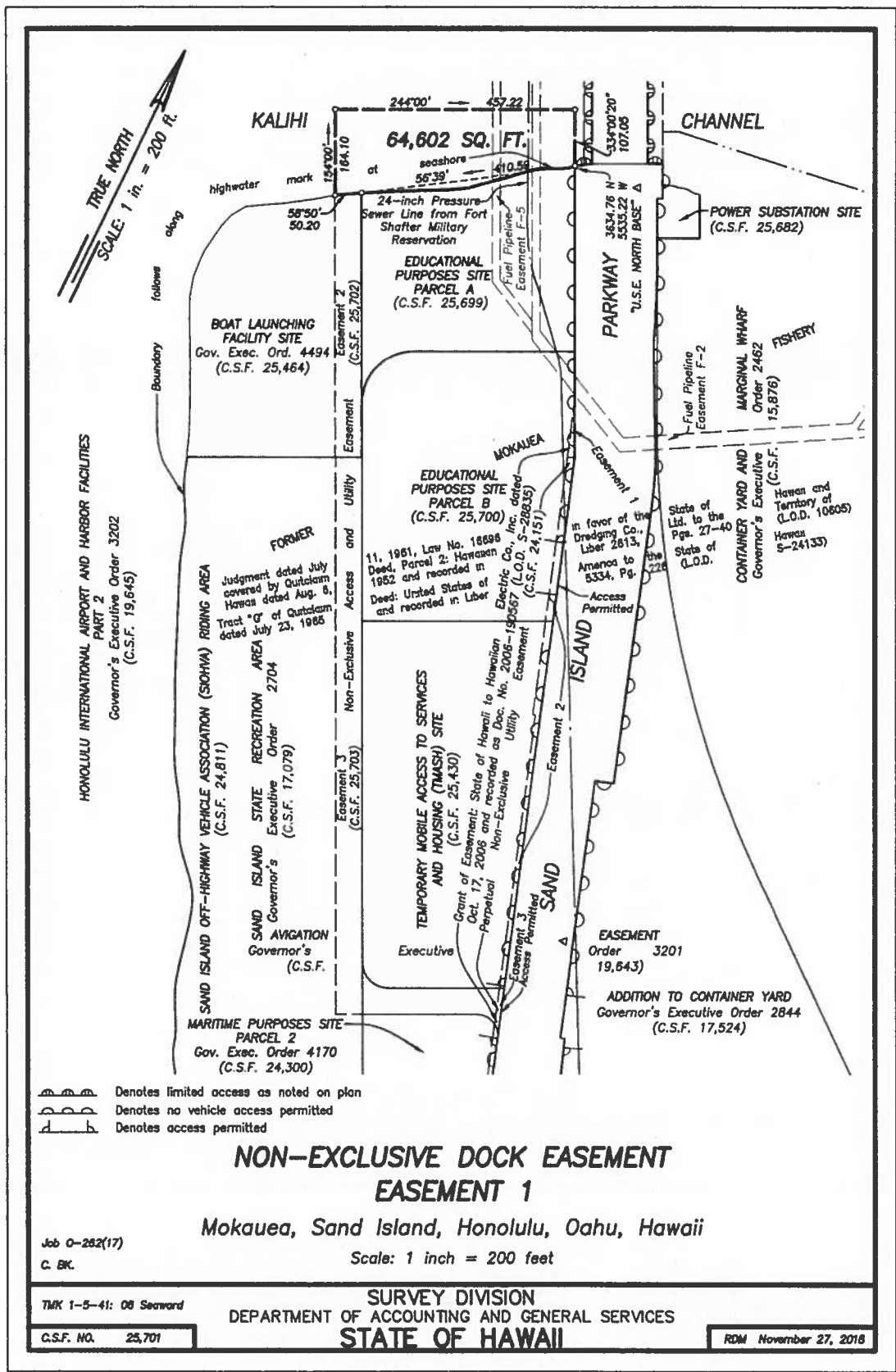


Exhibit A

Submerged Lands Area



MAJOR TERM SHEET

GRANT OF NON-EXCLUSIVE EASEMENT
(Roadway Access)

BETWEEN

STATE OF HAWAII, by its Board of Land and Natural Resources

AND

UNIVERSITY OF HAWAI'I
(for the benefit of Honolulu Community College and the
UH Manoa School of Ocean and Earth Science and Technology)

Marine Education and Training Center
Sand Island, Honolulu, Oahu, Hawaii

1. Parties.
 - a. Grantor: State of Hawaii, by its Board of Land and Natural Resources (“**BLNR**”).
 - b. Grantee: University of Hawaii (“**University**”) for the benefit of Honolulu Community College (“**HonCC**”) and the University of Hawai’i at Mānoa (“**UH Mānoa**”) School of Ocean and Earth Science and Technology (“**SOEST**”).
2. Easement Area. The easement area is located on Sand Island, Honolulu, O’ahu, and is part of an existing roadway that provides access from a public roadway (Sand Island Access Road) to the premises or leased area, consisting of approximately 92,517 square feet, designated as Tax Map Key No. (1) 1-5-041: portion of 006, and shown on the map attached hereto as Exhibit A (“**Easement Area**”).
3. Term. Sixty-five (65) years.
4. Rent and Other Charges. Under the non-exclusive easement agreement between BLNR and the University covering the Easement Area (“**Easement**”), the University is not obligated to pay any lease rent or other charges.
5. Authorized Use. The University has been granted the right to construct, use, operate, maintain, and repair a roadway (“**Roadway**”), together with associated and supporting facilities and improvements but such improvements shall not include any utility lines and facilities within the Roadway (collectively the “**Roadway Improvements**”).
6. Observe Laws. The University is to observe all Applicable Laws.
7. Improvements.

- a. Placement of Roadway Improvements. The installation of any Roadway Improvements within the Easement Area by the University shall be done at the University's cost and at no cost to DLNR ("*UH Improvements*").
 - b. Ownership of UH Improvements. The University will own all UH Improvements until the expiration or termination of the Easement at which time BLNR may elect to assume ownership or require the University to remove the improvements, at the University's cost.
 - c. Removal of improvements. Any removal will be done with minimum disturbance to the Easement Area which shall be restored to its original condition or as close thereto as possible within a reasonable time. If the University does not timely remove the improvements, BLNR may have such removal completed at the University's cost.
8. Maintenance. The University is obligated, at the University's cost, to maintain and keep the Easement Area and improvements in a safe, clean, and orderly condition and keep trimmed all vegetation growing within the Easement Area.
- a. Maintenance cost sharing. To the extent that BLNR has already authorized others to use the Easement Area (collectively the "*Users*"), it is the intent of BLNR and the University that all such Users: (1) contribute to and pay the cost of maintenance and repair of the Easement Area and improvements ("*Maintenance Cost*") on a pro rata basis commensurate with each User's use (each a "Proportionate Share") and (2) enter into an agreement with the University that establishes a process for calculating and paying each User's Proportionate Share of the Maintenance Cost ("*Other Agreement*").
 - b. BLNR obligation as to Users. If BLNR allows another User to use the Easement Area, BLNR shall require such User to become a party to the Other Agreement and pay its Proportionate Share of the Maintenance Cost. Any User's failure to pay its Proportionate Share of the Maintenance Cost will not constitute a breach or default by BLNR and any dispute between the Users as to payment or other matters will be resolved in accordance with the terms of the Other Agreement. BLNR will require that all Users do not unreasonably interfere with any other User's use of the Easement Area and/or improvements.
 - c. Resolving disputes. The University is to work cooperatively with the other Users to reach agreement on the Other Agreement. Any disputes arising under the Other Agreement (including failure to reach agreement on the Other Agreement) will be resolved by non-binding mediation with a mutually agreeable alternative dispute resolution firm or mediator, consistent with its or their mediation rules, process and procedure. All Users will equally share in the cost of the mediator services and the sessions, with each bearing the cost of making its presentation to the mediator. Until mutual agreement is reached between all Users, including the University, on the terms of the Other Agreement, the University shall not be required to make any payments toward the Maintenance Cost and DLNR will not place or treat the University to be in breach or default under this Easement.
9. Assignment and transfer. The University may not sell, assign, convey, lease, or otherwise transfer any interest in this Easement without BLNR's prior written consent; any attempted transfer without BLNR's prior written consent is null and void.
10. University Limitations.
- a. University Responsibility. The University is responsible for damage or injury caused by its officers and employees in the course of their employment to the extent that the

University's liability for such damage or injury has been determined by a court or otherwise agreed to by the University. The University will pay for such damage or injury to the extent permitted by law and provided that funds are appropriated, allotted, and otherwise properly made available for that purpose.

- b. University Not Authorized to Indemnify or be Responsible for Others. BLNR agrees that the University is not authorized to indemnify, defend, hold harmless BLNR or other persons and cannot be responsible for the acts or omissions of any persons or entities other than the University's employees, including under any circumstances arising out of or related to the Easement or University's use of the Easement Area. Any provision or obligation that purports to require the University to so indemnify, defend, hold harmless or be responsible shall be deemed void and of no force or effect.
 - c. Subject to Funding. To the extent that the University is obligated to perform, make any payments, or satisfy a liability under the Easement, the University's ability to satisfy such obligations or liabilities, particularly any obligations to pay monies, is limited to that which is permitted by law and is subject to the condition that funds are properly appropriated, allotted, or otherwise properly made available for the purpose of satisfying such obligations or liabilities.
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 - e. BLNR Right to notice. If the University learns that it will not obtain sufficient funding or be able to fulfill any obligations or cover any liabilities, the University will notify BLNR within thirty (30) days of the University obtaining such knowledge and DLNR may issue the University a notice or breach/default.
11. BLNR/Grantor Limitations. BLNR requested a mirror image of the University Limitations in BLNR's favor. All such provisions were inserted except that the University does not have the right to immediately issue BLNR a notice of breach/default if BLNR notifies the University that BLNR will be unable to perform an obligation under the Lease. In addition, the BLNR/Grantor Limitations do not apply to BLNR's obligation to pay the University just compensation for taking any of the University's improvements in BLNR's exercise of its withdrawal and taking rights.
12. Hazardous materials. The University will not cause or permit the escape, disposal, or release of any hazardous materials except as permitted by law. The University must obtain DLNR's prior written consent to use or store any hazardous materials within the Premises. If any government agency requires testing to confirm whether there has been a release of hazardous materials, the University will be responsible for such reasonable testing costs. To the extent that it can be proven that the presence, discharge, or release of hazardous materials on or within the Premises can be attributable to the University's actions, then the University's responsibility to clean up or remediate such hazardous materials condition shall be subject to and governed by the University Limitations. The University will require that its contractors, at their sole cost, clean up and remediate any such hazardous materials conditions caused by such contractors.
13. University to require contractors to indemnify and insure BLNR. Under the Lease, the University is required to have its contractors and consultants, in conducting or performing their activities, to: (a) indemnify and defend BLNR against any claims or actions, (b) provide

certain minimum commercial general liability insurance coverage, (c) comply with Applicable Laws, (d) maintain work areas and keep them in a clean condition, and (e) clean up and restore any work areas to a condition satisfactory to DLNR, including removing and disposing all trash generated.

14. Breach.

- a. Notice of breach/default. If the University fails to perform an obligation, DLNR may issue a notice of breach/default and the University will have 60 days to cure or correct such breach/default.
- b. DLNR may terminate. If the University fails to timely cure the breach/default, DLNR may terminate the Easement.
- c. Dispute resolution. Upon the University's receipt of a breach/default notice, DLNR and the University shall enter into good faith discussions (not to exceed a 60-day period) to address and resolve any issues relating to the breach/default before DLNR takes any further action against the University for such breach/default.

15. Surrender/Termination. Upon expiration or sooner termination of the Easement, the University will peaceably surrender to BLNR possession of the Easement Area.

- a. Deliver improvements. The University is also to deliver possession to BLNR of any improvements that BLNR elects to assume ownership or remove such improvements at the University's cost, and restore the Easement Area to its original conditions or as close thereto as possible, within a reasonable time.
- b. DLNR may remove. If the University fails to timely remove the improvements and restore the Easement Area, DLNR may do so at the University's sole cost.
- c. Remove personal property. The University must remove all of the University's personal property and if the University fails to do so, the BLNR may either consider the personal property abandoned and dispose of it or store it at the University's cost.

16. Withdrawal. BLNR reserved the right to withdraw any portion of the Easement Area from the Easement for public uses or purposes, at any time during the Easement term, upon giving the University reasonable notice. If the Easement Area is withdrawn, BLNR and the University will work together to identify a mutually agreeable alternative site that the University may use that is within the reasonable vicinity of the initial Easement Area.

17. Environmental requirements. The University will comply with all applicable federal and state environmental impact regulations. The University will maintain and employ debris, pollution and contamination control measures to prevent debris, pollution or contamination to the ocean waters, streams or waterways resulting from the University's use of the Easement Area and shall take immediate corrective action in the event of such pollution or contamination, including cleaning the Easement Area and its surrounding waters of such pollutant or contaminant and restoring such affected areas to DLNR's satisfaction, all at the University's own cost.

18. No parking within or structures over the Easement Area. The University and its invitees shall not use the Easement Area for parking vehicles unless otherwise approved by DLNR. The University shall not construct or place any building or structure over or upon the Easement Area, except for the purposes described in this Easement or as DLNR may otherwise permit in writing.

19. Relocation. Should future development necessitate a relocation of the Easement Area or any portion thereof, the relocation shall be accomplished at the University's cost or with the University's pro rata contribution to the extent that the Easement Area is used by others. If other BLNR lands are available, BLNR will grant to the University without payment of any money, a substitute easement of similar width within the reasonable vicinity of the original alignment, which substitute easement shall be subject to the same terms and conditions herein and as required by law.

Exhibit A

Roadway Access Easement Area Map

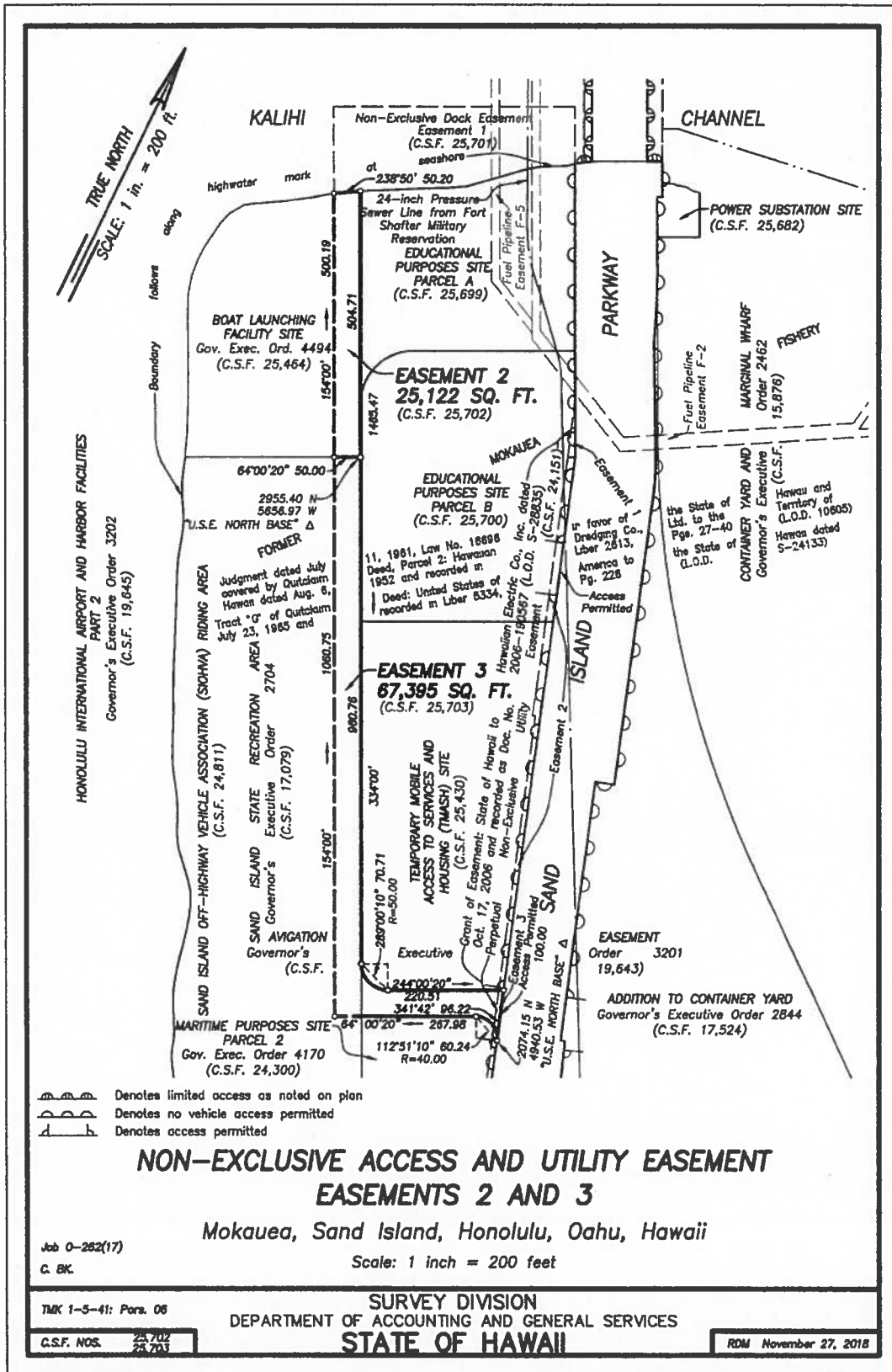


Exhibit A

Roadway Access Easement Area



Item VI.A.2.

Acknowledge Receipt of
Real Property Development
Project Summaries

MATERIALS



WEST O'AHU – UNIVERSITY DISTRICT LANDS

PROPERTY DESCRIPTION: O'AHU ISLAND, UH WEST O'AHU

TMK	SIZE	ZONING	OWNERSHIP TYPE	PROPERTY RESTRICTIONS
(1) 9-1-016: 223 (1) 9-1-016: 220 (portion) (1) 9-1-016: 222 (portion) (1) 9-1-016: 179 (portion)	125.8 acres	BMX-3 Business Mixed Use – Community (Urban)	Fee Simple	2007 Findings of Fact, Conclusions of Law and Decision and Order, Docket No. A99-728
	22.3 acres	R-3.5 Residential (Urban)	Fee Simple	
	3.0 acres	R-5 Residential (Urban)	Fee Simple	
	3.8 acres	P-2 Preservation – General (Urban)	Fee Simple	
	5.4 acres	A-2 Apartment – Medium Density (Urban)	Fee Simple	Unilateral Agreement for Ordinance 08-30, City and County of Honolulu (2008)
	23.5 acres	Roads and Open Space (including Kalo'i/Hunehune Gulch drainage)	Fee Simple	

PROJECT DESCRIPTION

This project seeks to partner with a Developer to develop approximately 180 acres of land on the perimeter of the West O'ahu campus with commercial, mixed-use facilities that complement the West O'ahu campus by creating a unique destination that also serves the broader community and takes advantage of Transit-Oriented Development (TOD) opportunities in and around the two rail stations on the campus. The vision is to create a vibrant, sustainable mixed-use university village community that will accommodate various residential options, retail/commercial activities, entertainment, and recreational and cultural venues.

PROJECT GOALS

The project has established the following goals:

- Make the property available at nominal value to a selected developer to design, build, finance, operate and maintain a "University Village" adjacent to the West O'ahu campus
- Make minimal (to no) cash investment in the project
- Maintain title to the property and without subordination to third-parties
- Timely develop housing and commercial properties in anticipation of the growth of the campus and surrounding community

PROJECT TEAM

INTERNAL	ROLE	EXTERNAL	ROLE
Kalbert Young, VP-Budget & Finance	Executive Committee	Scott MacKinnon	Negotiation Team
Carrie Okinaga, VP-Legal Affairs	Executive Committee	PBR Hawai'i	Project and Technical Advisor
Jan Gouveia, VP-Administration	Executive Committee		
Maenette Benham, UHWO Chancellor	Executive Committee		
Carleton Ching, Office of the VP for Budget & Finance	Negotiation Team		
Bruce Matsui, Office of General Counsel	Negotiation Team		
Emi Morita, Office of General Counsel	Legal Advisor		
Kevin Ishida, UHWO VC for Administration	Project and Technical Advisor		
Bonnie Arakawa, UHWO Director of Planning, Facilities, CIP and Land	Project and Technical Advisor		

DELIVERY METHOD

ISSUE	ASSIGNED TO	DATE
2-Step RFQ/RFBP Solicitation for Developer		Sept. 23, 2015 (RFQ) Feb. 29, 2016 (RFBP)
Award to Selected Developer		Jan. 25, 2017
Exclusive Negotiation Agreement		Aug. 15, 2017
Master Development Agreement		Aug. 15, 2019

RESOURCE REQUIREMENTS

DESCRIPTION	SOURCE	BUDGET
Legal Counsel to assist with negotiating and drafting all pertinent documents	Internal & External	\$125,000
Development Partner	Internal	N/A
Technical Support	External	TBD
Administrative Support	Internal	N/A

PROJECT TIMEFRAME TO BE COMPLETED AFTER EXECUTION OF DEVELOPMENT AGREEMENT

PHASE	ASSIGNED TO	START DATE	END DATE



ATHERTON – INNOVATION SPACE/STUDENT HOUSING

PROPERTY DESCRIPTION: 1810 UNIVERSITY AVENUE, HONOLULU, HI 96822 TMK NO. (1) 2-8-016:001

ISLAND/CAMPUS	SIZE	ZONING	OWNERSHIP TYPE	PROPERTY RESTRICTIONS
O’ahu/Mānoa	Approx. 43,107 sq. ft. (0.99 acres)	R-5 Residential (Urban)	Leased (fr. UH Foundation)	Existing entitlements and zoning

PROJECT DESCRIPTION

This project seeks to partner with Developers to construct or redevelop the site for UH student housing, to incorporate an innovation center space, to develop office space, and to provide a (private) developer option for commercial / retail space.

PROJECT GOALS

This project has established the following goals as target deliverables:

- Minimum of 200 student housing units (bed count)
- Minimum 10,000 sq. ft. of space for a UH innovation center
- Minimum of 7,500 sq. ft. of conventional office space for UH to utilize (subject to lease arrangement)
- Positive return on investment for UH (UHM Student Housing) \$ contribution
- Engage a third-party private developer to design, build, finance, and possibly, operate and/or maintain the property
- Minimum to none, UH cash outlay after project put into service

PROJECT TEAM

INTERNAL	ROLE	EXTERNAL	ROLE
Kalbert Young, VP-Budget & Finance	Project Lead	UH Foundation	Partner, Lead
Vassilis Syrmos, VP-Research & Innovation	Project co-Lead	Lance Wilhelm, Consultant	Consultant
Susan Yamada, Office of the VP for Research & Innovation	Project co-Lead	Additional to be identified	
Lori Ideta, UHM VC for Student Affairs	Project Advisor, Housing		
Laurie Furutani, UHM Student Housing	Project Advisor, Housing		
Carleton Ching, Office of the VP for Budget & Finance	Project Advisor, Development		
Jesse Souki, Office of General Counsel	Legal Advisor		
Bruce Matsui, Office of General Counsel	Legal Advisor		
Caroll Takahashi, Office of the VP for Budget & Finance	Project Administration		
Krystal Lee, UHM College of Business	Project Administration		

DELIVERY METHOD

ISSUE	ASSIGNED TO	DATE
RFP Solicitation for Private Developer (Development Partner)	UHF	Dec. 2018 to Mar. 2019
Negotiation of Development Partner	UH, UHF	Apr. 2019 to TBD

RESOURCE REQUIREMENTS

DESCRIPTION	SOURCE	BUDGET
Development Partner	UH + UHF	TBD
Consultant, Legal	UH + UHF	\$100,000+
Debt Service Coverage (Lease payment to UHF)	UHM Housing	\$200,000+
Consultant, Other (marketing, construction, etc.)	UH, UHF	\$200,000
Existing UH Staff (see above)		

PROJECT TIMEFRAME

PHASE	ASSIGNED TO	START DATE	END DATE
Phase 1.1, UHF to engage project consultant	UHF	Apr. 2018	Apr. 2019+
Phase 1.2, UHF + UH + project consultant develop RFP	UHF	Apr. 2018	Dec. 2018
Phase 1.3, Solicit potential RFP respondents	UHF / Consultant	Jan. 2019	Mar. 2019
Phase 1.4, Review RFP respondents	UH, UHF, Consultant	Mar. 2019	Apr. 2019
Phase 2.1, Selection of developer partner	UH + UHF		May 2019
Phase 2.2, Negotiate development agreement	UH + UHF, Legal	May 2019	Nov. 2019
Phase 2.3, Execute development agreement	UH + UHF		Dec. 2019
To be completed after developer is selected.			



MĀNOA – GRADUATE STUDENT HOUSING

PROPERTY DESCRIPTION: 2570 DOLE STREET, HONOLULU, HI 96822 TMK NO. (1) 2-8-023:009

ISLAND/CAMPUS	SIZE	ZONING	OWNERSHIP TYPE	PROPERTY RESTRICTIONS
O’ahu/Mānoa	2.21 acres	R-5 Residential (Urban)	Fee Simple	None

PROJECT DESCRIPTION

This project seeks to partner with a Developer to develop family-oriented mixed-use rental housing at below–market rates for those UHM graduate students and junior faculty who are unable to utilize existing subsidized UHM rental housing and are priced out of the neighborhoods surrounding UHM. Depending on market demand and unit availability, the project may also serve UHM faculty, UHM staff and other parties affiliated with UHM. UHM has a strong preference that the project also include a child care facility (to be operated by UHM) to support the relocation of the UHM Children’s Center currently operating at 2320 Dole St.

PROJECT GOALS

The project has established the following goals:

- Make the property available at nominal value to a selected developer to design, build, finance, operate and maintain graduate student housing at affordable rates.
- If feasible, obtain a Developer submitted proposal to (1) design, build, finance and maintain (not operate) a child care facility that can house UHM’s current Children’s Center, and/or (2) design, build, finance, operate and maintain commercial facilities to support a live, work, play environment.
- Maintain title to the fee interest in the property and enter into a long-term ground lease for the property for nominal rent (that may increase over time) that will include specific maintenance requirements, performance standards and other conditions that, to the extent feasible, promote and facilitate Developer’s development, leasehold ownership and operation and maintenance of the Project.

PROJECT TEAM

INTERNAL	ROLE	EXTERNAL	ROLE
Jan Gouveia, VP-Administration	Project Lead	Scott Settle	External Legal Advisor
Caroll Takahashi, Office of the VP for Budget & Finance	Project Advisor	Additional to be identified	
Carleton Ching, Office of the VP for Budget & Finance	Project Advisor, Development		
Jesse Souki, Office of General Counsel	Legal Advisor		
Various Facilities Personnel	Technical Support		

DELIVERY METHOD

ISSUE	ASSIGNED TO	DATE
2-Step RFP Solicitation for Developer	Jan Gouveia	Nov. 2018
Select Developer	Jan Gouveia	Q3 2019
Execute Development Agreement	Jan Gouveia	Q4 2019/Q1 2020

RESOURCE REQUIREMENTS

DESCRIPTION	SOURCE	BUDGET
Legal counsel to assist with negotiating and drafting all pertinent documents	Internal & External	\$40,000
Development Partner	Internal	N/A
Technical Support	Internal & External	\$40,000
Administrative Support	Internal	N/A

PROJECT TIMEFRAME TO BE COMPLETED AFTER EXECUTION OF DEVELOPMENT AGREEMENT

PHASE	ASSIGNED TO	START DATE	END DATE



UNIVERSITY
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SYSTEM

Memorandum

To: Board of Regents
University of Hawai'i

Via: Lee Putnam *LP*
Chair, Board of Regents

From: Randy Moore, *RM*
Chair, Committee on Budget and Finance

Date: April 12, 2019

Re: Appointment of Investments Task Group

This is a request per recommendation from the Committee on Budget and Finance at its April 4, 2019, meeting, that you approve the appointment of a permitted interaction group to be known as the Investments Task Group (Task Group), whose scope is to review and make recommendations regarding the following Regents Policies (RP):

- RP 8.207, Investments
- RP 8.211, Resolution on Use of New Income, Principal, and Investment of ASUH-Mānoa Stadium Stock Fund dated January 18, 1979
- RP 8.212, Guidelines on Use of Income from the University of Hawai'i at Mānoa Stadium Stock Fund, Proceeds from the Sale of the Kaimuki Observatory Lot and from the Rental of University Property

Proposed Task Group members are: Regent Randy Moore, Chair of the Committee on Budget and Finance, and committee members Regent Simeon Acoba and Regent Michelle Tagorda. Regent Moore shall serve as chair of the Task Group. The Associated Students of the University of Hawai'i has been requested to recommend representatives to the Task Group whom the Board Chair will appoint. The Task Group may engage with outside advisors and consultants as needed. Administration is requested to provide support to the Task Group.



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UNIVERSITY OF HAWAII
BOARD OF REGENTS

19515

Office of the Vice President for Legal Affairs
and University General Counsel

19 APR 12 AIO :09

April 12, 2019

RECEIVED

MEMORANDUM

'19 APR 12 AIO :06

To: Lee Putnam, Chair
Board of Regents

Via: David Lassner
President

David Lassner

UNIVERSITY OF HAWAII
PRESIDENT'S OFFICE

From: Carrie K. S. Okinaga
Gary Y. Takeuchi
Office of the Vice President for Legal Affairs and
University General Counsel

Carrie Okinaga

Subject: RECOMMEND APPROVAL TO REQUEST THE GOVERNOR'S
APPROVAL TO HOLD PUBLIC HEARINGS REGARDING
AMENDMENTS TO HAWAII ADMINISTRATIVE RULES TITLE 20:

- (A) CHAPTER 10, "DELINQUENT FINANCIAL OBLIGATIONS"; AND
- (B) CHAPTER 12, "PARKING AND OPERATION OF MOTOR
VEHICLES"

I. SPECIFIC ACTION REQUESTED

The Board of Regents ("BOR") is requested to approve requesting the Governor's approval to hold public hearings regarding amendments to Hawaii Administrative Rules ("HAR") Title 20, Chapter 12 ("Chapter 20-12"), and Chapter 10 ("Chapter 20-10"), pursuant to HRS § 91-3(a).

The University of Hawaii ("University") administration proposes the above actions as part of its efforts to update the University's administrative rules through repeal and amendment as appropriate, in a manner consistent with autonomy. Specifically, where the University is statutorily required to promulgate rules governing certain University operations, the rules are being amended either in response to statutory changes or to conform to current practice. Where the University is not statutorily required to promulgate rules, the rules are either being repealed as they are properly covered in existing BOR policies and executive policies and procedures or are being amended to allow BOR oversight of the function with full transparency, while delegating the

administration of certain functions to the respective campus administrations, as applicable.

II. RECOMMENDED EFFECTIVE DATE

Upon approval by the BOR.

III. PURPOSE

For the past two plus years, the BOR has been approving the repeal or amendment of various chapters of Title 20 of the HAR pertaining to the University. These actions have been part of an effort to improve management of the University by eliminating unnecessary or out-of-date rules, and governing instead through policies established by the BOR at open meetings conducted in accordance with Hawai'i Revised Statutes ("HRS") Chapter 92, with its strict requirements for notice and transparency. Adopting BOR policies via HRS Chapter 92, instead of going through formal rulemaking via HRS Chapter 91, is consistent with the autonomy provided to the University in article X, section 6 of the Hawai'i Constitution and HRS § 304A-105 (Powers of regents; official name), and permits a governance structure more appropriate and responsive to the unique needs and configuration of the University, while maintaining transparency with the public as well as the University community

The purpose of the current request is to recommend BOR approval to request the Governor's approval to hold public hearings on amendments to HAR Chapter 20-12, regarding parking and operation of motor vehicles, and Chapter 20-10, regarding delinquent financial obligations.

IV. BACKGROUND INFORMATION

As noted, the proposed actions are being made as part of a larger effort by the University to govern itself through policies and procedures where allowed, instead of by HARs. Any HAR chapters under Title 20 that are not required by statute are being reviewed for necessity with the goal of increased efficiency and effectiveness. Where the HRS requires the University to adopt rules or where the University will be impacting the public at large, HARs will remain, and be updated as necessary to conform to current practice.

Through this effort to date, chapters 2, 3, 5, 6, 7, 9, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 42 of Title 20 have been repealed, and chapters 8, 10, 12, and 25 have

been amended. In addition, chapter 20-1 has been repealed and replaced with chapter 20-1.1.

Approval is now being sought to further amend Chapter 20-10 and Chapter 20-12, as explained herein. (By a separate action memorandum to the State Post-Secondary Education Commission, comprised of the members of the BOR along with four other seats that are currently vacant, a request is being made to approve the repeal of Chapter 20-40 and replacement of the chapter with a new Chapter 20-40.1).

A. Holding of Public Hearing to Amend HAR Chapter 20-10

The proposed amendment to HAR Chapter 20-10 is a minor revision necessitated by approval of Phase I of the reorganization at the University of Hawai'i at Mānoa (UHM) campus, including reconsolidation of the positions of President of the University and Chancellor of UHM. There is no longer a chancellor position at UHM, and the President has overall responsibility for administration of the campus.

Chapter 20-10 (Delinquent financial obligations) has recently been amended as part of the above-described revisions to the University's administrative rules, with the most recent amendments taking effect on March 18, 2018. The chapter sets forth procedures for collecting delinquent financial obligations owed to the University, including processes for appeal. These processes include rules authorizing the chancellor of each campus to designate a hearing officer in certain circumstances (HAR § 20-10-7 (Hearing officer)) and to extend the time for filing an appeal or issuing a decision (HAR § 20-10-8 (Appeals from a notification of delinquent financial obligation or an imposition of a sanction under this chapter)).

Due to the recent reorganization of UHM, that campus no longer has a chancellor, as the President now has overall administrative responsibility for the campus. Therefore, the provisions of HAR § 20-10-7 and HAR § 20-10-8 authorizing the chancellor of each campus to take certain actions no longer cover UHM. To address this and to cover any future changes in the title of the campus chief executives, HAR § 20-10-3 (Definitions) is proposed to be amended by adding a definition of "Chancellor", as follows:

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

B. Holding of Public Hearing to Amend HAR Chapter 20-12

Chapter 20-12, (Parking and Operation of Motor Vehicles), governs traffic and parking and the enforcement of such rules by imposing fines. On November 17, 2016 and November 16, 2017, during public meetings subject to HRS Chapter 92, the BOR

approved amendments to the chapter. Those amendments: (1) repealed rules pertaining to the management and operation of the parking function at the campus level, e.g., procedures for obtaining parking permits, general rules for permit holders, appeal processes for students and employees, and parking rates, which are not required by law, and allowed these matters to be governed by BOR policies and executive and campus policies and procedures; and (2) retained those rules required by law or affecting the larger public, including appeal of parking and traffic citations by the general public and fines for violation of Chapter 20-12, consolidating them into one set of rules applicable to all University campuses. These amendments to Chapter 20-12 were eventually approved by the Governor, and took effect on March 18, 2018.

Two additional amendments are now being proposed to Chapter 20-12.

First, Chapter 20-12, at Attachment 1, includes a list of traffic and parking violations and associated fines, as well as penalties for non-payment. Attachment 1, part (6b), provides for a fine of \$260.00, and a 15-day non-payment penalty of \$270.00,¹ for “[p]arking in a space reserved for persons with disabilities by a person who has been issued a valid windshield placard or special license plate that is currently in effect, but failing to properly display the windshield placard or special license plate.”

After the amended Chapter 20-12 took effect, it was determined that the fine amount for Attachment 1, part (6b), is inconsistent with the state statute for this violation. HRS § 291-57 (Parking spaces reserved for persons with disabilities; penalties), at subsection (a)(4)(B), provides that any person who uses a parking space reserved for persons with disabilities who obstructs the ingress or egress to a parking space reserved for a person with a disability “shall be guilty of a traffic infraction under chapter 291D and shall be fined not less than \$250 nor more than \$500 and pay any costs incurred by the court related to assessing the fine; ***provided that a person with a disability who has been issued a valid placard or special license plate that is currently in effect, and who has failed to display the placard or license plate while parking in a space reserved for persons with disabilities, shall pay a fine of not less than \$25 nor more than \$100 and any costs incurred by the court related to assessing the fine***” (emphasis added).

Therefore, the \$260.00 fine in Attachment 1, part (6b), exceeds the \$100 maximum fine set forth in HRS § 291-57(a)(4)(B). The fine amounts in Attachment 1 were intended to be consistent with the fines set forth in related statutes. To correct this inconsistency, Chapter 20-12, Attachment 1, part (6b), is proposed to be amended, to change the fine

¹ Pursuant to HAR § 20-12-8(c), “Non-payment penalties may be imposed if the fine is not paid or appealed within fifteen days after the issuance of the citation”

from \$260.00 to \$100.00. The related 15-day non-payment penalty amount is proposed to be amended from \$270.00 to \$110.00.

Second, given the BOR's approval of Phase 1 of the UHM reorganization, the references to the chancellors of the campuses in Chapter 20-12 no longer cover UHM, which has no chancellor. To address this, and to cover any future changes in the title of the campus chief executives, the definition of "chancellor" in HAR § 20-12-2 (Definitions) is proposed to be amended to refer to "the chief executive officer of the respective campus, and shall include their authorized designee" rather than "the chancellor of the respective campus, and shall include the chancellor's authorized designee" (the current definition).

V. ACTION RECOMMENDED

It is recommended that the BOR approve requesting the Governor's approval to hold public hearings, pursuant to HRS § 91-3(a), regarding amendments to Chapter 20-10 and Chapter 20-12. Upon approval by the BOR, the administration will seek the Governor's approval to hold the public hearings pursuant to Administrative Directive 18-02 setting forth rule-making procedures.

APPROVED/DISAPPROVED

LEE PUTNAM
Chair, Board of Regents
University of Hawai'i

Attachments:

- Exhibit 1 Ramseyer Format of the Proposed Amendments to HAR Chapter 20-10
- Exhibit 2 Standard Format of the Proposed Amendments to HAR Chapter 20-10
- Exhibit 3 Ramseyer Format of the Proposed Amendments to HAR Chapter 20-12
- Exhibit 4 Standard Format of the Proposed Amendments to HAR Chapter 20-12

- c: Kalbert Young, Vice President for Budget & Finance/CFO
Jan Gouveia, Vice President for Administration
Susan Lin, Director of Financial Management & Controller
Kathleen Cutshaw, UHM Vice Chancellor for Administration,
Finance & Operations
Deborah Huebler, UHM Director of Campus Services

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

Subchapter 1 Rules of General Applicability

\$20-10-1	Purpose
\$20-10-2	General statement of policy
\$20-10-3	Definitions
\$20-10-4	Categories of delinquent financial obligations
\$20-10-5	Notification of delinquent financial obligations
\$20-10-6	Application of sanctions

Subchapter 2 Appeals from Notices of Delinquent Financial Obligations or Imposition of Sanctions

\$20-10-7	Hearing officers
\$20-10-8	Appeals from a notification of delinquent financial obligation or imposition of a sanction under this chapter
\$20-10-9	Repealed
\$20-10-10	Repealed

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
\$20-10-12	Procedure for setoff
\$20-10-13	Hearings to contest the setoff
\$20-10-14	Procedures for the administrative hearing on the setoff
\$20-10-15	Rules of evidence; official notice
\$20-10-16	Final decisionmaking for the University in a contested case hearing
\$20-10-17	Consultation by decisionmaking officials; ex parte communication prohibited
\$20-10-18	Appeals from the final decision

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, 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; 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.

"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.

"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 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 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. [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; 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 of delinquent financial obligations. (a) When any payment on an outstanding financial obligation is overdue, and the university has made reasonable efforts to collect the delinquent financial obligation, the university shall forward the outstanding financial obligation to the appropriate business office.

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

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

(d) Denial of transcripts, diplomas, and other entitlements may be imposed as a sanction in all cases of delinquent financial obligations. These sanctions shall remain in force during the appeals and contested case processes.

(e) 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) In addition to all other sanctions, the university may seek redress under the law to recover moneys owed to it.
- (g) Costs of implementing the sanctions imposed under this chapter may be assessed to the person owing the delinquent financial obligation.
- (h) Sanctions imposed under this chapter at any campus shall apply to all other campuses.
- (i) 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) 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; 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 obligations. Any person who is deemed by the university to be delinquent in student loan payments may file a written request for an informal review with the director of the university office that handles loan collection, no later than fifteen days after the date of the notification letter of the student loan obligation. After the university has issued a decision on the informal review, any person who still believes that a student loan obligation has been improperly assessed or who believes a sanction imposed is excessive or unfair may file an appeal with the 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 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 financial obligations; and
 - (E) The fact that any party may 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(c) and (d).

(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

§20-10-8

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; 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, 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; 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, 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 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 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 office at the university. [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)

§20-10-13 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) 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 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; 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) Any document filed in a contested case, other than evidence, shall conform to the requirements of chapter 20-1, as amended. 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; 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 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; 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. [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)

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.

LEE PUTNAM
Chairperson, Board of Regents
University of Hawaii

APPROVED AS TO FORM:

University of Hawaii

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

Department of the Attorney General

Patricia Ohara, Esq.
Deputy Attorney General

UNIVERSITY OF HAWAII

Amendments and Compilation of Chapter 20-10
Hawaii Administrative Rules

(_____)

SUMMARY

1. Amendments to and Compilation of Chapter 20-10, Hawaii Administrative Rules.

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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\$20-10-2	General statement of policy
\$20-10-3	Definitions
\$20-10-4	Categories of delinquent financial obligations
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\$20-10-6	Application of sanctions

Subchapter 2 Appeals from Notices of Delinquent Financial Obligations or Imposition of Sanctions

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§20-10-18

§20-10-8 Appeals from a notification of delinquent financial obligation or imposition of a sanction under this chapter
§20-10-9 Repealed
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§20-10-13 Hearings to contest the setoff
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§20-10-16 Final decisionmaking for the University in a contested case hearing
§20-10-17 Consultation by decisionmaking officials; ex parte communication prohibited
§20-10-18 Appeals from the final decision

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, 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; 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.

"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.

"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 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 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. [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; 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 of delinquent financial obligations.** (a) When any payment on an outstanding financial obligation is overdue, and the university has made reasonable efforts to collect the delinquent financial obligation, the university shall forward the outstanding financial obligation to the appropriate business office.

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

(c) Revocation of all rights and privileges which were conferred by registration or enrollment may

be imposed as a sanction in all cases of delinquent financial obligations. These sanctions shall remain in force during the appeals and contested case processes.

(d) Denial of transcripts, diplomas, and other entitlements may be imposed as a sanction in all cases of delinquent financial obligations. These sanctions shall remain in force during the appeals and contested case processes.

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

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

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

(i) 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) 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; 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 obligations. Any person who is deemed by the university to be delinquent in student loan payments may file a written request for an informal review with the director of the university office that handles loan collection, no later than fifteen days after the date of the notification letter of the student loan obligation. After the university has issued a decision on the informal review, any person who still believes that a student loan obligation has been improperly assessed or who believes a sanction imposed is excessive or unfair may file an appeal with the 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 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 financial obligations; and
 - (E) The fact that any party may 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(c) and (d).

(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; 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, 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; 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, 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 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 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 office at the university. [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)

§20-10-13 **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) 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 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; 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) Any document filed in a contested case, other than evidence, shall conform to the requirements of chapter 20-1, as amended. 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; 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 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; 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. [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)

UNIVERSITY OF HAWAII

Amendments to and compilation of chapter 20-10, Hawaii Administrative Rules, on the Summary Page dated _____, were adopted on _____, following a public hearing held on _____, after public notice was given in the Honolulu Star-Advertiser on _____.

These rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

LEE PUTNAM
Chairperson, Board of Regents
University of Hawaii

APPROVED:

DAVID Y. IGE
Governor
State of Hawaii

Dated: _____

Filed

APPROVED AS TO FORM:

University of Hawaii

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

Department of the Attorney General

Patricia Ohara, Esq.
Deputy Attorney General

UNIVERSITY OF HAWAII

Amendment and Compilation of Chapter 20-12
Hawaii Administrative Rules

(_____)

1. Chapter 20-12, Hawai'i Administrative Rules, entitled "Parking and Operation of Motor Vehicles", 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 12

PARKING AND OPERATION OF MOTOR VEHICLES

\$20-12-1	Statement of purpose
\$20-12-2	Definitions

§20-12-3 Delegation of authority
§20-12-4 Repealed
§20-12-5 Repealed
§20-12-6 Repealed
§20-12-7 General rules
§20-12-8 Parking permits, violations, fees, and
penalties
§20-12-9 Repealed
§20-12-10 Appeals process, information requests
and submittals, and petitions for
declaratory rulings

Subchapter 2 University of Hawaii at Hilo -
Repealed

§§20-12-11 to 20-12-19 Repealed

Subchapter 3 Honolulu Community College -
Repealed

§§20-12-20 to 20-12-30 Repealed

Subchapter 4 Kapiolani Community College -
Repealed

§§20-12-31 to 20-12-41 Repealed

Subchapter 5 Leeward Community College - Repealed

§§20-12-42 to 20-12-51 Repealed

Subchapter 6 Kauai Community College - Repealed

§§20-12-52 to 20-12-61 Repealed

Subchapter 7 Maui Community College - Repealed

§§20-12-62 to 20-12-71 Repealed

[Note: Subchapter 1 heading repealed.
R 3/18/19]

§20-12-1 **Statement of purpose.** The purpose of this chapter is to properly administer parking and traffic operations for vehicles on the roadways and in the parking areas under the jurisdiction of the university. These rules are intended for the safety and general welfare of the university community and the public at large. [Eff 6/22/81; am 4/1/93; am and comp 3/18/19; comp] (Auth: HRS §§304A-105, 304A-2601, 304A-2672) (Imp: HRS §§304A-105, 304A-2601, 304A-2602, 304A-2681)

§20-12-2 **Definitions.** As used in this chapter: "Board" refers to the board of regents of the University of Hawaii.

"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;
- (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 [~~chancellor~~] chief executive officer of the respective campus and shall include [~~the chancellor's~~] their authorized designee.

"Driver" has the same meaning as in section 291C-1, HRS.

"Employees" refers to and shall include the faculty, staff, and graduate students employed at the university.

"Parking board" refers to the parking board of review for each campus, consisting of at least one student, one faculty member, and one staff member.

"Pedestrian" has the same meaning as in section 291C-1, HRS.

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

"Special events" refers to events on each campus that would necessitate a temporary change in the normal parking and traffic operations.

"Student" refers to any full-time or part-time student enrolled at the university.

"University" refers to the University of Hawaii.

"Vehicle" has the same meaning as in section 291C-1, HRS. [Eff 6/22/81; am 4/1/93; am 12/18/00; am and comp 3/18/19; am and comp] (Auth: HRS §§304A-105, 304A-2601, 304A-2672) (Imp: HRS §§304A-105, 304A-2601, 304A-2602, 304A-2681)

§20-12-3 **Delegation of authority.** Except as otherwise reserved for the board in section 20-12-8, the board delegates its authority to properly administer and manage the parking and traffic operations at each respective campus to the president. The president shall have authority to:

- (1) Establish, implement, and administer policies and procedures to regulate traffic and parking;
- (2) Establish, implement, and administer policies and procedures for issuance of permits to employees and students;

- (3) Designate reserved parking for university vehicles, disabled employees and students, and special events at the campus;
- (4) Engage a private concessionaire or contractor to operate the parking and traffic program or a portion thereof on campus;
- (5) Appoint members of the parking board for the campus; and
- (6) Perform other action as necessary to regulate traffic and parking.

The president is authorized to delegate any of the president's power to the chancellors of the respective campuses. [Eff 6/22/81; am 4/1/93; am and comp 3/18/19; comp] (Auth: HRS §§304A-105, 304A-2601, 304A-2672) (Imp: HRS §§304A-105, 304A-2601, 304A-2681)

§20-12-4 Repealed. [R 3/18/19]

§20-12-5 Repealed. [R 3/18/19]

§20-12-6 Repealed. [R 3/18/19]

§20-12-7 **General rules.** (a) Area of authority. These rules shall govern parking and operation of vehicles on each campus.

(b) Time. These rules shall be in effect twenty-four hours daily throughout the entire calendar year.

(c) All drivers and pedestrians on campus shall adhere to, and be subject to fines in accordance with, all applicable state and local traffic laws and this chapter.

(d) Signs. Drivers and pedestrians shall adhere to all officially posted signs regarding traffic and parking.

(e) Removal. Any vehicle may be removed at the expense of the owner if it is in violation of this chapter. The registered owner of any vehicle so removed shall be responsible for and pay all costs incurred in the towing, storage, and disposal of the vehicle.

(f) To the extent permitted by law, the university shall not be responsible or liable for fire, theft, or damages to vehicles or any contents therein when parked or operated on any campus. [Eff 6/22/81; am 4/1/93; am 12/18/00; am and comp 3/18/19; comp] (Auth: HRS §§304A-105, 304A-2601, 304A-2672) (Imp: HRS §§304A-105, 304A-2601, 304A-2681)

§20-12-8 Parking permits, violations, fees, and penalties. (a) The board may establish fees for parking permits and for hourly or daily parking on the roadways and in the parking areas under the jurisdiction of the university. Parking fees shall be established at an open meeting of the board in accordance with the requirements of chapter 92, HRS.

(b) Violations and their corresponding fines and penalties for nonpayment shall be as set forth in Attachment 1, entitled "Violations and Schedule of Fines and Penalties for Non-Payment for the University of Hawaii Campuses", dated [~~November 17, 2016,~~] April 12, 2019, and located at the end of this chapter. Violators may be subject to any or all of the following: citation, fines, non-payment penalties, and removal of vehicle. University employees or students may also be subject to additional penalties in accordance with university policies.

(c) Non-payment penalties may be imposed if the fine is not paid or appealed within fifteen days after the issuance of the citation, as set forth in Attachment 1, entitled "Violations and Schedule of

Fines and Penalties for Non-Payment for the University of Hawaii Campuses", dated [~~November 17, 2016,~~] April 12, 2019, and located at the end of this chapter.

(d) Fines imposed shall be over and beyond removal and storage charges, if any.

(e) The permit holder, the registered owner, or the driver of the vehicle shall be subject to the applicable fines and penalties described in subsections (b) and (c).

(f) All fines and penalties shall be paid at the parking office, business office, administration office, or at any other office as the chancellor of the applicable campus designates. [Eff 6/22/81; am 4/01/93; am 12/18/00; am 08/21/09; am and comp 3/18/18; am and comp] (Auth: HRS §§304A-104, 304A-2601, 304A-2672) (Imp: HRS §§304A-105, 304A-2601, 304A-2602, 304A-2681)

§20-12-9 Repealed. [R 3/18/18]

§20-12-10 Appeals process, information requests and submittals, and petitions for declaratory rulings.

(a) Any university employee or student shall follow the appeals process established by the chancellor of the campus issuing the citation. All others, including any member of the public, shall follow the appeals process set forth in this section.

Requests for formal hearings shall be submitted in writing within seven days after issuance of the citation on a form to be provided by the campus. These forms shall be made available by the parking office, business office, administration office, or by any other office as the chancellor of each campus designates.

(b) The following rules of practice on parking and traffic matters including both informal and formal procedures are adopted:

- (1) Informal procedures. Persons who believe that they have received a parking or traffic citation in error or whose vehicle was removed by the campus may file a written request for an informal review with the parking manager or other authorized person designated to manage the campus' parking and traffic program within fifteen days of the issuance of the citation or of the removal of a vehicle. The authorized person may waive the filing deadline for good cause shown. The authorized person may void citations, waive towing and storage charges, and reduce the fine imposed upon review of the facts of each case and upon a written finding that the parking or traffic citation was improperly issued or that the person did not know of the citations or notice so as to contest them within fifteen days of issuance. The authorized person's written decision shall be final and binding and no further appeal is permitted; and
- (2) Formal procedures. A person requesting a formal hearing on a parking or traffic citation in accordance with subsection (a) shall be afforded an opportunity for hearing after reasonable notice as provided by chapter 91, HRS. The hearing under this section shall be treated as a contested case hearing under chapter 91, Hawaii Revised Statutes, and shall be conducted in accordance with the statutory requirements for contested case hearings, as follows:
 - (A) The hearing shall be conducted by a hearing officer appointed by the parking board;
 - (B) Upon receipt of a written request for a formal hearing, the hearing officer shall issue a written notice, which notice shall include a statement of:
 - (i) The date, time, place, and nature of hearing;

- (ii) The legal authority under which the hearing is to be held;
- (iii) The particular sections of the statutes, rules, and procedures involved;
- (iv) An explicit statement in plain language of the issues involved and the facts alleged by the officer issuing the citation in support thereof, provided that if the hearing officer is unable to state the issues and facts 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; and
- (v) The fact that any party may retain counsel if so desired.

The written notice of hearing shall be provided to all parties to the proceeding at least fifteen days before the hearing;

- (C) Opportunity shall be afforded each party to present evidence and argument on all issues involved. 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) 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;
- (E) For the purpose of preserving a record of the proceedings before the hearing officer, the proceedings shall be either tape-recorded or recorded

verbatim by a certified shorthand reporter. It shall not be necessary to transcribe the record unless requested for purposes of rehearing, board review, or court review;

- (F) Within a reasonable time following the closure of the hearing on the contested case, the hearing officer shall submit findings of fact and conclusions of law to, and prepare a proposed decision on the case as a recommendation for, the parking board and to the parties. If a party is adversely affected by the proposed decision, the party may file written exceptions and present written or oral arguments to the parking board. Any exceptions and written arguments shall be filed not more than fifteen days from the date of the proposed decision with the parking office, business office, administration office, or any other office as the chancellor of the campus handling the formal hearing designates. The parking board shall provide the parties with an opportunity to present oral arguments at an adjudicatory meeting of the parking board;
- (G) In rendering the final decision, the parking board 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 parking board in making a decision, except as provided in this chapter;
- (H) Every decision and order adverse to a party to the proceeding shall be in writing or stated in the record and shall be accompanied by separate findings of fact and conclusions of law. Parties to the proceedings shall

be notified by delivering or mailing a certified copy of the decision and order and accompanying findings and conclusions within a reasonable time to each party. If the citation is upheld, the parking board or the hearing officer may direct payment of all or a portion of the fine or charge;

- (I) If a party does not appear at the date, time, and place appointed for the hearing, either before the parking board or the hearing officer, the party may be denied another hearing on the matter; and
- (J) Appeals from the final decision of the parking board rendered in a contested case under this chapter shall be in accordance with chapter 91, HRS.

(c) The public may obtain information or make submittals or requests relative to parking and traffic matters by addressing a letter to the parking office, business office, administration office, or such other office as the chancellor of the respective campus designates.

(d) Petitions for declaratory rulings as to the applicability of any statutory provision concerning parking or operation of vehicles on any campus shall be in the form of a letter to the chancellor of the respective campus stating the interest of the petitioner in the matter, the reasons for requesting the ruling and the specific nature of the ruling being requested. The chancellor shall render in writing a declaratory ruling or other order disposing of the matter." [Eff 6/22/81; am 4/1/93, am and comp 3/18/18; comp] (Auth: HRS §§91-6, 91-8, 304A-105, 304A-2601, 304A-2672) (Imp: §§91-6, 91-8, 304A-105, 304A-2601, 304A-2681)

Attachment 1

**VIOLATIONS AND SCHEDULE OF FINES AND PENALTIES FOR
 NON-PAYMENT
 FOR THE UNIVERSITY OF HAWAII CAMPUSES**

Violations and Schedule of Fines and Penalties for
 Non-Payment:

		Original Fine	15-Day Non-Payment Penalty
(1)	Parking in prohibited areas including but not limited to the following: -lawns, planted areas, and grounds under repair; -median strips, sidewalks, driveways, and crosswalks; -No parking areas or along curbs painted red; -(obstructing) fire hydrants or (parking in) fire lanes; -(obstructing) vehicular or pedestrian traffic; -official bus or shuttle stops.	\$40.00	\$50.00
(2)	Parking in an area not designated for that specific type of vehicle.	40.00	50.00
(3)	Operating or parking a vehicle within a university building.	40.00	50.00

		Original Fine	15-Day Non-Payment Penalty
(4)	Double parking or vehicles not placed wholly within the lines or boundaries of the parking space.	40.00	50.00
(5)	Parking in a reserved stall.	50.00	60.00
(6)	Using a disabled placard, but refusing to present a valid identification card issued under Chapter 291, Hawaii Revised Statutes, to an enforcement officer upon request.	260.00	270.00
(6a)	<p>Parking in a space reserved for persons with disabilities and:</p> <p>(i) Failing to properly display a windshield placard or special license plate authorizing use of such parking space in accordance with Part III of Chapter 291, Hawaii Revised Statutes; or</p> <p>(ii) Displaying an invalid windshield placard or special license plate; or</p> <p>(iii) Using a windshield placard or special</p>		

		Original Fine	15-Day Non-Payment Penalty
	license plate that was not issued to the driver or to any passengers occupying the vehicle in the parking space.	260.00	270.00
(6b)	Parking in a space reserved for persons with disabilities by a person who has been issued a valid windshield placard or special license plate that is currently in effect, but failing to properly display the windshield placard or special license plate.	100.00	110.00
(6c)	With or without a valid windshield placard or special license plate: (i) Parking in an access aisle adjacent to a parking space reserved for persons with a disability; or (ii) Obstructing the ingress or egress to a parking space reserved for persons with a disability.	260.00	270.00

		Original Fine	15-Day Non-Payment Penalty
(6d)	Parking in a space reserved for persons with disabilities and refusing or failing to present an identification card issued under Chapter 291, Hawaii Revised Statutes, or the rules adopted thereunder to an enforcement officer upon request.	260.00	270.00
(7)	Parking in a loading zone longer than 15 minutes.	50.00	60.00
(8)	Parking in the wrong zone.	40.00	50.00
(9)	Parking without a permit.	40.00	50.00
(10)	Failure to display a permit or displaying it at an improper location.	40.00	50.00
(11)	Failure to pay the hourly or daily parking rate.	40.00	50.00
(12)	Falsifying information on an application.	50.00	60.00
(13)	Displaying or using an invalid permit or pass.	40.00	50.00
(14)	Possessing or using a counterfeit, altered, defaced, illegally transferred, or stolen permit.	100.00	110.00

		Original Fine	15-Day Non-Payment Penalty
(15)	Driving on areas other than streets, roads, or parking areas.	97.00	107.00
(16)	Exceeding the 15 mph or other posted speed limits on campus.	97.00	107.00
(17)	Reckless driving (operating a vehicle in disregard of the safety of persons or property).	97.00	107.00
(18)	Failure to heed the directions of a duly authorized officer.	97.00	107.00
(19)	Failure to heed the directions of an official sign and/or symbols.	97.00	107.00
(20)	Moving violations of the applicable county traffic code not otherwise specified herein.	97.00	107.00
(21)	Parking or operating a bicycle or moped in violation of the applicable county traffic code (not otherwise specified herein).	72.00	82.00
(22)	Failure to make a complete stop at an official stop sign.	97.00	107.00

		Original Fine	15-Day Non-Payment Penalty
(23)	Transporting a bicycle, moped, or motorcycle in an elevator.	40.00	50.00
(24)	Damaging campus signs, parking gates, or parking appurtenances.	100.00 + cost of repair or replacement	110.00 + cost of repair or replacement
(25)	Repeat violation of parking regulations.	100.00	110.00
(26)	Vehicle or its alarm system making excessive or unusual noise (noise in excess of the usual noise which would necessarily result from the operation of a vehicle when reduced to the minimum by a muffler) or causing a disturbance, or both.	72.00	82.00
(27)	Moving any barricade or parking within any barricaded area.	97.00	107.00

2. These amendments to and compilation of chapter 20-12 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.

LEE PUTNAM
Chairperson, Board of Regents
University of Hawaii

APPROVED AS TO FORM:

University of Hawaii

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

Department of the Attorney General

Patricia Ohara, Esq.
Deputy Attorney General

UNIVERSITY OF HAWAII

Amendment and Compilation of Chapter 20-12
Hawaii Administrative Rules

(_____)

SUMMARY

1. Amendments to and Compilation of Chapter 20-12, Hawai'i Administrative Rules.

HAWAII ADMINISTRATIVE RULES

TITLE 20

UNIVERSITY OF HAWAII

SUBTITLE 1

UNIVERSITY OF HAWAII

BOARD OF REGENTS

CHAPTER 12

PARKING AND OPERATION OF MOTOR VEHICLES

§20-12-1	Statement of purpose
§20-12-2	Definitions
§20-12-3	Delegation of authority
§20-12-4	Repealed
§20-12-5	Repealed
§20-12-6	Repealed
§20-12-7	General rules
§20-12-8	Parking permits, violations, fees, and penalties
§20-12-9	Repealed
§20-12-10	Appeals process, information requests and submittals, and petitions for declaratory rulings

Subchapter 2 University of Hawaii at Hilo -
Repealed

§20-12-1

§§20-12-11 to 20-12-19 Repealed

Subchapter 3 Honolulu Community College -
Repealed

§§20-12-20 to 20-12-30 Repealed

Subchapter 4 Kapiolani Community College -
Repealed

§§20-12-31 to 20-12-41 Repealed

Subchapter 5 Leeward Community College - Repealed

§§20-12-42 to 20-12-51 Repealed

Subchapter 6 Kauai Community College - Repealed

§§20-12-52 to 20-12-61 Repealed

Subchapter 7 Maui Community College - Repealed

§§20-12-62 to 20-12-71 Repealed

[Note: Subchapter 1 heading repealed.
R 3/18/19]

§20-12-1 **Statement of purpose.** The purpose of this chapter is to properly administer parking and traffic operations for vehicles on the roadways and in the parking areas under the jurisdiction of the university. These rules are intended for the safety and general welfare of the university community and the public at large. [Eff 6/22/81; am 4/1/93; am and

comp 3/18/19; comp] (Auth: HRS
§§304A-105, 304A-2601, 304A-2672) (Imp: HRS §§304A-
105, 304A-2601, 304A-2602, 304A-2681)

§20-12-2 **Definitions.** As used in this chapter:

"Board" refers to the board of regents of the University of Hawaii.

"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;
- (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.

"Driver" has the same meaning as in section 291C-1, HRS.

"Employees" refers to and shall include the faculty, staff, and graduate students employed at the university.

"Parking board" refers to the parking board of review for each campus, consisting of at least one student, one faculty member, and one staff member.

"Pedestrian" has the same meaning as in section 291C-1, HRS.

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

"Special events" refers to events on each campus that would necessitate a temporary change in the normal parking and traffic operations.

"Student" refers to any full-time or part-time student enrolled at the university.

"University" refers to the University of Hawaii.

"Vehicle" has the same meaning as in section 291C-1, HRS. [Eff 6/22/81; am 4/1/93; am 12/18/00; am and comp 3/18/19; am and comp] (Auth: HRS §§304A-105, 304A-2601, 304A-2672) (Imp: HRS §§304A-105, 304A-2601, 304A-2602, 304A-2681)

§20-12-3 **Delegation of authority.** Except as otherwise reserved for the board in section 20-12-8, the board delegates its authority to properly administer and manage the parking and traffic operations at each respective campus to the president. The president shall have authority to:

- (1) Establish, implement, and administer policies and procedures to regulate traffic and parking;
- (2) Establish, implement, and administer policies and procedures for issuance of permits to employees and students;
- (3) Designate reserved parking for university vehicles, disabled employees and students, and special events at the campus;
- (4) Engage a private concessionaire or contractor to operate the parking and traffic program or a portion thereof on campus;
- (5) Appoint members of the parking board for the campus; and
- (6) Perform other action as necessary to regulate traffic and parking.

The president is authorized to delegate any of the president's power to the chancellors of the respective campuses. [Eff 6/22/81; am 4/1/93; am and comp 3/18/19; comp] (Auth: HRS §§304A-

105, 304A-2601, 304A-2672) (Imp: HRS §§304A-105, 304A-2601, 304A-2681)

§20-12-4 Repealed. [R 3/18/19]

§20-12-5 Repealed. [R 3/18/19]

§20-12-6 Repealed. [R 3/18/19]

§20-12-7 **General rules.** (a) Area of authority. These rules shall govern parking and operation of vehicles on each campus.

(b) Time. These rules shall be in effect twenty-four hours daily throughout the entire calendar year.

(c) All drivers and pedestrians on campus shall adhere to, and be subject to fines in accordance with, all applicable state and local traffic laws and this chapter.

(d) Signs. Drivers and pedestrians shall adhere to all officially posted signs regarding traffic and parking.

(e) Removal. Any vehicle may be removed at the expense of the owner if it is in violation of this chapter. The registered owner of any vehicle so removed shall be responsible for and pay all costs incurred in the towing, storage, and disposal of the vehicle.

(f) To the extent permitted by law, the university shall not be responsible or liable for fire, theft, or damages to vehicles or any contents therein when parked or operated on any campus. [Eff 6/22/81; am 4/1/93; am 12/18/00; am and comp 3/18/19; comp] (Auth: HRS §§304A-105, 304A-

2601, 304A-2672) (Imp: HRS §§304A-105, 304A-2601, 304A-2681)

§20-12-8 Parking permits, violations, fees, and penalties.

(a) The board may establish fees for parking permits and for hourly or daily parking on the roadways and in the parking areas under the jurisdiction of the university. Parking fees shall be established at an open meeting of the board in accordance with the requirements of chapter 92, HRS.

(b) Violations and their corresponding fines and penalties for nonpayment shall be as set forth in Attachment 1, entitled "Violations and Schedule of Fines and Penalties for Non-Payment for the University of Hawaii Campuses", dated April 12, 2019, and located at the end of this chapter. Violators may be subject to any or all of the following: citation, fines, non-payment penalties, and removal of vehicle. University employees or students may also be subject to additional penalties in accordance with university policies.

(c) Non-payment penalties may be imposed if the fine is not paid or appealed within fifteen days after the issuance of the citation, as set forth in Attachment 1, entitled "Violations and Schedule of Fines and Penalties for Non-Payment for the University of Hawaii Campuses", dated April 12, 2019, and located at the end of this chapter.

(d) Fines imposed shall be over and beyond removal and storage charges, if any.

(e) The permit holder, the registered owner, or the driver of the vehicle shall be subject to the applicable fines and penalties described in subsections (b) and (c).

(f) All fines and penalties shall be paid at the parking office, business office, administration office, or at any other office as the chancellor of the applicable campus designates. [Eff 6/22/81; am 4/01/93; am 12/18/00; am 08/21/09; am and comp 3/18/18; am and comp] (Auth: HRS

§§304A-104, 304A-2601, 304A-2672) (Imp: HRS §§304A-105, 304A-2601, 304A-2602, 304A-2681)

§20-12-9 Repealed. [R 3/18/18]

§20-12-10 Appeals process, information requests and submittals, and petitions for declaratory rulings.

(a) Any university employee or student shall follow the appeals process established by the chancellor of the campus issuing the citation. All others, including any member of the public, shall follow the appeals process set forth in this section.

Requests for formal hearings shall be submitted in writing within seven days after issuance of the citation on a form to be provided by the campus. These forms shall be made available by the parking office, business office, administration office, or by any other office as the chancellor of each campus designates.

(b) The following rules of practice on parking and traffic matters including both informal and formal procedures are adopted:

- (1) Informal procedures. Persons who believe that they have received a parking or traffic citation in error or whose vehicle was removed by the campus may file a written request for an informal review with the parking manager or other authorized person designated to manage the campus' parking and traffic program within fifteen days of the issuance of the citation or of the removal of a vehicle. The authorized person may waive the filing deadline for good cause shown. The authorized person may void citations, waive towing and storage charges, and reduce the fine imposed upon review of the facts of each case and upon a written finding that the parking or traffic citation

was improperly issued or that the person did not know of the citations or notice so as to contest them within fifteen days of issuance. The authorized person's written decision shall be final and binding and no further appeal is permitted; and

- (2) Formal procedures. A person requesting a formal hearing on a parking or traffic citation in accordance with subsection (a) shall be afforded an opportunity for hearing after reasonable notice as provided by chapter 91, HRS. The hearing under this section shall be treated as a contested case hearing under chapter 91, Hawaii Revised Statutes, and shall be conducted in accordance with the statutory requirements for contested case hearings, as follows:
- (A) The hearing shall be conducted by a hearing officer appointed by the parking board;
 - (B) Upon receipt of a written request for a formal hearing, the hearing officer shall issue a written notice, which notice shall include a statement of:
 - (i) The date, time, place, and nature of hearing;
 - (ii) The legal authority under which the hearing is to be held;
 - (iii) The particular sections of the statutes, rules, and procedures involved;
 - (iv) An explicit statement in plain language of the issues involved and the facts alleged by the officer issuing the citation in support thereof, provided that if the hearing officer is unable to state the issues and facts 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; and

- (v) The fact that any party may retain counsel if so desired.

The written notice of hearing shall be provided to all parties to the proceeding at least fifteen days before the hearing;

- (C) Opportunity shall be afforded each party to present evidence and argument on all issues involved. 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) 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;
- (E) For the purpose of preserving a record of the proceedings before the hearing officer, the proceedings shall be either tape-recorded or recorded verbatim by a certified shorthand reporter. It shall not be necessary to transcribe the record unless requested for purposes of rehearing, board review, or court review;
- (F) Within a reasonable time following the closure of the hearing on the contested case, the hearing officer shall submit findings of fact and conclusions of law to, and prepare a proposed decision on the case as a recommendation for, the parking board and to the parties. If a party is adversely affected by the proposed decision, the party may file written exceptions and present written or oral arguments to the parking board.

Any exceptions and written arguments shall be filed not more than fifteen days from the date of the proposed decision with the parking office, business office, administration office, or any other office as the chancellor of the campus handling the formal hearing designates. The parking board shall provide the parties with an opportunity to present oral arguments at an adjudicatory meeting of the parking board;

- (G) In rendering the final decision, the parking board 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 parking board in making a decision, except as provided in this chapter;
- (H) Every decision and order adverse to a party to the proceeding shall be in writing or stated in the record and shall be accompanied by separate findings of fact and conclusions of law. Parties to the proceedings shall be notified by delivering or mailing a certified copy of the decision and order and accompanying findings and conclusions within a reasonable time to each party. If the citation is upheld, the parking board or the hearing officer may direct payment of all or a portion of the fine or charge;
- (I) If a party does not appear at the date, time, and place appointed for the hearing, either before the parking board or the hearing officer, the party may be denied another hearing on the matter; and
- (J) Appeals from the final decision of the parking board rendered in a contested

case under this chapter shall be in accordance with chapter 91, HRS.

(c) The public may obtain information or make submittals or requests relative to parking and traffic matters by addressing a letter to the parking office, business office, administration office, or such other office as the chancellor of the respective campus designates.

(d) Petitions for declaratory rulings as to the applicability of any statutory provision concerning parking or operation of vehicles on any campus shall be in the form of a letter to the chancellor of the respective campus stating the interest of the petitioner in the matter, the reasons for requesting the ruling and the specific nature of the ruling being requested. The chancellor shall render in writing a declaratory ruling or other order disposing of the matter." [Eff 6/22/81; am 4/1/93, am and comp 3/18/18; comp] (Auth: HRS §§91-6, 91-8, 304A-105, 304A-2601, 304A-2672) (Imp: §§91-6, 91-8, 304A-105, 304A-2601, 304A-2681)

Attachment 1

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 NON-PAYMENT
 FOR THE UNIVERSITY OF HAWAII CAMPUSES**

Violations and Schedule of Fines and Penalties for
 Non-Payment:

		Original Fine	15-Day Non-Payment Penalty
(1)	Parking in prohibited areas including but not limited to the following: -lawns, planted areas, and grounds under repair; -median strips, sidewalks, driveways, and crosswalks; -No parking areas or along curbs painted red; -(obstructing) fire hydrants or (parking in) fire lanes; -(obstructing) vehicular or pedestrian traffic; -official bus or shuttle stops.	\$40.00	\$50.00
(2)	Parking in an area not designated for that specific type of vehicle.	40.00	50.00
(3)	Operating or parking a vehicle within a university building.	40.00	50.00

		Original Fine	15-Day Non-Payment Penalty
(4)	Double parking or vehicles not placed wholly within the lines or boundaries of the parking space.	40.00	50.00
(5)	Parking in a reserved stall.	50.00	60.00
(6)	Using a disabled placard, but refusing to present a valid identification card issued under Chapter 291, Hawaii Revised Statutes, to an enforcement officer upon request.	260.00	270.00
(6a)	<p>Parking in a space reserved for persons with disabilities and:</p> <p>(i) Failing to properly display a windshield placard or special license plate authorizing use of such parking space in accordance with Part III of Chapter 291, Hawaii Revised Statutes; or</p> <p>(ii) Displaying an invalid windshield placard or special license plate; or</p> <p>(iii) Using a windshield placard or special</p>		

		Original Fine	15-Day Non-Payment Penalty
	license plate that was not issued to the driver or to any passengers occupying the vehicle in the parking space.	260.00	270.00
(6b)	Parking in a space reserved for persons with disabilities by a person who has been issued a valid windshield placard or special license plate that is currently in effect, but failing to properly display the windshield placard or special license plate.	100.00	110.00
(6c)	With or without a valid windshield placard or special license plate: (i) Parking in an access aisle adjacent to a parking space reserved for persons with a disability; or (ii) Obstructing the ingress or egress to a parking space reserved for persons with a disability.	260.00	270.00

		Original Fine	15-Day Non-Payment Penalty
(6d)	Parking in a space reserved for persons with disabilities and refusing or failing to present an identification card issued under Chapter 291, Hawaii Revised Statutes, or the rules adopted thereunder to an enforcement officer upon request.	260.00	270.00
(7)	Parking in a loading zone longer than 15 minutes.	50.00	60.00
(8)	Parking in the wrong zone.	40.00	50.00
(9)	Parking without a permit.	40.00	50.00
(10)	Failure to display a permit or displaying it at an improper location.	40.00	50.00
(11)	Failure to pay the hourly or daily parking rate.	40.00	50.00
(12)	Falsifying information on an application.	50.00	60.00
(13)	Displaying or using an invalid permit or pass.	40.00	50.00
(14)	Possessing or using a counterfeit, altered, defaced, illegally transferred, or stolen permit.	100.00	110.00

		Original Fine	15-Day Non-Payment Penalty
(15)	Driving on areas other than streets, roads, or parking areas.	97.00	107.00
(16)	Exceeding the 15 mph or other posted speed limits on campus.	97.00	107.00
(17)	Reckless driving (operating a vehicle in disregard of the safety of persons or property).	97.00	107.00
(18)	Failure to heed the directions of a duly authorized officer.	97.00	107.00
(19)	Failure to heed the directions of an official sign and/or symbols.	97.00	107.00
(20)	Moving violations of the applicable county traffic code not otherwise specified herein.	97.00	107.00
(21)	Parking or operating a bicycle or moped in violation of the applicable county traffic code (not otherwise specified herein).	72.00	82.00
(22)	Failure to make a complete stop at an official stop sign.	97.00	107.00

		Original Fine	15-Day Non-Payment Penalty
(23)	Transporting a bicycle, moped, or motorcycle in an elevator.	40.00	50.00
(24)	Damaging campus signs, parking gates, or parking appurtenances.	100.00 + cost of repair or replacement	110.00 + cost of repair or replacement
(25)	Repeat violation of parking regulations.	100.00	110.00
(26)	Vehicle or its alarm system making excessive or unusual noise (noise in excess of the usual noise which would necessarily result from the operation of a vehicle when reduced to the minimum by a muffler) or causing a disturbance, or both.	72.00	82.00
(27)	Moving any barricade or parking within any barricaded area.	97.00	107.00

UNIVERSITY OF HAWAII

Amendments to and compilation of chapter 20-12,
Hawaii Administrative Rules, on the Summary page dated
_____, were adopted on _____,
following a public hearing held on _____,
after public notice was given in the _____
on _____.

These rules shall take effect ten days after
filing with the Office of the Lieutenant Governor.

LEE PUTNAM
Chairperson, Board of Regents
University of Hawaii

APPROVED:

DAVID Y. IGE
Governor
State of Hawaii

Dated: _____

Filed

APPROVED AS TO FORM:

University of Hawaii

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

Department of the Attorney General

Patricia Ohara, Esq.
Deputy Attorney General

18919-2



UNIVERSITY
of HAWAII
HILO

UNIVERSITY OF HAWAII
BOARD OF REGENTS

RECEIVED 19 APR 11 P4 50

April 8, 2019

19 APR 10 P2:30

MEMORANDUM

TO: Lee Putnam
Chairperson, Board of Regents

VIA: David Lassner
President

FROM: Marcia Sakai
Interim Chancellor, UH Hilo

UNIVERSITY OF HAWAII
PRESIDENT'S OFFICE

David Lassner

Marcia Sakai

SUBJECT: Approval of administration's recommendation to hold a second round of public hearings on the revised draft of Chapter 20-26, Hawai'i Administrative Rules, entitled "Public and Commercial Activities on Mauna Kea Lands."

A. SPECIFIC ACTION REQUESTED

On behalf of the Office of Maunakea Management ("OMKM"), we request that the Board of Regents ("Board") approve the University administration's recommendation to hold a second round of public hearings on the revised draft of Chapter 20-26, Hawai'i Administrative Rules ("HAR"). Public hearings for the first formal draft of the rules, entitled "Public and Commercial Activities on Mauna Kea Lands" (hereinafter, "MKR Draft I") were held in September 2018. Public comments received during those hearings were considered and led to revisions and a second informal draft ("MKR Draft II"). The MKR Draft II has been made available informally for public comments. Comments received on MKR Draft II were considered, and the draft of the rules attached hereto as Attachment "A" ("MKR Draft III") reflects changes made in response to those comments. Approving this recommendation would allow OMKM to hold formal public hearings on MKR Draft III.

B. RECOMMENDED EFFECTIVE DATE

Effective upon approval.

C. ADDITIONAL COST

The costs and fees for the September 2018 public hearings held at four sites on Oahu, Maui, and Hawaii Island (Hilo and Waikoloa), totaled \$24,632.21. This included

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Hilo, Hawai'i 96720-4091
Telephone: (808) 932-7348
Fax: (808) 932-7338
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costs and fees related to facility rentals, publication of notices, travel and lodging for staff and the 'ōlelo Hawai'i translator, and the court reporter and transcripts. The second round of public hearings will be conducted in the same areas. We expect costs and fees to remain approximately the same.

D. PURPOSE

The University is authorized by Section 304A-1903, Hawai'i Revised Statutes ("HRS"), "to adopt rules pursuant to Chapter 91 to regulate public and commercial activities on Mauna Kea lands." This request seeks approval to hold formal public hearings on MKR Draft III, under Section 91-3, HRS. This request is procedural in nature; the Board is not being asked to adopt the subject rules at this time. However, based on the significant and substantial public outreach and comments, we expect to bring proposed rules forward after the public hearings that do not include significant changes from Draft III for approval by the Board.

E. BACKGROUND INFORMATION

1. Development and rule-making process

OMKM developed the subject rules pursuant to 2009 Hawai'i Session Laws Act 132, which is codified in relevant part as Sections 304A-1901 through 304A-1905, HRS. Specifically, Section 304A-1903, HRS, provides as follows:

Mauna Kea lands; rules. The board of regents may adopt rules pursuant to chapter 91 to regulate public and commercial activities on Mauna Kea lands.

In adopting these rules, the board shall:

(1) Strive for consistency with the administrative rules of the division of forestry and wildlife of the department of land and natural resources related to forest reserves and natural area reserves;

(2) Consult with the office of Hawaiian affairs to ensure that these rules shall not affect any right, customarily and traditionally exercised for subsistence, cultural, and religious purposes and possessed by ahupuaa tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights; and

(3) Hold at least one public hearing, in addition to the public hearing at which decision-making on the proposed rule is made, on the island of Hawai'i.

The development of the proposed rules is an ongoing process that started with discussions at the Maunakea Management Board ("MKMB") soon after it was formed in the year 2000. The University was granted authority to adopt rules for Maunakea by Act 132 in 2009. During the development of these rules, OMKM held open houses and numerous public outreach sessions seeking feedback on the rules. In addition, it continues to consult with the Office of Hawaiian Affairs ("OHA") and seek input from the Department of Land and Natural Resources ("DLNR"), MKMB, and Kahu Kū Mauna ("KKM"), the native Hawaiian advisory council to OMKM. The rules in large part reflect existing DLNR forest reserve and natural area reserves administrative rules.

The following are the most recent significant milestones in the rulemaking process since the Board's last action on this item on October 18, 2018:

- October 18, 2018, the Board granted approval to draft revisions to specific provisions in MKR Draft I and to return to the Board for approval of the new draft prior to conducting a second round of public hearings.
- February 12, 2019, the University posted MKR Draft II and a table showing the changes made and the rationale for those changes at <https://www.hawaii.edu/news/2019/02/12/university-seeks-comments-informal-draft-maunakea-rules>. The public was invited to comment by post and e-mail on or before Friday, March 15, 2019, at 4:30 p.m. During this time, the University also reached out directly to other interested persons and groups including the protectors, homestead organizations, UH Mānoa and UH Hilo faculty, astronomy representatives, and business communities.
- March 14, 2019, the University met with the director of DLNR and her staff in the University's continued effort to strive for consistency with DLNR's administrative rules related to forest reserves and natural area reserves.
- April 4, 2019, the University met with OHA to continue its consultation on the rules as required by Act 132.

Previous milestones and outreach are documented in Board materials, including materials submitted for Board meetings on May 21, 2018, and October 18, 2018.

2. Scope of the rules

The scope and application of the University's rulemaking authority is limited to "Mauna Kea lands," which is defined in Section 304A-1901, HRS, as follows:

"Mauna Kea lands" means the lands that the University of Hawai'i is leasing from the board of land and natural resources, including the Mauna Kea Science Reserve, Hale Pohaku, the connecting roadway corridor between Hale Pohaku and the Mauna Kea Science Reserve, and any other lands on Mauna Kea that the University of Hawai'i leases or over which the University of Hawai'i acquires control or jurisdiction.

Section 304A-1903, HRS, authorizes the University to develop rules "to regulate public and commercial activities on Mauna Kea lands," consistent with Forest Reserve System¹ and Natural Area Reserves System² rules administered by the DLNR. Therefore, like DLNR's rules and as called for by the legislature in Act 132, MKR Draft III regulates public and commercial activities such as general access to sensitive resource areas; traffic and off-road vehicle management and control; alcohol consumption; recreational activities; and commercial tour activities. The University's proposed rules do not regulate non-public, non-commercial activities, such as scientific, educational, and management functions. The proposed rules regulate "activities" not "land uses," which are governed by DLNR's conservation district rules.³

Section 91-3, HRS, requires that the University "[a]fford all interested persons opportunity to submit data, views, or arguments, orally or in writing," and that the University "shall fully consider all written and oral submissions respecting the proposed rule." MKR Draft III includes changes made in consideration of written and oral submissions regarding MKR Drafts I and II. Attachment "B" attached hereto, is a table summarizing the changes made to MKR Draft I that resulted in MKR Draft III and the rationale for those changes. The changes in MKR Draft III include consideration of the comments from the September 2018 hearings and subsequent comments received during informal outreach. Attachment "C" is a summary of comments received during informal outreach on MKR Draft II. Comments on MKR Draft I can be found in the October 18, 2018 Board submittal.

As previously noted, Section 304A-1903(1), HRS, requires that the University "[s]trive for consistency with the administrative rules of the division of forestry and wildlife of the department of land and natural resources related to forest reserves and natural area reserves." Based on consultation with DLNR, MKR Draft III is not inconsistent with said DLNR rules. Furthermore, many of the provisions and the basic framework of MKR Draft III is based on said DLNR rules.

As also previously noted, Section 304A-1903(2), HRS, specifically requires that the University, "[c]onsult with the office of Hawaiian affairs to ensure that these rules shall not affect any right, customarily and traditionally exercised for subsistence, cultural, and religious purposes and possessed by ahupuaa tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights." In addition, section 304A-1904, HRS, requires that the University consult with OHA on administrative fines for violation of the rules. MKR Draft III includes considerations based on consultation with OHA.

¹ See, e.g., Chapter 13-104, HAR, *Activities Within Forest Reserves*.

² See, e.g., Chapter 13-209, HAR, *Activities Within Natural Area Reserves*.

³ Chapter 13-5, HAR, *Conservation District*.

3. Summary of Changes Made

A number of testifiers at the public hearings found MKR Draft I to be overly prescriptive as relating to the protection of customary and traditional rights. While this language had been developed in consultation with OHA, it became clear that this was a contentious point and that language that was intended to protect such practices and rights was not universally viewed in that light. It was removed from MKR Draft II and feedback on this point was less negative. As summarized in Attachment "B," based on direct outreach on MKR Draft II, we added a reference to Article XII, section 7, of the Hawai'i Constitution to HAR § 20-26-3, entitled "Applicability and implementation, generally." In addition, a suggestion in MKR Draft II that bicycling be prohibited to the summit was widely criticized. That section, also summarized in Attachment "B," has been revised to allow bicycling on the unpaved road above Halepōhaku with approval.

As with most administrative rules, it is important to note that MKR Draft III is not universally supported by all stakeholders. The management and oversight of public lands invoke deep and passionate discussion among various users and sometimes competing uses. As the record in this rulemaking process shows, not all stakeholders agree on difficult matters relating to Maunakea. However, we believe MKR Draft III is an important step in addressing the longstanding need for administrative rules on lands managed by the University to replace the public and commercial activities rules that formerly applied under DLNR's forest reserve and natural area reserve rules. It also provides important and useful capabilities not available today so the University can reduce vehicular traffic on the mountain, update permits and rates for commercial tour operators, address serious abuses such as the recent extreme sports episode, and ensure the protection of traditional and customary practices and rights.

4. Next Steps

If the Board approves the requested action, OMKM will conduct public hearings on MKR Draft III similar to those held in September 2018 on MKR Draft I, with one in Honolulu, two on the Island of Hawai'i, and one on Maui.

Comments received during the public hearing process will be fully considered, and further revisions to the subject rules may be made as appropriate. KKM and MKMB will be consulted prior to returning to the Board seeking approval for adoption of the draft rules as they have been amended.

After Board adoption, approval must also be obtained from the Governor, following a review of the final text by the Small Business Regulatory Review Board and the Attorney General. This extensive review and approval process is expected to be completed, and the final rules to be adopted and effective, in 2020, assuming no further public hearing process is necessitated by substantial changes. This date was moved forward a year to allow for additional public comments and outreach after changes were made to the rules after the September 2018 hearings.

F. ACTION RECOMMENDED

We request that the Board approve the University administration's recommendation to hold a second round of public hearings on the revised draft of Chapter 20-26, Hawai'i Administrative Rules, entitled "Public and Commercial Activities on Mauna Kea Lands" [MKR Draft III].

G. ATTACHMENTS

- Attachment "A" – Proposed Chapter 20-26, Hawai'i Administrative Rules, entitled "Public and Commercial Activities on Mauna Kea Lands" [MKR Draft III]
- Attachment "B" – Summary of All Revisions to MKR Draft I
- Attachment "C" – Summary of Informal Comments Received on Informal Draft Rules

c: Kendra Oishi, Executive Administrator and Secretary to the Board, University of Hawai'i

Attachment "A"

**Proposed Chapter 20-26, Hawai'i Administrative Rules,
entitled "Public and Commercial Activities on
Mauna Kea Lands" [MKR Draft III]**

UNIVERSITY OF HAWAI'I

Adoption of Chapter 20-26
Hawai'i Administrative Rules

(Date)

1. Chapter 20-26, Hawai'i Administrative Rules, entitled "Public and Commercial Activities on Mauna Kea Lands," is adopted to read as follows:

"HAWAI'I ADMINISTRATIVE RULES

TITLE 20

UNIVERSITY OF HAWAI'I

SUBTITLE 1

UNIVERSITY OF HAWAI'I

BOARD OF REGENTS

CHAPTER 26

PUBLIC AND COMMERCIAL ACTIVITIES ON MAUNA KEA LANDS

Subchapter 1 General Provisions

- §20-26-1 Purpose
- §20-26-2 Definitions
- §20-26-3 Applicability and implementation, generally
- §20-26-4 Consistency with other rules
- §20-26-5 Orientation
- §20-26-6 Fees
- §20-26-7 Mauna Kea lands management special fund
- §20-26-8 Delegation of authority
- §§20-26-9 to 20-26-20 (Reserved)

Subchapter 2 Public Activities

- §20-26-21 Preservation of resources
- §20-26-22 Preservation of property
- §20-26-23 Preservation of scientific and educational resources
- §20-26-24 Litter and sanitation
- §20-26-25 Fire use restrictions
- §20-26-26 Explosives
- §20-26-27 Firearms or other weapons
- §20-26-28 Vehicles and transportation
- §20-26-29 Unmanned aerial vehicles, drones and air toys
- §20-26-30 Outdoor sports activities
- §20-26-31 Hazardous materials
- §20-26-32 Animals
- §20-26-33 Audio devices and noise
- §20-26-34 Public safety
- §20-26-35 Use of drugs or alcohol
- §20-26-36 Use of tobacco
- §20-26-37 Camping
- §20-26-38 Access
- §20-26-39 Snow play
- §20-26-40 Scattering of cremated remains
- §20-26-41 Interference with government function
- §20-26-42 Compliance with laws
- §§20-26-43 to 20-26-50 (Reserved)

Subchapter 3 Commercial Activities

- §20-26-51 Commercial activities generally
- §20-26-52 Selling, advertising, and solicitation

§§20-26-53 to 20-26-60 (Reserved)

Subchapter 4 Permits and Registration for
Public and Commercial Activities

- §20-26-61 General provisions
- §20-26-62 Group use registration
- §20-26-63 Research permits
- §20-26-64 Special use permits
- §20-26-65 Commercial tour activity permits
- §20-26-66 Commercial film and recordings
- §20-26-67 Period of validity and renewal of permit
- §§20-26-68 to 20-26-70 (Reserved)

Subchapter 5 Administration and Enforcement

- §20-26-71 Purpose of subchapter; statement of policy
- §20-26-72 Applicability
- §20-26-73 Violations, penalties, costs,
administrative fines, sanctions, and
collection
- §20-26-74 Enforcement; citations
- §20-26-75 Appeals process, information requests and
submittals, and petitions for declaratory
rulings
- §20-26-76 Enforcement and stay of final decision
- §20-26-77 Severability

SUBCHAPTER 1

GENERAL PROVISIONS

§20-26-1 Purpose. The purpose of these rules is to provide for the proper use, management, and protection of cultural, natural, and scientific resources of the UH management areas; to promote public safety and welfare by regulating public and commercial activity within the UH management areas; to

ensure safe and appropriate access to the UH management areas for the public; and to foster co-management with the department of land and natural resources in UH management areas. [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-2 Definitions. As used in these rules, unless context requires otherwise:

"Authorized agent" means a person, persons, or entity authorized by the president, to act on the president's behalf under this chapter.

"Board" means the board of regents of the University of Hawai'i.

"Camping" means the use of UH management areas (other than designated facilities at Halepōhaku) for living accommodation purposes such as sleeping activities, or making preparations to sleep (including but not limited to the laying down of bedding for the purpose of sleeping), or storing personal belongings, or using any tents or shelter or other structure or vehicle for sleeping or carrying on cooking activities, between one hour after sunset and sunrise. The activities indicated constitute camping when it reasonably appears, in light of the circumstances, that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaged.

"Commercial activity" means a use or purpose designed for profit, which includes the exchange or buying and selling of goods, or the providing of services, or relating to or connected with trade, traffic or commerce in general; provided, however, that the use of land for utility and routine maintenance, operations, and construction purposes shall not be considered a commercial activity. Commercial activities include but are not limited to activities whose base of operations is outside the

boundaries of the UH management areas, or provide transportation to, from, or within the UH management areas.

"Commercial tours" means the transport of people for compensation for the purpose of engaging in public activities within the UH management areas, including but not limited to transport by cars, sport utility vehicles, trucks, taxis, vans or buses.

"Compensation" includes, but is not limited to, monetary payments, barter, or services in-kind. Bona fide sharing of resources or expenses among participants in scientific research-related activities, including but not limited to astronomical observatory operations, does not constitute compensation.

"Comprehensive management plan" means the Mauna Kea Comprehensive Management Plan approved by the board of land and natural resources, dated April 2009, including any sub-plans, as they may be amended.

"Drone" means an unmanned aircraft, ship, or vehicle guided by remote control or onboard computers.

"Forest reserve" means lands set apart as forest reserve pursuant to section 183-11, Hawai'i Revised Statutes.

"Game mammals and birds" means those animals that have been designated as such by the department of land and natural resources.

"Halepōhaku" means the Halepōhaku (also known as Hale Pōhaku) mid-level facilities as described in the lease between the board of land and natural resources and the university.

"Hazardous materials" means any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (1976), as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq. (1980), as amended, the Federal Clean Water Act, 33 U.S.C. § 1251 et seq. (1972), or any other federal, state, or local environmental law, regulation, ordinance, rule, or by-

law, whether existing as of the date hereof or subsequently enacted.

"Kahu Kū Mauna" means the advisory community-based council that advises the Maunakea Management Board, OMKM, and the chancellor of the University of Hawai'i at Hilo on Hawaiian cultural matters affecting the UH management areas.

"Law enforcement officer(s)" means any federal, state, or county government employee with law enforcement powers.

"Mauna Kea" or "Maunakea" refers to the dormant volcano on the island of Hawai'i standing approximately 4,205 meters above sea level; its peak is the highest point in the state of Hawai'i.

"Maunakea Management Board" or "MKMB" means the community-based advisory body established by the board to provide the Hawai'i Island community with a direct voice to the university for the management of the UH management areas.

"Motorized vehicle" means a vehicle of any shape or form that depends on a gas, electric, or other fuel motor for propulsion.

"Natural area reserve" means an area designated as a part of the Hawai'i natural area reserves system, pursuant to chapter 195, Hawai'i Revised Statutes.

"Non-motorized vehicle" means a vehicle of any shape or form that depends on human, animal, wind, spring, and other non-motorized means for propulsion.

"Office" or "OMKM" means the office of Maunakea management.

"Person" includes individuals eighteen (18) years of age or older, partnerships, corporations, associations, or public or private organizations of any character other than government agencies.

"President" means the president of the university, unless otherwise expressly stated or further designated by the board or the president.

"Private vehicle" means any vehicle not operated for governmental purposes, including but not limited to private cars and trucks, rental cars and trucks, commercial tour vehicles, taxis, limousines, buses, and other transportation for hire. It does not

include vehicles operated by employees or agents of government agencies on official business, but can include any vehicle, including a government vehicle, if operated by an employee or agent of a government agency when not acting in an official capacity.

"Public activities" means activities of the general public that are not governed by contract or other legal agreement with the university, other than a permit issued under these rules or the rules of the department of land and natural resources, if applicable.

"Solicit" means to ask, implore, plead for; to endeavor to obtain by asking; to importune; or to try to obtain.

"UH management areas" are those lands defined as "Mauna Kea lands" under section 304A-1901, Hawai'i Revised Statutes.

"University of Hawai'i", "University", and "UH" means the state university established under article X, section 5 of the Hawai'i Constitution and section 304A-101, Hawai'i Revised Statutes, which is governed by the board.

"Written permit" or "written permission" means a permit or permission issued under this chapter by the president. [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-3 Applicability and implementation, generally. (a) These rules shall apply to all public activities and commercial activities in the UH management areas as defined in these rules.

(b) These rules do not apply to education and research activities and support functions carried out by:

- (1) The university;
 - (2) Persons under an agreement with the university; or
 - (3) Government entities under an agreement with the university.
- (c) Where overlapping jurisdictions within UH

management areas are present, including but not limited to department of land and natural resources administrative rules pertaining to conservation districts, forest reserves, historic preservation, hunting, and natural area reserves, those rules shall govern.

(d) This chapter shall be implemented in consultation with the department of land and natural resources, to allow hunting and recreation in those areas designated by the department of land and natural resources as regulated by department of land and natural resources hunting rules.

(e) The president may seek the advice of the Maunakea management board and the Kahu Kū Mauna pursuant to the comprehensive management plan and consistent with the timelines and procedures of this chapter.

(f) Native Hawaiian traditional and customary rights as recognized and protected under article XII, section 7, of the Hawai'i State Constitution shall not be abridged. [Eff] (Auth: HRS §§304A-105, 304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-4 Consistency with other rules. These rules shall not be interpreted so as to be inconsistent with other rules applicable within UH management areas, including but not limited to conservation district rules, and where applicable, forest reserves, hunting, historic preservation, and natural area reserves rules. [Eff] (Auth: HRS §§304A-105, 304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-5 Orientation. As set forth in the comprehensive management plan, all persons accessing the UH management areas shall be required to complete an orientation regarding cultural and natural

resources, safety matters, and other relevant information prior to entering the UH management areas. [Eff] (Auth: HRS §§304A-105, 304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-6 Fees. Fees, as established by the board, may be charged for permits, services, parking, entrance, and for the use of facilities and programs related to the UH management areas. [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-1902, 304A-1903, 304A-2170)

§20-26-7 Mauna Kea lands management special fund. (a) All payments collected pursuant to these rules shall be deposited into the Mauna Kea lands management special fund.

(b) The proceeds of the Mauna Kea lands management special fund shall be used as provided in chapter 304A, Hawai'i Revised Statutes. [Eff] (Auth: HRS §§304A-105, 304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-2170)

§20-26-8 Delegation of authority. The board delegates its authority to administer this chapter to the president, who may further delegate that authority to a designee. [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§§20-26-9 to 20-26-20 (Reserved).

SUBCHAPTER 2

PUBLIC ACTIVITIES

S20-26-21 Preservation of resources. The following activities are prohibited within the UH management areas:

- (1) Removing, injuring, disturbing, or killing any form of plant or animal life, either in whole or in part, except game mammals and birds hunted according to rules of the department of land and natural resources;
- (2) Introducing any form of plant or animal life, except dogs when permitted by the hunting rules of the department of land and natural resources and legally authorized service animals when accompanying their handlers;
- (3) Removing, damaging, or disturbing any natural feature or resource;
- (4) Removing, damaging, or disturbing any geological or paleontological features or substances;
- (5) Removing, damaging, or disturbing any historic or prehistoric property or remains;
- (6) Removing, damaging, or disturbing any private or university property, sign, marker, or structure;
- (7) Entering into any cave, as defined in section 6D-1, Hawai'i Revised Statutes, or any portion thereof, except as allowed by the department of land and natural resources;
- (8) Having or possessing the following tools, equipment or implements: cutting or harvesting tools or gear, including but not limited to chainsaws, axes, loppers, any mechanized or manual sawtooth tool, seed pickers, or machete, that may be used for the taking, injuring, or killing of plant life, and hunting gear or tools that may be used for the taking, injuring, or killing of

- wildlife; except as permitted by the hunting rules of the department of land and natural resources or in accordance with a special term or condition of a written permit;
- (9) Engaging in any improvement or construction, except as authorized by written permit and, if applicable, a permit issued by the department of land and natural resources, or by the board of land and natural resources;
 - (10) Hiking, conducting nature study, or conducting any activity on pu'u (cinder cones) unless on designated trails or roads, except by written permit; or
 - (11) Introducing any materials from outside the UH management areas, including but not limited to manmade and natural items such as balls, plastic flowers, glass, metal and rocks, except by written permit and, if applicable, a permit issued by the department of land and natural resources.
- [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-22 Preservation of property. The following activities are prohibited within the UH management areas:

- (1) Entering, occupying, or using any building, structure, facility, motorized vehicle, machine, equipment, or tool without permission from its owner or the university;
- (2) Removing, damaging, disturbing, defacing, or attempting to remove, damage, disturb or deface any building, structure, facility, motorized vehicle, machine, equipment, or tool without permission from its owner or the university; or
- (3) Entering and remaining within any portion of the UH management areas developed or used by the university for educational or research

purposes, after being asked to leave the area by an authorized agent or law enforcement officer. [Eff]
(Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-23 Preservation of scientific and educational resources. The following activities are prohibited within the UH management areas north of Halepōhaku:

- (1) Using any radio transmitter, including but not limited to two-way radios, Wi-Fi and Bluetooth devices, and cellular telephones; provided that, cellular telephones may be used for emergency purposes or when radio transmission is suspended, for example by using airplane mode;
- (2) Directing artificial illumination, for example, lasers and flashlights, at or near observatories; or
- (3) Conducting any other activity that materially interferes with the scientific and educational operations of the astronomical facilities or research equipment or with the protection of the scientific resources. [Eff]
(Auth: HRS §§304A-105, 304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-24 Litter and sanitation. The following activities are prohibited within the UH management areas:

- (1) Littering, or depositing any garbage, trash, refuse, waste material, or rubbish in any place other than receptacles provided for this purpose;
- (2) Depositing any bodily waste in areas without comfort stations without digging a hole and

- covering all signs of the waste;
- (3) Depositing any bodily waste, without use of a comfort station, within 200 feet of any body of water, building, road, or trail; or
 - (4) Leaving or abandoning any items, including but not limited to, vehicles, appliances, garbage or trash, or other forms of waste, debris, personal effects, or unattended items. [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-25 Fire use restrictions. The following acts are prohibited within the UH management areas: Starting or maintaining a fire or depositing or discarding any potential fire-producing material such as matches, cigarette butts, embers, or coals, except as otherwise provided in this chapter. [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-26 Explosives. The following acts are prohibited within the UH management areas: Using or possessing fireworks, firecrackers, or explosive devices. [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-27 Firearms or other weapons. Firearms, bows and arrows, knives with blade length greater than three (3) inches, and other weapons are prohibited within the UH management areas, except when permitted by the hunting rules of the department of land and natural resources or for use by law enforcement officers. The use and possession of any such weapons are subject to all applicable federal, state, and county statutes, ordinances, and rules. [Eff

] (Auth: HRS §304A-1903) (Imp: HRS
§§304A-103, 304A-1903)

§20-26-28 Vehicles and transportation. (a) The following acts are prohibited within the UH management areas:

- (1) Exceeding posted speed limits;
- (2) Driving, operating, or using any motorized or non-motorized vehicle in areas and on roads or trails unless designated for that use;
- (3) Launching or landing an air conveyance of any shape or form, including but not limited to aircraft, gliders, hang gliders, helicopters, balloons, parachutes, parasails, or other similar means of transportation in any portion of the UH management areas not designated for that purpose, including but not limited to roads or trails, provided that the department of land and natural resources may allow these uses under its applicable rules after consultation with the university or unless used for emergency purposes;
- (4) Parking any motorized or non-motorized vehicle or trailer except in designated areas;
- (5) Operating any motorized or non-motorized vehicle in violation of existing state or county traffic regulations, including but not limited to having a valid vehicle license plate, registration and safety check as required;
- (6) Operating any motorized or non-motorized vehicle on a closed roadway or in violation of any usage restriction established pursuant to these rules; or
- (7) Failing to comply with any posted sign or any posted equipment requirement based on roadway conditions, such as a requirement to

use or carry tire chains when snow or ice is present or anticipated.

(8) Use of two-wheel drive motorized vehicles north of Halepōhaku.

(b) Vehicles left unattended in closed areas, left for longer than forty-eight (48) hours, or causing a safety hazard may be impounded by an authorized agent at any time.

(c) All impounded vehicles shall be towed to a place of storage. Towing, storage, and other related costs shall be assessed pursuant to section 290-11, Hawai'i Revised Statutes. [Eff]
(Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-29 Unmanned aerial vehicles, drones and air toys. The following acts are prohibited within the UH management areas: using or operating unmanned or remote controlled terrestrial vehicles, aerial vehicles, drones, or air toys, including but not limited to kites, balloons, boomerangs, gliders, rockets, and model aircraft. [Eff]
(Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-30 Outdoor sports activities. The following acts are prohibited within the UH management areas:

- (1) Use of vehicles with two wheels propelled by pedals, for example, a bicycle, north of Halepōhaku, except by written permission; or
- (2) Engaging in any outdoor sport or play involving objects thrown, hit, or driven, of any shape or size that could result in injury to others or damage to existing structures or equipment, that are likely to be lost or misplaced, or inconsistent with section 20-26-21; or

- (3) Formally or informally organized contests, meets, or competitions. [Eff] (Auth: HRS §304A-1903)
(Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-31 Hazardous materials. Introducing, using, disposing, releasing, spilling, or transporting any hazardous materials is prohibited within the UH management areas, other than fuel or lubricants contained within a licensed motorized vehicle or as otherwise used in the ordinary course of lawful activities in a manner sanctioned by law and compliant with all applicable legal requirements. [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-32 Animals. (a) Dogs, cats, and other animals are prohibited within the UH management areas except for hunting dogs when permitted by department of land and natural resources hunting rules and legally authorized service animals when accompanying their handlers.

(b) All dogs used for hunting shall be crated, caged, leashed or otherwise under restrictive control during transportation while in transit at all times, to and from hunting areas in the UH management areas, except under written authorization by the department of land and natural resources for management activities.

(c) Dogs, cats, or other domestic animals will be removed in the interest of public safety and the protection of resources. [Eff]
(Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-33 Audio devices and noise. Creating noise or sound within UH management areas using public address systems or other audio amplifying devices, or using electric generating plants or other equipment driven by motors or engines, in a manner and at times that create a nuisance is prohibited. [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-34 Public safety. The following acts are prohibited within the UH management areas:

- (1) Disorderly conduct, as defined in section 711-1101, Hawai'i Revised Statutes; or
- (2) Engaging in activities that would obstruct or impede public or vehicular access, or harass visitors to UH management areas, either verbally or with physical contact. [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-35 Use of drugs or alcohol. The following acts are prohibited within the UH management areas:

- (1) Using or possessing narcotics or drugs, except as legally prescribed by a physician, or over-the-counter medication in accordance with applicable law; or
- (2) Using or possessing alcohol in public areas. [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-36 Use of tobacco. The following acts are prohibited within the UH management areas:

Smoking and tobacco use, consistent with Act 160,
Session Laws of Hawai'i 2018, section 2. [Eff
] (Auth: HRS §304A-1903) (Imp: HRS
§§304A-103, 304A-105, 304A-1903)

§20-26-37 Camping. Camping is prohibited within
the UH management areas. [Eff]
(Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-
105, 304A-1903)

§20-26-38 Access. (a) Roadway access control.
Upon approval of the board of land and natural
resources, a gate or other access control structure
may be installed as set forth in the comprehensive
management plan to manage vehicular access to portions
of the UH management areas.

(b) Closed areas, road closures or usage
limitations.

- (1) The president may close or limit access to
all or portions of the UH management areas,
when needed for protection from hazardous
conditions, including but not limited to
inclement weather conditions, construction
or maintenance activities on or near the
roadway or at observatory sites,
transportation of wide, heavy, or otherwise
hazardous loads, or roadway congestion.
Notice of road closures or usage limitations
shall be provided through signage, road
blocks, closed gates, or other means
reasonably calculated to provide public
notice of the location and extent of
closure. The road shall remain closed until
it is determined the hazardous condition no
longer exists.
- (2) Access by private vehicles may be restricted
for public safety and welfare, for the
protection of resources, and to reduce

congestion. Restrictions may include, but are not limited to, setting a maximum number of private vehicles allowed within the UH management areas at a time, restricting the areas in which private vehicles may operate, or utilizing shuttle vehicles in lieu of private vehicles.

- (3) No person shall operate a vehicle on a closed roadway or in violation of a usage restriction.

(c) Closed areas, public access hours. Public access hours for the UH management areas shall be adopted as set forth in the comprehensive management plan, provided that hunting shall be allowed pursuant to department of land and natural resources hunting rules. All persons shall abide by the officially posted signs designating public access hours.

(d) Closed areas, management and public safety.

- (1) The president may close any portion of the UH management areas as necessary or appropriate for the protection of the resources of the area or the safety and welfare of persons or property, by posting appropriate signs indicating the extent and scope of closure.

- (2) All persons shall abide by the officially posted signs designating closed areas.

(e) Public access policies and procedures. The president may establish policies and procedures for the implementation of this chapter, which shall be posted on the OMKM website and made available for inspection at its offices upon request. [Eff

] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-39 Snow play. (a) Skiing, snowboarding, sledding and other similar winter or snow sports may be restricted to maintain public safety and welfare, to prevent damage to resources, and to minimize conflicts among visitors.

(b) Skiing, snowboarding, sledding or other forms of snow recreation or snow activities may be prohibited in specific designated zones or areas in order to maintain public safety and welfare, and protect resources.

(c) Formally or informally organized contests, meets, or competitions, snow play tours, or other similar events for skiing, snowboarding, sledding or other forms of snow recreation or snow activities are prohibited.

(d) Operating a snowmobile, an all-terrain vehicle, or other motorized vehicle used for snow recreation is prohibited anywhere in the UH management areas.

(e) Towing persons on skis, sleds, or other sliding devices by any motorized vehicle is prohibited. [Eff _____] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-40 Scattering of cremated remains. The scattering of cremated human remains is allowed within the UH management areas, consistent with this chapter and policies and procedures established by the president. [Eff _____] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-41 Interference with government function. The following acts are prohibited within the UH management areas:

- (1) Threatening, resisting, intimidating, or intentionally interfering with an authorized agent or law enforcement officer engaged in the performance of his or her official duties under this chapter;
- (2) Disobeying or refusing to heed the lawful instructions or orders of an authorized agent or law enforcement officer in the performance of his or her official duties to

- manage public access and movement, to maintain public safety and welfare, or to protect resources;
- (3) Knowingly giving a false or fictitious report or other false information:
 - (A) To a person investigating an accident or violation of these rules, or
 - (B) In an application for a permit; or
 - (4) Knowingly giving a false report for the purpose of misleading an authorized agent or law enforcement officer in the conduct of their official duties, or making a false report that causes a response by an authorized agent or law enforcement officer to a fictitious event. [Eff]
(Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-42 Compliance with laws. All persons entering the boundaries of the UH management areas shall comply with all federal, state, and county laws, ordinances, and rules. [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-1903)

§§20-26-43 to 20-26-50 (Reserved).

SUBCHAPTER 3

COMMERCIAL ACTIVITIES

§20-26-51 Commercial activities generally. Soliciting or engaging in commercial activities of any kind within the UH management areas without a written

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permit is prohibited. [Eff] (Auth:
HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-
1903, 304A-1904)

§20-26-52 Selling, advertising, and solicitation. (a) Selling of goods of any nature is prohibited within the UH management areas.

(b) Posting or distribution of commercial notices or advertising material of any nature, or soliciting the purchase or sale of goods or services, including but not limited to transportation, is prohibited within the UH management areas.

(c) Any commercial notice or advertising material soliciting the purchase or sale of goods or services for a commercial activity that has received a permit pursuant to these rules, including but not limited to transportation, shall conspicuously provide the permit number and the name of the permittee to whom the permit is issued. [Eff]
(Auth: HRS §304A-1903) (Imp: §§304A-103, 304A-105, 304A-1903).

§§20-26-53 to 20-26-60 (Reserved).

SUBCHAPTER 4

PERMITS AND REGISTRATION FOR PUBLIC AND COMMERCIAL ACTIVITIES

§20-26-61 General provisions. (a) The president may issue the following types of permits:

- (1) Research activities not otherwise permitted by, or excluded from, these rules;

- (2) Special use;
 - (3) Commercial tour activity; and
 - (4) Commercial film and recordings.
- (b) All permits shall be subject to the following provisions:
- (1) Permits may be suspended, canceled, revoked or terminated at any time upon violation of these rules or any conditions of the permit, which may include failure to comply with applicable federal, state, or county statutes, ordinances, and rules; or for public safety reasons arising from weather or other natural or human-created conditions in the UH management areas.
 - (2) Permits are not transferable.
 - (3) Persons to which permits are issued shall be responsible for compliance with all conditions stipulated in the permit.
 - (4) All payments of fees and charges, as established under section 20-26-6, shall be in U.S. funds, and by cash, check, cashier's check, certified check, postal money order, bank money order, or other methods approved by the president, provided that personal or business checks may be used to pay for activities that will occur thirty (30) or more days after the date of payment.
 - (5) Permits shall be subject to such other procedures, terms, and conditions as may be established from time to time by the president to carry out the provisions of chapter 304A, Hawai'i Revised Statutes, this chapter, or any applicable federal, state, or county statute, ordinance, or rule. Conditions may include, but are not limited to, restricting access to certain areas for public safety, requiring execution of a liability waiver, setting protocols for invasive species prevention, requiring compliance with protocols to prevent the accidental introduction of non-native species, or designating approved

transportation methods.

- (6) All permittees shall, upon request, show the permit to an authorized agent, law enforcement officer, or the president to manage and regulate public and commercial activities within the UH management areas.
- (7) Permits shall not create a property interest in favor of the permittee.
- (8) Persons crossing UH management areas to access the adjacent Mauna Kea Ice Age Natural Area Reserve or Mauna Kea Forest Reserve, shall obtain a permit from the department of land and natural resources, if required, and make said permit available for an authorized agent, law enforcement officer, or the president's inspection upon request.

(c) Permit applications shall be submitted in the form prescribed by the president. The president may determine numbers of permits to be issued based on consideration of impacts of permitted activities on resources, and public safety and welfare.

(d) Permits may be canceled or terminated at any time without advance notice when:

- (1) A state of emergency is declared by the Governor or other proper authority;
- (2) Natural or civil disturbances occur or threaten to occur, including but not limited to, tsunamis, floods, earthquakes, storms, riots, and demonstrations;
- (3) The permittee violates permit conditions or provisions of this chapter;
- (4) The permitted activity damages or threatens serious damage to the integrity of the resources of the UH management areas or threatens the safety of the permittee or the general public;
- (5) Fees are not paid when required; or
- (6) Applicant's prior record or conduct within the UH management areas are contrary to university or department of land and natural resources' policy to protect the resources

of the UH management areas, including but not limited to failure to pay fines issued under this chapter.

(e) The president may impose fines for failure to comply with the terms of a permit as provided in section 20-26-73.

(f) The department of land and natural resources is not required to obtain permits under this chapter, provided that the department of land and natural resources consults with the president on its activities. [Eff _____] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-1903)

§20-26-62 Group use registration. (a) Any group larger than ten (10) members shall be required to register with the president.

(b) A registration form provided by the president for group use shall at minimum, include the following requested information from the person responsible for the group activity:

- (1) Name of person responsible for the group;
- (2) Approximate size of the group;
- (3) Date, time, and duration of the group activity;
- (4) Location of the group activity;
- (5) Certification that group participants have read and understand this chapter; and
- (6) Depending on the potential impact to natural, cultural, archeological, historic, or scientific resources, proof of insurance and indemnification of the university.

(c) The registration form shall be submitted to the president at least fifteen (15) calendar days in advance of the date the group activity is to occur.

(d) All individuals under eighteen (18) years of age shall be under the direct supervision of one (1) adult for every ten (10) minors during daylight hours and one (1) adult for every five (5) minors for night hours.

(e) If a registration form is not submitted or

the person responsible provides false information on the registration form, participants may be barred from the event or asked to leave UH management areas. [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-63 Research permits. (a) Research permits may be issued to engage in activities for scientific, educational, or management purposes, that may otherwise be prohibited by this chapter.

(b) Applications for research permits shall adequately describe the planned research activity, including but not limited to the scope, duration, and location of the research and shall be submitted at least one hundred twenty (120) calendar days in advance of the date the permit is to be in effect.

(c) Applications for research permits shall be evaluated for duplication with existing or previously approved research, for compatibility with the functions and purpose of the UH management areas, for consistency with existing approved management plans; for the potential effect on the surrounding resources, the existing facilities, and the public's use of the UH management areas; for compatibility with existing approved uses; and for the applicant's prior record of non-compliance with permit conditions, or of violations. Additional information may be required from the applicant to make this evaluation. Failure to provide additional information when requested may be grounds for permit denial.

(d) Fees shall be assessed in accordance with section 20-26-6, and additional terms and conditions necessary to protect the resources of the UH management areas and to protect safety and welfare may be imposed. [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-64 Special use permits. (a) Special use permits may be issued to engage in activities otherwise prohibited by this chapter.

(b) Special uses are all types of uses, other than registered groups, research, commercial tour activities, and commercial film and recordings which are considered compatible with the functions and purpose of the UH management areas and are consistent with the approved management plans for the UH management areas.

(c) Applications for special use permits shall adequately describe the planned use, including but not limited to the scope, duration, and location of the activity, and shall be submitted at least forty-five (45) calendar days in advance of the date the permit is to be in effect.

(d) Each special use permit application shall be evaluated on its own merits for compatibility with the functions and purpose of the UH management areas, for consistency with existing approved management plans; for the potential effect on the surrounding resources, the existing facilities, and the public's use of the UH management areas; for compatibility with existing approved uses; for compatibility with scheduled or ongoing construction, repairs, or maintenance activities; and for the applicant's prior record of non-compliance with permit conditions, or of violations. Additional information may be required from the applicant to make this evaluation. Failure to provide additional information when requested may be grounds for permit denial.

(e) Fees shall be assessed in accordance with section 20-26-6, and additional terms and conditions necessary to protect the resources of the UH management areas and to protect safety and welfare may be imposed. [Eff _____] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-65 Commercial tour activity permits. (a) Commercial tour activity permits for conducting

commercial tours or transporting passengers for hire within the UH management areas may be issued by the president.

(b) Permits for commercial tours or passenger transportation for hire may be issued pursuant to subsection (c), and under such terms and conditions as shall be determined by the president to carry out the provisions of chapter 304A, Hawai'i Revised Statutes, this chapter, or any applicable federal, state, or county statute, ordinance, or rule.

(c) Each permit application shall be evaluated on its own merits for compatibility with the functions and purpose of UH management areas; for consistency with existing approved management plans; for the potential effect on the surrounding resources, the existing facilities and infrastructure, and the public's use of the UH management areas; for compatibility with existing approved uses; for compatibility with scheduled or ongoing construction, repairs, or maintenance activities; and for the applicant's prior record of non-compliance with permit conditions, or of violations. In addition, each permit application shall also be evaluated for the quality of the educational aspects of the activity, the comprehensiveness of planned staff training, the inclusion of safety protocols, and the extent to which additional practices are incorporated to ensure customer and public safety and welfare and to protect the resources of the UH management areas. Additional information may be required from the applicant to make this evaluation. Failure to provide additional information when requested may be grounds for permit denial.

(d) The president shall establish a number of available permits under this section. If qualified applications outnumber available permits, the permits shall be allocated by drawing or lottery.

(e) The president may elect to manage commercial tour activities through issuance of one (1) or more concession agreements in lieu of, or in addition to, commercial tour activity permits. Any such concession agreements shall be consistent with these rules and

applicable law.

(f) The president may enter into an agreement with another public agency to manage commercial tour activities and transportation of passengers for hire within the UH management areas, on such terms and conditions deemed appropriate, which shall be consistent with these rules and applicable law. Such an agreement may be in lieu of, or in addition to, written permits or concession agreements for such purposes.

(g) Fees shall be assessed in accordance with section 20-26-6 and additional terms and conditions necessary or appropriate to reduce congestion, protect the resources of the UH management areas and protect safety and welfare may be imposed, including but not limited to insurance and licensing requirements, and loading restrictions.

(h) Commercial tour activity permits in force as of the effective date of these rules shall remain in effect through their stated expiration dates or such earlier termination date as may apply in accordance with their terms. Upon expiration, any future application shall be submitted in accordance with these rules. [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-66 Commercial film and recordings. (a) Use for commercial purposes of video, digital, film, still photography, or any other visual and audio recordings taken within the UH management areas is prohibited without a written permit issued by the Hawai'i film office of the department of business, economic development and tourism.

(b) The president shall review all permit applications involving the UH management areas that are submitted to the Hawai'i film office of the department of business, economic development and tourism. The president shall recommend approval or denial of each permit application, may require specific conditions, and may request fees, insurance,

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performance bonds, or deposits to cover administrative and personnel expenses or potential damages to resources associated with the proposed activity. [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-67 Period of validity and renewal of permit. (a) Permits shall be valid for the term set forth therein, as established the president. Upon expiration of the stated term, the permit and all rights of the permittee thereunder shall automatically terminate.

(b) No permit shall be renewed unless the permittee has submitted a timely application to renew the permit, all the conditions or covenants of the original permit, including but not limited to the requirement of prompt payment of fees or charges, have been met, and the rules governing the UH management areas have been fully complied with.

(c) The renewal of an existing permit is discretionary, and applications for renewal of an existing permit shall be evaluated by the criteria provided in these rules for the issuance of new permits. [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§§20-26-68 to 20-26-70 (Reserved).

SUBCHAPTER 5

ADMINISTRATION AND ENFORCEMENT

§20-26-71 Purpose of subchapter; statement of policy. This subchapter shall govern the university's practices and procedures relating to the administrative proceedings for civil violations of these rules and the assessment of administrative sanctions for such violations. This subchapter shall effectuate and carry out the purposes and policies of section 304A-1903, Hawai'i Revised Statutes, and shall be construed and interpreted in the manner most favorable to the promotion of justice, expeditious processing, and cost-effective resolution in every case involved. [Eff _____] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903, 304A-1904)

§20-26-72 Applicability. (a) This subchapter shall apply to violations of this chapter and permits issued under this chapter.

(b) Any criminal prosecution against a person shall not preclude the university from imposing administrative sanctions pursuant to this subchapter against the same person for any civil violation committed in the same course of conduct.

(c) Any administrative proceeding against a person under this subchapter shall not preclude the state from pursuing a separate criminal prosecution against the same person for a criminal offense committed in the same course of conduct, or any collateral proceeding before the department of land and natural resources. [Eff _____] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903, 304A-1904)

§20-26-73 Violations, penalties, costs, administrative fines, sanctions, and collection. (a) An authorized agent, law enforcement officer, or the president shall impose one or more of the following

sanctions for violations of these rules or permits issued pursuant to these rules:

- (1) Immediate expulsion from the UH management areas;
- (2) Exclusion from the UH management areas for a specific period or until the violation has been corrected;
- (3) An administrative fine determined in accordance with subparagraph (b) of this section;
- (4) A monetary assessment to recover costs of mitigation or restoration required as a result of the violation and to recover the costs of enforcement proceedings;
- (5) Revocation or suspension of a permit; and
- (6) Imposition of additional permit conditions.

(b) Administrative fines shall be assessed as indicated in Exhibit A entitled "Public and Commercial Activities on Mauna Kea Lands, Administrative Fines," located at the end of this chapter.

(c) Each 24-hour period that a violation continues shall be a continuing violation for which a daily fine may be assessed at the same amount as the initial fine until the violation stops or is corrected.

(d) The costs of any enforcement proceedings, including the costs of contested case proceedings, may be assessed against a party found to be in violation.

(e) For parking violations, the driver or registered owner of the motorized vehicle, or both, shall be subject to the applicable penalties described above.

(f) All payments shall be in U.S. funds, and by cash, check, cashier's check, certified check, postal money order, bank money order, or other methods approved by the president.

(g) Any action taken to impose or collect penalties provided for in this chapter shall be considered a civil action. [Eff]
(Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-1903, 304A-1904)

§20-26-74 Enforcement; citations. An authorized agent or law enforcement officer shall have the power(s) to issue a citation for any violation of the provisions of this chapter:

- (1) Authorized agents or law enforcement officers must first issue a verbal warning before issuing a citation for any violation under subchapter 2, Public Activities, of this chapter, provided that (a) the violation did not result in injury or damage to cultural, natural, or scientific resources; and (b) the violation stops or is corrected immediately;
- (2) Law enforcement officer(s) may use a form of citation that is authorized for use for violations of Hawai'i Administrative Rules, ordinances, or Hawai'i Revised Statutes;
- (3) In every case when a citation is issued, a copy of the same shall be given to the violator or in the case of a parking, standing or stopping violation a copy of the same shall be affixed to the vehicle, as provided in paragraph (5);
- (4) Every citation shall be consecutively numbered and each copy shall bear the number of its respective origin;
- (5) Whenever a vehicle is in violation of any provision, other than a parking, standing, or stopping provision, of this chapter, any law enforcement officer and any authorized agent shall take the name, address and driver's license number of the alleged violator and the license plate number of the vehicle or vehicle identification number of the vehicle involved, and shall issue to the alleged violator in writing a citation, notifying the alleged violator to answer to the citation in writing at the address provided and by the date indicated; and
- (6) Whenever any motor vehicle is parked, standing, or stopped in violation of this chapter, an authorized agent or the law

enforcement officer finding the vehicle shall conspicuously affix to the vehicle a citation. The citation shall be addressed to the registered owner of the vehicle, but need not identify the registered owner by name, so long as the citation identifies the vehicle by its license plate number or vehicle identification number. The citation shall instruct the registered owner to answer to the citation in writing at the address provided and by the date indicated. The registered owner of a vehicle shall be responsible and accountable for the illegal parking, standing, or stopping of the vehicle when:

- (A) The registered owner committed the illegal parking, standing, or stopping of the vehicle; or
- (B) Another person committed the illegal parking, standing, or stopping of the vehicle, but the registered owner gave the person explicit or implicit permission to use the vehicle at the time of the violation.

In any proceeding for violation of a parking, standing, or stopping provision of this chapter, the license plate number or vehicle identification number of the parked, standing, or stopped vehicle shall constitute prima facie evidence that the registered owner of the vehicle was responsible and accountable for the illegal parking, standing, or stopping of the vehicle. [Eff _____] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-75 Appeals process, information requests and submittals, and petitions for declaratory rulings.

(a) Requests for formal hearings shall be submitted in writing within seven (7) days after issuance of a citation or the president's written decision regarding a permit on a form to be provided by the president. These forms shall be made available by the president at OMKM's office and on OMKM's website.

(b) The following rules of practice including both informal and formal procedures are adopted:

(1) Informal procedures. Persons who believe that they have received a citation in error, whose vehicle was removed by an authorized agent, or who disagree with a written decision by the president regarding a permit may file a written request for an informal review with the president within fifteen (15) days of the issuance of the citation or of the removal of a vehicle. Upon review the written request, the president shall issue a written decision that shall be final and binding. No further appeal is permitted; and

(2) Formal procedures. A person requesting a formal hearing on a citation or decision by the president in accordance with subsection (a) shall be afforded an opportunity for hearing after reasonable notice as provided by chapter 91, Hawai'i Revised Statutes. The hearing under this section shall be treated as a contested case hearing under chapter 91, Hawai'i Revised Statutes, and shall be conducted in accordance with the statutory requirements for contested case hearings, as follows:

(A) The hearing shall be conducted by the president or a hearing officer appointed by the president;

(B) Upon receipt of a written request for a formal hearing, the president or the hearing officer shall issue a written notice, which notice shall include a statement of:

(i) The date, time, place, and

nature
of hearing;

- (ii) The legal authority under which the hearing is to be held;
- (iii) The particular sections of the statutes, rules, and procedures involved;
- (iv) An explicit statement in plain language of the issues involved and the facts alleged by the authorized agent or law enforcement officer issuing the citation in support thereof, provided that if the president or the hearing officer is unable to state the issues and facts 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; and
- (v) The fact that any party may retain counsel if so desired.

The written notice of hearing shall be provided to all parties to the proceeding at least fifteen (15) days before the hearing;

- (C) Opportunity shall be afforded each party to present evidence and argument on all issues involved. 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) 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;

- (E) For the purpose of preserving a record of the proceedings before the president or the hearing officer, the proceedings shall be either tape-recorded or recorded verbatim by a certified shorthand reporter. It shall not be necessary to transcribe the record unless requested for purposes of rehearing or court review;
- (F) Within a reasonable time following the closure of the hearing on the contested case, the president or the hearing officer shall prepare findings of fact and conclusions of law, and a decision on the case. The proposed findings, conclusions, and decision shall be served on the parties. A party may file written exceptions and present written or oral arguments to the president or the hearing officer. Any exceptions and written arguments shall be filed not more than fifteen (15) days from the date of the proposed decision with the president;
- (G) In rendering the final decision, the president shall 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 in making a decision, except as provided in this chapter;
- (H) Every decision and order adverse to a party to the proceeding shall be in writing or stated in the record and shall be accompanied by separate findings of fact and conclusions of law. Parties to the proceedings shall be notified by delivering or mailing a certified copy of the decision and order and accompanying findings and conclusions within a reasonable time to

each party;

- (I) If a party does not appear at the date, time, and place appointed for the hearing, either before the president or the hearing officer, the party may be denied another hearing on the matter; and
- (J) Judicial appeals from the final decision of the president in a contested case under this chapter shall be in accordance with chapter 91, Hawai'i Revised Statutes.

(c) The public may obtain information or make submittals or requests relative to this chapter by addressing a letter to the president.

(d) Petitions for declaratory rulings as to the applicability of any statutory provision concerning this chapter shall be in the form of a letter to the president stating the interest of the petitioner in the matter, the reasons for requesting the ruling and the specific nature of the ruling being requested. The president shall render in writing a declaratory ruling or other order disposing of the matter. [Eff] (Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-105, 304A-1903)

§20-26-76 Enforcement and stay of final

decision. (a) Unless otherwise stated in a final decision, payment and performance of all administrative fines, other monetary assessments, and non-monetary sanctions shall be due and enforceable within thirty (30) calendar days of the service of the final decision imposing such fines and sanctions.

(b) Upon request filed by a party, the president may stay enforcement of a final decision pending a judicial review of the case. The decision as to the request for stay is final.

(c) The university may take any legal action to collect any overdue monetary sanctions or enforce any non-monetary sanctions imposed in an administrative

§20-26-75

proceeding under this chapter. [Eff]
(Auth: HRS §304A-1903) (Imp: HRS §§304A-103, 304A-
105, 304A-1005, 304A-1903, 304A-1904)

§20-26-77 Severability. These rules are
declared to be severable and if any portion or the
application thereof to any person or property is held
invalid for any reason, the validity of the remainder
of these rules or the application of the remainder to
other persons or property shall not be affected."
[Eff] (Auth: HRS §304A-1903) (Imp:
HRS §§304A-103, 304A-105, 304A-1005, 304A-1903, 304A-
1904)

2. The adoption of chapter 20-26, Hawai'i
Administrative Rules, 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, Hawai'i Revised
Statutes, which were adopted on _____, and
filed with the Office of the Lieutenant Governor.

LEE PUTNAM
Chairperson, Board of Regents
University of Hawai'i

APPROVED AS TO FORM:

University of Hawai'i

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

Department of the Attorney General

Name: _____
Deputy Attorney General

Exhibit A

Public and Commercial Activities on
 Mauna Kea Lands, Administrative Fines

Violations Under	Fines
<p>Subchapter 2, Public Activities:</p> <p>§20-26-24 Litter and sanitation §20-26-28 Vehicles and transportation §20-26-32 Animals §20-26-33 Audio devices and noise §20-26-35 Use of drugs or alcohol §20-26-36 Use of Tobacco §20-26-37 Camping §20-26-38 Access §20-26-39 Snow Play §20-26-40 Scattering of cremated remains</p> <p>Subchapter 3, Permits and Registration:</p> <p>§20-26-62 Group use registration</p>	<p>1st violation, \$50-\$400.</p> <p>2nd repeat violation within five years of 1st violation, \$401-\$1,000.</p> <p>3rd repeat violation within five years of 2nd repeat violation and any subsequent violation, \$1,001-2,500.</p>
<p>Subchapter 2, Public Activities:</p> <p>§20-26-21 Preservation of Resources §20-26-22 Preservation of Property §20-26-23 Preservation of scientific and educational resources §20-26-25 Fire use restrictions §20-26-26 Explosives §20-26-27 Firearms or other weapons §20-26-29 Unmanned aerial vehicles, drones and</p>	<p>1st violation, not more than \$2,500.</p> <p>2nd repeat violation within five years of 1st violation, not more than \$5,000.</p> <p>3rd repeat violation within five years of 2nd repeat violation and any subsequent violation, not more than \$10,000.</p>

<p>air toys</p> <p>§20-26-30 Outdoor sports activities</p> <p>§20-26-31 Hazardous materials</p> <p>§20-26-34 Public Safety</p> <p>§20-26-41 Interference with government function</p>	
<p>Subchapter 3, Commercial Activities:</p> <p>§20-26-51 Commercial Activities Generally</p> <p>§20-26-52 Selling, advertising and solicitation</p> <p>Subchapter 3, Permits and Registration:</p> <p>§20-26-61 General provisions</p> <p>§20-26-63 Research permits</p> <p>§20-26-64 Special Use permits</p> <p>§20-26-65 Commercial tour activity permits</p> <p>§20-26-66 Commercial film and recordings</p>	<p>1st violation, not more than \$2,500.</p> <p>2nd repeat violation within five years of 1st violation, not more than \$5,000.</p> <p>3rd repeat violation within five years of 2nd repeat violation and any subsequent violation, not more than \$10,000.</p>

Attachment "B"

Summary of All Revisions to MKR Draft I

**SUMMARY OF REVISIONS TO DRAFT I
HAR CHAPTER 20-26, PUBLIC AND COMMERCIAL ACTIVITIES ON MAUNA KEA LANDS
Changes based on Testimony from September 2018 Public Hearings
and Ongoing Comments and Consultation**

ATTACHMENT B

Rule Topic	Concerns Raised	Revision Notes
Preservation of scientific and educational resources	<ul style="list-style-type: none"> Concerns raised about routine maintenance activities in areas already covered by permits issued by the Department of Land and Natural Resources (“DLNR”). There was strong opposition to the perception that cell phones and flashlights were banned. 	<ul style="list-style-type: none"> Added “routine maintenance, operations, and construction” under the definition of “commercial activity,” to HAR § 20-26-2. Added text to limit prohibited uses to the most sensitive areas, under what is now HAR § 20-26-23. Clarified that cell phone use and use of flashlights are allowed.
Relating to the delegation of rules implementation by the President to a designee	<ul style="list-style-type: none"> Testifiers were concerned, including OHA, that a specific person/entity was not named for implementing the rules. 	<ul style="list-style-type: none"> Revised definition of “president’s designee” and revised references to “president or the president’s designee” to refer specifically to the “president.” The term “president” was redefined under HAR § 20-26-2.
Traditional and customary practices	<ul style="list-style-type: none"> HAR § 20-26-21, was drafted in consultation with the Office of Hawaiian Affairs (“OHA”) with the intent of addressing OHA’s concern that native Hawaiian rights are protected. OHA staff approved of the section. However, there was strong opposition to this section during the hearings, due in part to the perception that it regulated native Hawaiian culture. 	<ul style="list-style-type: none"> Removed HAR § 20-26-21. Regardless of whether it is explicitly stated, these rules are subject to the right of native Hawaiians to exercise protected customary and traditional rights as provided for in Article XII, section 7 of the Hawai’i Constitution, consistent with the laws of the State of Hawai’i. Based on further public outreach and comments, a reference to Article XII, section 7, of the Hawai’i Constitution was added to HAR § 20-26-3, entitled “Applicability and implementation, generally.” This language is similar to language in the “Island-Based Fisheries Rules” and “Ha’ena Community-Based Subsistence Fishing Area, Kaua’i” rules implemented by DLNR.

**SUMMARY OF REVISIONS TO DRAFT I
HAR CHAPTER 20-26, PUBLIC AND COMMERCIAL ACTIVITIES ON MAUNA KEA LANDS
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ATTACHMENT B

Vehicles and transportation	<ul style="list-style-type: none"> Concerns raised regarding safety on the unpaved roads above Halepōhaku. Testifiers were opposed to the 4-wheel drive limitation. Concern raised regarding public safety and the use of appropriate vehicles above Halepōhaku. 	<ul style="list-style-type: none"> Removed 4-wheel drive prohibition; instead, the section now prohibits 2-wheel drive vehicles north of Halepōhaku, under what is now HAR § 20-26-28. Also, clarified provision related to the removal of abandoned vehicles. Added restriction on the “Use of vehicles with two wheels propelled by pedals, for example, a bicycle, north of Halepōhaku,” under HAR § 20-26-30 to Draft II. During informal public comments, there was strong opposition to this addition, but a recognition that there could be a safety issue on the unpaved road above Halepōhaku; consequently, the following was added to the above language in Draft III, “except by written approval.” This provision ensures, among other things, that bicyclists riding above Halepōhaku are prepared and aware of unsafe conditions, rangers are alerted to the activity, and bicyclists waive liability against the UH.
Audio devices and noise	<ul style="list-style-type: none"> Testimony included many concerns about limiting chanting and singing. 	<ul style="list-style-type: none"> The noise provisions intend to limit amplified sounds, which can impact resources. Revised prohibition on audio/noise to focus specifically on prohibited uses that impact resources, under what is now HAR § 20-26-33.
Snow Play	<ul style="list-style-type: none"> Concerns raised about the restrictive nature of snow play. 	<ul style="list-style-type: none"> Revised HAR § 20-26-39 to allow more flexibility on what is allowed while ensuring public safety.

**SUMMARY OF REVISIONS TO DRAFT I
HAR CHAPTER 20-26, PUBLIC AND COMMERCIAL ACTIVITIES ON MAUNA KEA LANDS
Changes based on Testimony from September 2018 Public Hearings
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<p>Permits for public assemblies and meetings</p>	<ul style="list-style-type: none"> Group and assembly permitting requirements in Draft I were similar to those required by other land management agencies, like Haleakala National Park and DLNR rules. Specifically, <i>Rules Regulating Activities Within Forest Reserves</i> allows DLNR to limit group sizes by permit (HAR § 13-104-18) and <i>Rules Regulating Activities Within Natural Area Reserves</i> prohibits any activity with a group larger than ten in size without a special use permit (HAR § 13-209-4). However, testimony included strong opposition to group and assembly permits, which were perceived as interfering with cultural activities, practices, and protests. 	<ul style="list-style-type: none"> Removed “Group use” and “Permits for public assemblies and meetings” from the list of permits under HAR § 20-26-61. Instead of a permit, registration is required so that UH can ensure public safety and manage impacts to resources as required by Act 132 (2009) (also reiterated in the purpose section, HAR § 20-26-1). This section also includes an indemnification provision for large groups to allow people to use the area while protecting UH from liability caused by individuals. Revised applicable sections to address the safety and supervision of minors after removal of group and public assembly permits from Draft I. Definition of “Person” was revised so that it specifically includes “individuals eighteen (18) years of age or older.” This is consistent with State of Hawai’i Department of Education policy.
<p>Violations, penalties, costs, administrative fines, sanctions, and collection</p>	<ul style="list-style-type: none"> Testimony included observations that fines, although statutory and identical to DLNR fines, were too high. The difference between continuing and repeat violations was unclear. 	<ul style="list-style-type: none"> Removed statutory fines from HAR § 20-26-73 and moved it to Exhibit “A” where fines are categorized based on the specific violations. Distinguished and clarified “continuing violation” from “repeat violations” in HAR § 20-26-73 and Exhibit A. Based on further public outreach and comments, specifically reduced fines for failure to register large groups and moved commercial fines to the higher category. Under HAR § 20-26-74, entitled “Enforcement; citations,” added the following subsection: “(1) Authorized agents or law enforcement officers must first issue a verbal warning before issuing a citation for any violation under subchapter 2, Public Activities, of this chapter, provided that (a) the violation did not result in injury or damage to cultural, natural, or scientific resources; and (b) the violation stops or is corrected immediately[.]”

Attachment "C"

Summary of Informal Comments Received on Informal Draft Rules

**SUMMARY OF COMMENTS RECEIVED ON
 INFORMAL DRAFT OF REVISED RULES
 Chapter 20-26, Hawai'i Administrative Rules, entitled
 "Public and Commercial Activities on Mauna Kea Lands."**

I. SUMMARY OF COMMENTS RECEIVED BY EMAIL OR POST

<u>Date Received</u>	<u>Method</u>	<u>Title</u>	<u>Name</u>	<u>Organization</u>	<u>Summary</u> (original text in quotes)
2/13/2019 17:11:00	e-mail	Professor	Steve Lundblad	UHH, Department of Geology	"[D]ispleasure (and perhaps disbelief) that the new administrative rules would prohibit bicycling on the road above Halepohaku." Alternatives solutions "1. ban motor vehicles from going up the road, or 2. perhaps limit the hours during which bicycles are allowed."
2/13/2019 17:48:00	e-mail	Horticulture Manager	Christopher McCullough	LICH President and HILA Board Member; DFI Resources LLC	"I do not see anything in the proposed draft regarding Native Hawaiians and their right to access the mountain for cultural and spiritual purposes."
2/14/2019 8:39:00	e-mail		Don Freesland		Banning bicycles "up to the top of Mauna Kea," is "a real shame if that came to pass." Self-identified as someone with "Hawaiian roots and an avid bicyclist."
2/14/2019 10:04:00	e-mail		James Parker		"I believe that these changes will help to clarify access restrictions and increase overall safety on Maunakea."
2/14/2019 14:16:00	e-mail		Donna Grabow		"[T]he proposed draft rules are veiled in noble wording such as 'public safety', but really are designed to blatantly keep Hawaiians from upholding the laws of to maintain the 'Conservation Zone of Mauna Kea.'"
2/15/2019 0:27:00	e-mail		Stephanie Nagata	OMKM	Response to C. McCullough. "UH through the rule making process does not have the authority to grant native Hawaiians" rights. The legislature granted, "UH the authority to promulgate rules that govern public and commercial activities that applies to all," members of the public. DLNR regulates the "placement or erection of any solid material" in the conservation district.
2/16/2019 14:48:00	e-mail		Veronica Ohara		"This draft ensures better protection of historic properties, which are the legacy of the Hawaiian people and a record of mankind. Limiting exposure to possible introduction of invasive

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<u>Date Received</u>	<u>Method</u>	<u>Title</u>	<u>Name</u>	<u>Organization</u>	<u>Summary</u> (original text in quotes)
					species is also commendable. Clarifying commercial and public activity is also helpful for better stewardship of the Conservation Resource Sub-zone. I am thankful the rules make it simple to understand that astronomy facilities are important to the University of Hawaii. Currently we have Native Hawaiian students studying astronomy and they are our future cultural practioners. Their presence on Maunakea is the key to the perpetuation of our heritage."
2/16/2019 19:35:00	e-mail	avid cyclist	Robert Patey		Opposed new provision banning bicycles north of Halepōhaku. "To me it sounds like this is a dictatorship and you are a dictator dictating what we must do I hope you seriously reflect into yourself and realize your actions affect others and maybe you should get on a bicycle and enjoy yourself one day maybe you might have an inspiring moment and do something that benefits others and not just the glory of yourself."
2/17/2019 12:55:00	e-mail		Jared Meadors		"It's not YOUR land... it's OUR land." "[N]ew, further, unnecessary restrictions smack of the same types of land and resources takings that go back to the earliest days of colonialism on the islands." "I oppose these new restrictions completely and entirely." "the proposed BIKE restrictions are perhaps the MOST baffling of ALL the new, ridiculous proposals. What damage has or could ANYONE on a bicycle EVER done to the road to or the summit of Mauna Kea--or ANY mountain--ANYWHERE?"
2/21/2019 20:21:00	e-mail		Caleb Barville	Kona Sports Center	"LET IT BE CLEAR THAT I DO NOT SUPPORT THIS NEW PROPOSED RULE OF NOT ALLOWING BICYCLES ON MAUNA KEA ACCESS ROAD ABOVE HALEPOHAKU." "Please, just focus on getting TMT built."

**SUMMARY OF COMMENTS RECEIVED ON
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<u>Date Received</u>	<u>Method</u>	<u>Title</u>	<u>Name</u>	<u>Organization</u>	<u>Summary</u> (original text in quotes)
2/23/2019 20:50:00	e-mail		Mark Van Heukelem		"Do not exclude bicycles!!"
2/24/2019 0:57:00	e-mail		Jessica Hartong		"It was recently brought to my attention that the proposed rule changes would forbid bicycles north of Halepōhaku. I would like to state that I am strongly opposed to limiting bicycle access for the following reasons: -Bikes are silent, pollution free and harmless to the environment/ culture/ whatever else you are trying to protect with these rules. -Mauna Kea is known all over the world as one of the top mountain climbs in the cycling. -There is no valid reason given to limit bicycles north of Halepōhaku. What is the reasoning behind the rule change? \$2,500 fine for riding a bicycle is absolutely ridiculous and probably unconstitutional. I hope to bike from the sea to the summit someday, like so many have before. Please reconsider this rule change."
2/24/2019 12:35:00	e-mail	avid cyclist	Neil Erickson		"As an avid cyclist who lives on the island of Hawaii, I strongly object to the limitation of "two wheeled, pedal driven, vehicles" beyond Halepōhaku (9,000' elevation or the end of the paved road)."
2/24/2019 14:38:00	e-mail		Dhyananda		"In July of 2016, I rode to the 12,090 foot summit of Trail Ridge Road AND the 14,130 foot summit of Mt Evans in Colorado. Riding to the 13,000+ foot summit of Mauna Kea has held the #1 spot on my Bucket List for some time, so I beg of you, PLEASE DON'T SHUT DOWN THE MOUNTAIN."
2/24/2019 16:23:00	e-mail		Thomas Bearden, Ph.D.		Various Comments including: (1) "There are a number of specific heavy-handed rules that could be utilized to severely limit Big Island residents access, including: Rule 20-26-38 which states: Access by private vehicles may be restricted[.]" (2) "Rule 20-26-39 . . . would

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					outright prohibit all skiing, snowboarding, and sledding as skis, snowboards, and most sleds, do not have brakes. This also was not the intent of the Comprehensive Management Plan." (3) "Other problematic rules include: Charging fees for entrance and parking. Putting a gate up at the Visitors Center. Mandatory cultural orientations."
2/24/2019 22:40:00	e-mail		Christopher Seymour		"As a UH Hilo graduate (2014 Ka Haka 'Ula o Ke'elikōlani), I strongly disagree with a rule that would prohibit riding a bicycle on the summit road." "ONLY local residents should be allowed to drive to the summit of Maunakea. No rental 4-wheel drive vehicles should be allowed to visit the summit, unless they have a permit."
2/27/2019 15:49:00	e-mail		Mililani B. Trask submitting for Onaona Trask, Brit Kualii, Kalae'ōla'a Trask- Sharpe, Kuuleiohuokalani Kealoha Cooper, LAKEA	Wahine Practitioners/ Ki'ai	This summarizes several pages of testimony: (1) "The State, TMT, University & DLNR never held practitioner consultations statewide, although they knew that there were hundreds of Hawaiian practitioners on Hawaii Island and thousands (who marched) on neighbor islands. Instead, they worked with DLNR, KKM & other "stakeholders" to create rules to criminalize Hawaiian practices in direct derogation of our Human and Constitutional Rights." (2) "The Rules are racist, biased and seek to impose unreasonable restrictions on Hawaiians while making sweeping exemptions for State, Commercial and other individuals that have pre-existing deals with commercial lessees, the University & the DLNR." (3) "The Rules favor some religions and practices while providing restrictions on Hawaiian traditional practices." (4) "The vague and biased processes contained in the Rules are designed to prevent Hawaiians from practicing traditional religious ceremony by prohibiting them from accessing sacred areas,

**SUMMARY OF COMMENTS RECEIVED ON
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ATTACHMENT C

<u>Date Received</u>	<u>Method</u>	<u>Title</u>	<u>Name</u>	<u>Organization</u>	<u>Summary</u> (original text in quotes)
					worshipping in private, gathering necessary items of worship from the Aina and participating with their families, children and religious community in ceremony. In addition, the cost for Hawaiians to obtain a Special use permit after attending meetings with OMKM, KKM on Hawaii Island and to either purchase or rent a 4-wheel vehicle impose unreasonable costs & limitations on Hawaiians right to worship and engage in cultural practices." (5) "Wahine Practitioners Effort to Work with State & OMKM Rejected in favor of armed violence." (6) "The Rules fail to protect endangered cultural resources Wahi pana, Ahu, Pohaku) from ongoing & deliberate destruction & desecration by Science & State employees, their lessees." (Note: E-mail is 2/27/2019, but attachment is dated 2/28/2019.)
2/27/2019 19:04:00	e-mail		Jenny Gardham		"The mountain belongs to the people, not just UH. No more restrictions than what already exist. Otherwise, expect to spend a LOT of money fighting the people. Share or fight, your call."
2/28/2019 9:52:00	e-mail		Jenny Gardham		""Regulations" kept the common people from witnessing the greatest lava eruption in 200 years. Now "regulations" will keep the common people from seeing the stars when it is overcast below. What happened to America, the home of the free?"
3/5/2019 18:02:00	e-mail		Keoni Mackillop		"I think that the actions of the university of Hawaii were in the past super disrespectful and basically extremely hostile to the true owner's of the land. The native Hawaiians that consider this mountain to be a sacred living being are being marginalized and ignored by you and the DLNR. I would respectfully ask that you cease and desist from arresting or harassing them and

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<u>Date Received</u>	<u>Method</u>	<u>Title</u>	<u>Name</u>	<u>Organization</u>	<u>Summary</u> (original text in quotes)
					also to stop the process of trying to build TMT entirely."
3/10/2019 10:59:00	e-mail		Tina Clothier	PATH~Peoples Advocacy for Trails Hawaii	"opposition to rule 20-26-30, in your draft rules, banning the use of vehicles with two wheels propelled by pedals."
3/10/2019 14:14:00	e-mail		Laulani Teale	Coordinator, Ho'opae Pono Peace Project	"While I appreciate the response to public concerns over earlier (and highly offensive) drafts of these rules, the greater issue is that the University of Hawai'i simply does not have jurisdiction to enact rules on Mauna Kea at all."
3/11/2019 15:26:00	Post	Kahu	Richard Bermudez		UH has not jurisdiction--sovereign nation of Hawaii.
3/11/2019 23:26:00	e-mail		Bing Chen	Bing Hawai'i Adventure Tourist	Number of tour permits too limited. "I suggest to divid the permit into two types: one is license A which allow the tourist to reach summit, the other one , license B, just allow people to reach the visitor center. It can satisfy more people who want to do stargazing, meanwhile, can decrease the disturbing of visitors to astronomy research."
3/13/2019 11:00:00	e-mail		Cole Santos		Summary: Native Hawaiian UH grad student who practices Hawaiian religion. "We have four traditional akua of snow and I propose a fifth. The akua of snow play." Sledding is a Hawaiian sport and cultural right like fishing. Keep access open.
3/13/2019 16:06:00	e-mail		Kari Robinson		Summary: "While these (restritions on 4 wheel drive cars and violations occurring iwthin a 24 hour period) are an improvement, a careful analysis of the Revised Rules reveals a shuffling of language that amounts to a kind of shell game: the esential problems of the original rules remain and must be rectrified." Specific comments: Article XII Section 7 - "I would advise rewording and including this section as a strong statement of committing the Univeristy of Hawaii and BLNR to upholding constitutional commitments..."; Presidential

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					Designee/Definition of President - "This mechanism of delegation must be more carefully and thoughtfully considered" rather than "anyone the president or the board designates as her/his representative"; Cell phone usage - summary provides that cell phone are permitted but that they must be on airplane mode and only used in an emergency. "And how, practically, will airplane mode be enforced?" and Practical ramification of the proposed civil fines - "Revised Rules, I remain convince that their primary goal is to criminalize public, spiritually guided protect around the construction of the TMT project." Provides scenario in which fines could be assessed.
3/14/2019 7:00:00	e-mail		Todd Marohnic		Summary: "Strongly oppose any rules regarding cycling on a road that I helped pay for." Rules should not be limiting freedoms and access.
3/14/2019 9:42:00	e-mail		Jillian Marohnic		Summary: "You lease our public lands for only \$1 per year, and you proposed to gate the road, which we paid for with our tax money, and to charge us entrance fees to our own lands?...This mountain ascent is world-renowned in the cycling community and your proposal to ban bicycles is huge slap to the island's local and visiting athletes. You need to back off with all the rules and just be glad you have that lease for the pittance you pay."
3/14/2019 13:25:00	e-mail		Mei Sim Chan		"I am against the proposed rule Chapter 20-26 Section 20-26-30. 1. where bicycles are prohibited on the road North of Halepōhaku. The Hawaii tax payers have paid money out of our pockets to maintain the road. We should be able to have access. Bicyclist do not destroy or litter the roads. We hardly have any impact on the road. We should not be blocked from access to our island."

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3/14/2019 14:00:00	e-mail		Brendan McKee		"This limitation is presented without justification and lists only a note on concerns. As a lifelong cyclist and outdoor recreational enthusiast I am used to the prejudice projected on cyclists by motor vehicle users."
3/14/2019 14:12:00	e-mail		Robert Lee		"I believe the rule to disallow bicycles above the visitor center is not in the best interest of the public nor the University. This small, sparsely ridden road is a destination route for a few and as such should be left as is in terms of the rules."
3/14/2019 14:34:00	e-mail		Dalton Fayad		"I'm opposed to this closure for cyclists as it's a very environmental friendly way to see the summit and explore the beauty of the region. I can't imagine many cyclists doing this ride so for the few that want to do it then I say allow them and keep as many gas powered vehicles off that section as possible."
3/14/2019 2:44:00	e-mail		Andy Sheinis		"I am in support of the new edit of the MK rules, with one important exception. I do not support the prohibition of bicycles. I think that bicycling above HP should be on the road only and that it is inherently dangerous, but I also think there are plenty of enthusiasts capable of that ride. I would prefer to see it regulated in some way, through a permit process or something to that effect, rather than completely prohibited."
3/14/2019 15:26:00	e-mail		Kyle Stanton-Wyman		"As you may know, the climb by bike of Mauna Kea is considered by many to be the hardest in the world. Despite it's difficulty, it can be and is regularly completed safely by cyclists, and it attracts important tourist dollars for the island. For example, myself and three friends flew from Seattle to Kona this last labor day weekend solely for the purpose of completing this ride. It would be a shame to see this climb become

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					illegal to ride. I would definitely like to return to Kona again and ride Mauna Kea in the future."
3/14/2019 15:40:00	e-mail	Creative Art Director	Allan Cool		"Aloha we got a tweet that said Mauna Kea visit req deadlines are coming up. Wanted to ask specifically for Merrie Monarch week. Many Halau will be going to visit Mauna Kea. Can you send any info on how to arrange. Any details we should know in advance. Mahalo."
3/14/2019 15:43:00	e-mail		Adrian S		"The number of riders attempting to summit is very low, and they are all experienced and safe cyclists. The mountain self selects for that. Maunakea summit is a once in a lifetime bucket-list type of an event to an experienced cyclist. Very few riders ever adept that ride, and usually just once. This is a very special and very dear ride to some of us, and it'd be nonsensical to take that away without a very good reason."
3/14/2019 15:43:00	e-mail		Greg Pape		"I think the volume of cyclists that do this is so extremely slim that it probably does not impact anyone and those that do attempt it are clearly no amateurs that would be impacting anyone else's enjoyment of the area. I think it is actually an opportunity to market the ride as one of the toughest in the world (which it is) including one of the largest climbs in the world for elite cyclists. Charge a fee for bikes, but please don't restrict its use for the few of us that enjoy a brutal day going up a mountain."
3/14/2019 18:42:00	e-mail		Adam Kollender		"For what it's worth, I would ask that you maintain Mauna Kea access for cyclists for the entirety of the climb. The road likely sees very little usage so I can't imagine that maintaining that access hinders anyone, but I will say that the climb is a major bucket list item for all serious cyclists and I personally plan to visit Hawaii in the next two years just to tackle the climb."

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3/14/2019 20:05:00	e-mail		Gerry Hollins	Mid Pacific Wheels Bicycle Shop	Summary: Usually, "very experienced athletes" with "physical training and financial backing" are those that attempt to bike up Mauna Kea. Instead of restricting the use of bikes, "require a fee and or a permitting process which would include requirements to ensure safety."
3/14/2019 19:55:00	e-mail		Ian Hersey		"I object vehemently to the prohibition of bicycles past the visitor center. Bicycles produce zero carbon emissions - as opposed to the four-wheel-drive vehicles that would still be allowed - and furthermore require human power to operate."
3/14/2019 20:21:00	e-mail		Michael Bakker		"Please allow cyclists on Mauna Kea(and Loa). I (and many of my friends from Alaska) travel to Hawaii at least once a year. I bring my bike. Riding to the top of these volcanoes is a big draw. We travel to HI to enjoy the weather and sporting opportunities. We come to the state and bring others with us. I am sure that the revenue we bring is important to the state. The thing I love about HI is that certain areas(like the big island) are very cycling friendly. Please continue this welcoming attitude."
3/14/2019 20:21:00	e-mail	Chair	Debbie Ward	Sierra Club Moku Loa Group	Summary: "The second draft of the proposed administrative rules does not provide for the discretion outlined in the PAP, it does not provide for education or situational control, but amplifies the potential "violation" to the level of punitive fines, arbitrary exclusion, and immediate expulsion of members of the public from the UH Management Areas." 20-26-3 "explicitly exclude[s] any activities condicuted by the Unversity, its students, or its agents," even if UH has been "fined for violations of Conservation District rules and conditions on several occasions." 20-26-4 "Native Hawaii practitioners have constitutional protections" that

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					are not cited in this section. 20-26-21 "all entities, including University agents, should be mandated to protect resources." 20-26-23 cell phone use by University agents should be prohibited as well. 20-26-30 "The University and its agents should be held to [hazardous materials] standard!" 20-26-38 "University has a non-exclusive easement to use the roadway of the State of Hawaii," therefore restricting access could impact public use. 20-26-52 Restriction on selling goods within UH management areas however visitor's center is sells items there it is "inappropriate and counter to the educational mission." 20-26-61(f) "DLNR [agents] should not need to consult with the president to enter or conduct inspections of compliance on Conservation District land." 20-26-65 "Access to the mauna by residents should not be limited in favor of commercial tours." 20-26-66 "journalists/members of the press covering contemporary activities should not be required to get a permit to do so." 20-26-74 (4) "Enforcement: (4) a "violation" is not required to provide name and address to a law enforcement officer if legal representation is requested, unless that person is driving a vehicle and is asked to produce a driver's license." 20-26-75 "An appeal must be conducted in an impartial judicial process" which may not be the case since the University agent issues the citation and the University will hear the case. 20-26-76 (b) "Likewise, issuance of a stay during judicial appeal should not be at the sole discretion of the president." Exhibit A fines "could be arbitrary and excessive."
3/14/2019 21:48:00	e-mail		Simon Radford		"Bicycles have negligible impact on the access road and the mauna itself. Compared with motor

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					vehicles, bicycles cause almost no erosion of the dirt road surface. Unlike motor vehicles that befoul the pristine air of the mauna, a bicyclist produces no noxious fumes."
3/14/2019 22:32:00	e-mail		Dr. Kealani Cook		Summary: "As an alumnus of the university and as an employee, I am deeply worried that that the rules changes will not only adversely affect the members of our community dedicated to protecting the mountain, but that it will adversely affect the future reputation of the university as well as the very notions of democracy and fairness before the law that our current society relies upon." In particular, opposition of 20-26-62 on group registration due to varied weather conditions. Seems that 20-26-62 well be used/enforced if there are groups "endangering the construction" of TMT.

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3/15/2019 3:15:00	e-mail		E. Kalani Flores		Summary: Comments were broken into 2 sections (General Comments and Specific Comments). General Comments include the following: 1. "Conduct an independent Ka Pa'akai analysis to assess the impacts of the proposed rules would have on customary and traditional practices as stipulated in...Ka Pa'akai O Ka 'Aina v. Land Use Commission, 94 Hawaii 31, 47, 7 P.3d 1068, 1084 (2000)." Consultation with OHA and Hawaiian cultural practitioners should follow. Provides criteria to fulfill "duty to preserve and protect customary and traditional native Hawaiian rights." "Adopting these proposed rules before DLNR/BLNR has completed an independent Ka Pa'akai analysis would be in clear violation of Ka Pa'akai and the Hawai'i Constitution." 2. "How does the UH intend to protect Native Hawaiians exercising their customary and traditional rights? 20-26-21 Traditional and customary rights should be reinstated. 3. "The proposed fines are overly excessive in nature." 4. Questions as to why administrative rules are being put into place rather than using district or civil court rules and systems for remedy. Also, offers the DLNR's Civil Resource Violation System as an alternative to issuance of citation for minor violations. 5. "Several of these proposed rules and the procedures for adoption are not in compliance iwth the CMP, Mauna Kea Master Plan, Act 132," and other laws. 6. "Several of these proposed rules are invalid for being overboard and thus infringing on the constituonal rights of individuals." 7. There should also be "...rules and associated enforcement that pertains to astronomy personnel, UH employees, contractors, researchers, etc."

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					Specific Comments include the following: 20-26-3 rules should pertain to astronomy personnel, UH employees, researchers, contractors, etc. 20-26-6 there are no "provisions for waivers of fees for Native Hawaiian cultural practitioners." 20-26-22 "unnecessarily restrictive in nature." 20-26-23 "It's unnecessary to ban all of these deviations in all parts." 20-26-28 (4) should be revised or deleted. 20-26-28(7) "not always necessary to have tire chains when snow is present" therefore last sentence in this section should be deleted. 20-26-37 "does not specify any provisions for activities by Native Hawaiian cultural practitioners." 20-26-38 "does not specify any provisions for activities by Native Hawaiian cultural practitioners." 20-26-40 "there should be designated areas for scattering of cremated remains for the general public and visitors." 20-26-62 There should be an easer system something "similar to the process for groups planning a trip to the Imiloa Center." 20-26-73 "see general comments 3 & 4." 20-26-75 "see general comments 3&4." 7 days to submit an appeal is "inadequate" and therefore it should be "at least 21 days or more," similar to other State agencies.
3/15/2019 3:06:00	e-mail		Kevin Metcalfe		Summary: Avid bike rider for 30 years who has rode around the world. "[R]iding my bicycle to the top of Maua Kea stands above all of those experiences. It was something I'll never forget and something I hope to do again one day. I and many other cyclists would consider it a tragedy if

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					bikes were not allowed above the visitors center."
3/15/2019 4:06:00	e-mail		Justin Capetola		Summary: Honeymooned in Hawaii and visited the summit during stargazing trip. "I have a trip planned for this summer and have been preparing for the ride to the summit for a few months now. During the course of my preparation, I have discussed the immense challenge this presents with numerous people who have ridden it. All the feedback has been overwhelmingly positive: it one of the greatest places on earth to ride, the scenery is amazing, being above the clouds is like nothing else, etc."
3/15/2019 4:50:00	e-mail		Joshua Pay		"It has been a bucket list item of mine to ride my bike up to the top of Maunakea. This is one of the most famous rides in all of Hawaii (and the world) due to the fact you can ride from sea level up to almost 14,000ft."
3/15/2019 5:36:00	e-mail	Associate Professor and Department Chair (Department of Political Science)	Noelani Goodyear-Kaopua	University of Hawaii	Summary: 1) Add a reduced version on Traditional and customary rights back into document, 2) Commercial activities should be more regulated than public activities and 3) Would like 21 day notice to public prior to beginning of TMT construction so opposition can comply with 15 day advance notice for group of 10 or more or a waiver.
3/15/2019 5:43:00	e-mail		Mary McAndrew		"I've lived here all my life. I attended uhm and now live on the big island. I don't have much chance to get up to Mauna Kea but I feel it's important to keep it open so that we can continue to experience its majesty and beauty."
3/15/2019 6:32:00	e-mail		Diana Gula		"I had intended for my son to attend the University of Hawaii but not anymore! How could people be so selfish. It's sickening. I'm

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					thoroughly disgusted by this proposed bill. The school pays 1 dollar a year to lease the land and they want to stel it from the public."
3/15/2019 6:46:00	e-mail		Mary Kelly		"I do not agree with the proposed restrictions on Mauna Kea. This land is public and should remain as accessible as it is now. Please do not pass/enforce these rules/restrictions/laws/fines."
3/15/2019 7:24:00	e-mail		Joe Midthun		"I was recently on the big island and rode my bike up Mauna Loa because the road up Mauna Kea was not in good shape. At some point in the hopefully near future I plan to return and ride Mauna Kea. Please don't take this away from the cycling community and the Island of Hawaii."
3/15/2019 8:10:00	e-mail		Mark Lemmon		"Please continue to allow that to happen for the small number of cyclists willing and able to complete that journey."
3/15/2019 8:39:00	e-mail		Dane Silva		"Stop creating restitcion for public access to Mauna Kea."
3/15/2019 10:13:00	e-mail		Cindy Freitas		"aloha"
3/15/2019 10:20:00	e-mail		Dr. Jennifer Real		"As one of the few cyclists that has ridden up Mauna Kea, I can say from experience that it is in no way a hazard to the public for a cyclist to be very slowly pedaling a bike up that road."
3/15/2019 10:22:00	e-mail		Wendy Minor		"Bicycle travel is a very healthy way to get around. This state should be promoting more bicycle use instead of banning them."
3/15/2019 10:25:00	e-mail		Alfonso Deluca		"Please do not close the summit of Maunakea to cyclist. This is a destination for many Hawaii vactioners, if not most cyclists."
3/15/2019 10:29:00	e-mail		Cindy Freitas		Summary: Opposed to rules regarding "Native Hawaiian traditional and customary cultural and religious rights and practices."
3/15/2019 10:29:00	e-mail		Charlie Rentoul		"Put quite simply - it's the pinnacle of mountain road climbing by bike and not to have it

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					accessible to cyclists would be huge loss for the Island and the entire World cycling community."
3/15/2019 10:30:00	e-mail		Grant Matsushige		Summary: Opposed to and concerned with bike restriction based on biking being "risky." Multiple different questions in submission.
3/15/2019 10:33:00	e-mail		Cheryl Nakamura		"As one of the few cyclists that have ridden up Mauna Kea, I can say from experience that it is in no way a hazard to the public for a cyclist to be very slowly pedaling a bike up that road."
3/15/2019 10:36:00	e-mail		Jacob Head		"As one of the few cyclists that have ridden up Mauna Kea, I can say from experience that it is in no way a hazard to the public for a cyclist to be very slowly pedaling a bike up that road."
3/15/2019 10:43:00	e-mail		Dixie Newsome		"As one of the few cyclists that have ridden up Mauna Kea, I can say from experience that it is in no way a hazard to the public for a cyclist to be very slowly pedaling a bike up that road."
3/15/2019 10:48:00	e-mail		Amy Levang		"I am writing to object to the proposed Mauna Kea rules banning bicycles above Hale Pohaku."
3/15/2019 10:52:00	e-mail		Robin Fasciano		"Please don't ban cycling to Mauna Kea summit. I have never done it but one day would like to. I'd hate to think I missed my chance. I am unaware of any injuries or rescues performed on cyclists. Only the fittest and most prepared cyclists attempt that ride anyways."
3/15/2019 11:02:00	e-mail		Troy Braswell		"I have ridden this route a number of times, the latest when I was 66 years old. It is quite challenging, but well worth the effort for me. On a bicycle one feels more in touch with the stark beauty of Mauna Kea. When I reach the summit I am proud to have accomplished what very few people on the planet can do, all with non polluting sweat equity."
3/15/2019 11:25:00	e-mail		Kathy Peters		"As one of the few cyclists that have ridden up Mauna Kea, I can say from experience that it is

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					in no way a hazard to the public for a cyclist to be very slowly pedaling a bike up that road."
3/15/2019 11:31:00	e-mail		Margaret Russo		"I am writing to say the amendments are too restrictive."
3/15/2019 11:35:00	e-mail		Shirley Van Dyke		"As one of the few cyclists that have ridden up Mauna Kea, I can say from experience that it is in no way a hazard to the public for a cyclist to be very slowly pedaling a bike up that road."
3/15/2019 11:40:00	e-mail		Dr. Norman L. Goody		"I am writing to object to the proposed Mauna Kea rules banning bicycles above Hale Pohaku."
3/15/2019 11:46:00	e-mail		Daniel Peters		"As one of the few cyclists that have ridden up Mauna Kea, I can say from experience that it is in no way a hazard to the public for a cyclist to be very slowly pedaling a bike up that road."
3/15/2019 12:04:00	e-mail		Brent Trimble		"Very few bikes use that part of the road. For those of us that do its an important ride. Rather then try and ban it why not have a few rules for bicycles to keep it safe."
3/15/2019 12:22:00	e-mail		William Henderson		"Please add me to the long list of many who strongly object to the proposed Mauna Kea rules banning bicycles above Hale Pohaku."
3/15/2019 12:38:00	e-mail		Brooke Kinsler		"As one of the few cyclists that have ridden up Mauna Kea, I can say from experience that it is in no way a hazard to the public for a cyclist to be very slowly pedaling a bike up that road."
3/15/2019 12:46:00	e-mail	Professor	Cynthia Franklin	University of Hawaii	"These rules clearly show the university lumping together those truly desecrating the mountain with those who are on the mountain to maintain their cultural practices and to protect it from the university's desecration and violations in building the TMT."

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3/15/2019 13:48:00	e-mail		John Berude		"I personally made a trip with friends to Hawaii specifically for the purpose of riding this section of road. While cycling above Halepōhaku was truly a unique and wonderful experience (and one which I would personally return for and have recommended to many others), I did not find that the road posed any special safety hazards that would prompt the general prohibition of bicycles (as we were aware of the road conditions and planned accordingly). As far as I am aware, this road is regularly ridden safely by cyclists from all across the world."
3/15/2019 14:02:00	e-mail		Josh Boulding		"As one of the few cyclists that have ridden up Mauna Kea, I can say from experience that it is in no way a hazard to the public for a cyclist to be very slowly pedaling a bike up that road."
3/15/2019 14:03:00	e-mail		Jason Keen		"I feel that those that wish to challenge themselves by riding on the road North of Halepōhaku on bicycles should be allowed to do so. The speed limits, visibility and shoulders on the road are sufficient to allow bicyclists to use the road along with vehicle traffic."
3/15/2019 14:04:00	e-mail		Lori Sue Montgomery		"I oppose this new ruling to make it illegal to ride a bike on the Mauna Kea access road. You should keep it posted for 4 wheel drive only for safely[sic] reasons."

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3/15/2019 14:04:00	e-mail		Bianca Isaki, Ph.D., Esq.	KAHEA: The Hawaiian- Environmental Alliance	Comments: "In brief, the state Auditor recommended rulemaking as a means to address: (1) the observatories' violations, and (2) increased traffic, in large part due to BLNR and the University's permitting of commercial tours. The proposed rules specifically exempt University and observatory personnel and unduly regulate public access, including access necessary for Kia'i Mauna, cultural practitioners, the exercise of free speech and assembly, and enjoyment of the Mauna." Comment provides historical data for the following sections 1. "Rules are primarily intended to regulate the University, observatories, and commercial tours" and 2. "Proposed rules are inconsistent with the call for University rulemaking." 1. 1984 UH develops management plan and drafted rules however did not follow through. 1995 trash blown into Ice Act Natural Area Reserve, the clean up of that trash identifying it came from telescope facilities and the transfer of most responsibilities back to DLNR. 1998 audit of mismanagement by UH. 2000 Master Plan of 40 new telescopes without rules in place. 2004 DLNR fines UH \$20,000 for permit violations by four observatories. 2009 passing of Act 132 UH's authority to adopt rules "relating to public and commercial activities permitted or occurring on the Mauna Kea lands." 2011 draft rules deemed "unacceptable to OHA." 2014 audit found UH managing lands without rules in place. 2015 attempt to impose "emergency rules." 2018 formal process to create rules began and 2019 "small revisions that do little to address deep structural flaws." 2. Proposed rules do the opposite of Act 132. Kecks and TMT EIS cited that the "observatories has had a

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					<p>substantial, significant and adverse effect on the cultural and natural resources of Mauna Kea." "Proposed public access rules are inconsistent with the University's Comprehensive Management Plan for Mauna Kea (CMP)." President can "permit arbitrary closure." Practitioners do not use "designated" trails. Individuals can be asked to leave for any reason and fined if they do not comply. "Proposed fines unreasonably impose the highest level of the University's statutory power," which is "contrary to the CMP public access plan." While the UH Uh "proposed rules are not meant to regulate Hawaiian cultural practitioners...they propose to regulate 'all persons' and their public access, parking, road closure, flashlights, cell phones and undesignated trails." 20-26-2 camping restriction do not allow practitioners to practice traditional astronomy. 20-26-28 would not be able to leave vehicle "unattended while conducting practices and gatherings." 20-26-62 group registration and indemnification for access is "unduly burdensome." 20-26-5 "longtime practitioners would be forced to waste time." "Rules should expressly state that they do not apply to the exercise of Native Hawaiian traditional and customary practices nor those that accompany those practitioners." UH "required to investigate the ways that these proposed rules may impact cultural practices" and "develop feasible protections."</p>
3/15/2019 14:14:00	e-mail		Ann Mello		"I am opposed to any and all rules that would limit public access to Mauna Kea."

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3/15/2019 14:17:00	e-mail		Toni Romp-Friesen		"It is unclear what damage or threat to the sacred mountain or people or vehicles on this road that bicyclists could/have caused, but typically bicycles are one of the lowest impact activities, and are generally encouraged as an alternative to gas-guzzling carbon emitting motor vehicles."
3/15/2019 15:23:00	e-mail		Todd Giorgio		"I have ridden a bicycle on the road in question and it was a sublime, iconic experience that should not be prohibited. Traffic is light and cyclists are generally experienced and respectful of other road users."
3/15/2019 15:52:00	e-mail		Brian Stephenson		"I would respectfully ask that you continue to allow bicycle access to the Observatory, and let Maunakea continue to hold her title as the world's toughest climb."
3/15/19 15:58:00	e-mail	Policy Director	Mandy Fernandes	ACLU Hawaii	Comments: "The ACLU of Hawai'i takes no position on the Thirty Meter Telescope ("TMT") on Mauna Kea. We have concerns, however, with the informal draft proposed rules as they may infringe upon the constitutional rights of individuals seeking to access Mauna Kea for traditional, customary, and religious practices, and the constitutional rights of those who wish to access Mauna Kea to engage in speech around the building of TMT. We also have concerns about potential for unequal enforcement of the rules and the excessive fines associated with violations." Traditional and Customary Practices "should clarify that the rules do not regulate or govern access to Mauna Kea for traditional and customary rights," if section 20-26-21 will be deleted since some "people may falsely assume that access for traditional and customary practices falls under the general requirements and/or rules for group access." Group Registration Requirements

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					"could be subject to constitutional challenge" because individuals are/could be engaging in "activity protected by the First Amendment." "[N]o guidance on when insurance would or would not be required," and "is likely impermissible under both the state and federal constitutions." Imposition of fines of violation are "overly punitive, especially if the underlying citation that gave a law enforcement officer cause to remove an individual is invalid."
3/15/2019 16:02:00	e-mail		Andrew Cooper		Summary: "It is reasonable to consider restrictions to the numbers," based on visitor center being beyond capacity; good source of handling crowds would be National Park Service; 20-26-6 Access Fees should be free to residents and at a nominal cost to non-residents; 20-26-38(b)(2) should be more clearly defined; 26-26-38(c) "currently the summit is accessible at all hours," would there now be someone monitoring people going up and down? and 20-26-30 prohibition on bicycles is overly restrictive with no obvious justification.
3/15/2019 16:03:00	e-mail		Susan Downing		"I question the logic of disallowing bicycles from the section of road in question. Bicycles by their very light weight, emission free nature provide means of access that result in less wear and tear on roadways, and less chemical and noise pollution to natural areas."
3/15/2019 16:08:00	e-mail		GJM		Summary: In support of TMT and astronomical use but opposed to all rules.

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3/15/2019 16:58:00	e-mail		Kawika Singson		"It's simply a pedal bike, it takes virtually no room, no road destruction, no noise, no pollution and the cyclist that do actually do attempt to ride to the summit are very conscious and respectful of the mountain and the environment. There are 2 wheel drive vehicles, tour vans and all sorts people who have no idea how to drive slow up there."
3/15/2019 17:06:00	e-mail		Carl Koomoa		"As one of the few cyclists that have ridden up Mauna Kea, I can say from experience that it is in no way a hazard to the public for a cyclist to be very slowly pedaling a bike up that road."
3/15/2019 18:00:00	e-mail		Mary Jo Stevenson Fullen		"I am writing to object to the proposed Mauna Kea rules banning bicycles above Hale Pohaku...It would be a shame to ban cyclist from experiencing this when they do not pose a true safety concern for the public."
3/15/2019 18:12:00	e-mail		Paul Athanasiov		"Cyclists do not harm the mountain and I gains a lot of local and international support if cyclists can ride up there occasionally."
3/15/2019 19:05:00	e-mail	Professor	Lanier Benkard		"I'm a California resident and regular visitor to Hawaii. I'm also a cyclist and, though I have not yet ridden the Mauna Kea road, it is a bucket list ride for me. I would be extremely disappointed if access to bicycles were revoked."
3/15/2019 20:32:00	e-mail		Jim Benkert		"As one of the few cyclists that have ridden up Mauna Kea, I can say from experience that it is in no way a hazard to the public for a cyclist to be very slowly pedaling a bike up that road."
3/15/2019 23:07:00	e-mail		Gregory J. Myers		Summary: In support of TMT and astronomical use but opposed to all rules.
3/15/2019 23:28:00	e-mail		Jolene Head		"My husband is one a select few who can from experience that it is in no way a hazard to the public for a cyclist to be very slowly pedaling a bike up that road. It is actually less dangerous than a car or a motorcycle, neither of which are proposed to be banned! Because of the difficult

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					conditions above Hale Pohaku few cyclists actually attempt this."
3/16/2019 5:40:00	e-mail		Heather Yost		"I am writing to object to the proposed Mauna Kea rules banning bicycles above Hale Pohaku. It is actually less dangerous than a car or a motorcycle, neither of which are proposed to be banned! The number of people even attempting to ride this road is very small due to it physical challenge. In the rules, all vehicles must adhere to the laws of the road. As with on any other road on Big Island, the cyclist must adhere to these same laws. I see no legitimate safety concern, and would be interested in an explanation."
3/16/2019 7:26:00	e-mail		Kristi Cotton		"As one of the few cyclists that have ridden up Mauna Kea, I can say from experience that it is in no way a hazard to the public for a cyclist to be very slowly pedaling a bike up that road."
3/16/2019 9:57:00	e-mail		Nathan Wallace		"I am asking that bicycles be allowed to continue past the visitor centre to the top of Mauna Kea Access Road. I do support heavy fines for anyone on bicycles leaving the road including putting those that are fined on a banned list for breaking this rule. Bicycles have little to no impact with the very low traffic volumes and speeds on this road along with what are very, very low bicycle traffic volumes."
3/16/2019 15:54:00	e-mail		Christopher Brahm		"Please don't ban bicycles on Mauna Kea!!!! This is one of the most challenging and famous rides in the world, and it would be a shame for us to lose."

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3/17/19 5:29:00	e-mail		Brian Keast		"Please reconsider banning bicycle access to the upper road. This is an iconic climb and reputed to be the highest single climb in the world for cyclists. Since it is incredibly challenging, very few cyclist attempt it, resulting in minimal traffic impact and those that do are skilled and conscientious riders. Banning access would be a significant loss of this iconic route."
3/17/2019 10:28:00	e-mail		Jordan Greer		"I see no good reason why you should prohibit bicycle access beyond the visitor's center. A perusal of news reports show no incidents involving bicycles, with what is assuredly extremely low volume."
3/17/2019 21:38:00	e-mail		Kelly B		"I am writing to object to the proposed Mauna Kea rules banning bicycles above Hale Pohaku. I suggest you ban bicycles from OFF ROADING above the summit, but don't do a blanket ban from the summit."
3/18/2019 7:39:00	e-mail		Pam Miller		"As one of the few cyclists that have ridden up Mauna Kea, I can say from experience that it is in no way a hazard to the public for a cyclist to be very slowly pedaling a bike up that road."
3/18/2019 19:54:00	e-mail		Healani Sonoda-Pale		Summary: Response to Bianca Isaki from KAHEA's submission.
3/18/2019 20:17:00	e-mail		Bianca Isaki, Ph.D., Esq.		Summary: Response to Healani Sonoda-Pale's response.

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II. SUMMARY OF COMMENTS RECEIVED BY THIRD-PARTY PETITION

The following table summarizes an online, form petition provided by a third-party. The table does not include contact information. Figures A and B are copies of the online petition.

FIGURE A

**UH HAS NO JURISDICTION TO PROPOSE MAUNA
 KEA ADMINISTRATIVE RULES**

My name is*

First Last

I am

Optional Multiple Choice

- Kanaka Maoli aka Native Hawaiian
- non-Kanaka Maoli aka non-Native Hawaiian
- other:

My email is

Optional.

I reside at*

City, Island

FIGURE B

I oppose the UH process to promulgate Administrative Rules for Mauna Kea:*

Multiple Choice: You may make more than one choice and choose all.

The University of Hawaii does not have the Jurisdiction to create Administrative Rules for the Mauna Kea summit which sits on Hawaiian Kingdom National lands that are now part of the "Public Lands" and zoned "Conservation". In fact, UH acknowledges this in Sections 20-26-3 and 20-26-4 of the most recent draft of their proposed Administrative Rules. UH states where jurisdictions between the so called UH Mauna Kea management areas with Department of Land and Natural Resources (DLNR) are overlapping or where UH rules are inconsistent with conservation district rules, DLNR rules including conversation district rules shall govern.

The UH does not have the authority to enforce these Administrative Rules further supporting the fact that UH does not have Jurisdiction over the Mauna Kea summit. UH admits that it will have to rely on authorized agents to "assist with enforcement" such as the police department, state sheriff, or DLNR. As the Rules stand now only the President's designee will enforce the Rules.

The summit of Mauna Kea is Wao Akua or the Sacred Dwelling of the Gods and the UH does not have jurisdiction or any authority to manage the religious and sacred cultural practices of the Kanaka Maoli people. The summit is sacred to the indigenous peoples of Hawai'i, and its resources, sacred sites, and overall environment is important to our well-being.

The Kanaka Maoli people never relinquished our rights and sovereignty over the Mauna Kea summit which is comprised of Hawaiian Kingdom Crown and Government lands aka "Ceded Lands", as such the University of Hawai'i has no jurisdiction to manage how and when Kanaka Maoli exercise customary and traditional rights to access the Mauna Kea summits for subsistence, religious and cultural purposes. Yet the way the proposed UH Administrative Rules are written, the burden of proof will once again be put on the Kanaka Maoli people (aka "Native Hawaiians") to prove who we are and our rights to access, worship, practice, and protect.

Additional Comments:

Individual comments are suggested.

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Charmine Bugado	3/8/2019 19:08:00	x			Waiakea, HI	x	x	x	x	"no chief may be able to oppress any subject, but that chiefs and people may enjoy the same protection, under one and the same law."
Shannon Rudolph	3/8/2019 19:44:00		x		Holualoa Hawai'i island	x	x	x	x	"#SeeYouOnTheMauna"
William Freitas	3/8/2019 20:01:00	x			Kailua Kona, HI	x	x	x	x	"No further development on Sacred Mauna Kea"
Sandee Moniz Pa	3/8/2019 21:31:00	x			Waimanalo, HI	x	x		x	
Noelani Ahia	3/8/2019 21:35:00	x			Wailuku, HI	x	x	x	x	
Cameron Ahia	3/8/2019 21:47:00	x			Honolulu, HI	x	x	x	x	"UH is participating in a process that ignores Native Hawaiians while purporting to be a Hawaiian Place of Learning and Indigenous serving institution. It is privileging one research agenda (astronomy) over the many other fields at UH. Research on Mauna Kea does not follow Indigenous ethical standards. It is unconscionable to criminalize Hawaiians and non-Hawaiians who consistently voice their opposition."

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Lance Akana	3/8/2019 21:47:00	x			Wailuku, HI	x	x	x	x	
Amy Vegas	3/8/2019 21:49:00				Oahu, HI	x	x	x	x	
Sharman O'Shea	3/8/2019 21:59:00			Caucasion	Naalehu, HI	x	x	x	x	"Hands off Mauna Kea"
Jennifer Karaca	3/8/2019 22:05:00		x		Makawao, Maui	x	x	x	x	
Susan Rosier	3/8/2019 22:13:00				Waikahekahe Puna Moku o Keawe	x	x	x	x	
Grace Caligtan	3/8/2019 22:30:00			Settler of Kankaney Igorot and Ilkano ancestry	Kapālama, O'ahu	x	x	x	x	
Tony Van Kralingen	3/8/2019 22:48:00			Filipino Dutch Apache	"Puns Hawaii"	x	x	x	x	"Nāna Ike Kumu"
Kaylene Sheldon	3/8/2019 23:07:00	x			Oahu, HI	x	x			"It's time for the University Of Hawaii to uphold its promise to the Native Hawaiian community and to follow their mission statement. There shouldn't be NO more telescopes on Mauna Kea, Take Kea dis place before you look up in space!"
Josephine Keliipio	3/9/2019 2:21:00	x			Kailua Kona, HI	x	x	x	x	"we kanaka are indigenous people to Hawaii, we dont owe you proof to be on OUR Mauna."

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Sharron Cushman	3/9/2019 5:28:00		x		Hilo, HI	x	x	x	x	"I strongly oppose these rules."
Kalamaokaaina Niheu	3/9/2019 6:23:00				Kaaawa, HI	x	x	x	x	"The time has come when the State of Hawaii and the University of Hawaii needs to realize that the Thirty Meter Telescope will never be built on Mauna Kea"
Bethany Bilowus	3/9/2019 7:01:00		x		Waimea, HI	x	x	x	x	
Serafina Gajate	3/9/2019 7:08:00			Hapa pokoliko hapa haole	Volcano, HI	x	x	x	x	
Walter Ritte	3/9/2019 7:17:00	x			Ho'olehua, Moloka'i	x	x	x	x	"WE WILL NOT COMPROMISE ON ISSUES REGARDING MAUNAKEA."
Maelani Lee	3/9/2019 7:30:00			Hawaii Ko pae aina	Waianae, HI	x	x	x	x	
Uahikea Maile	3/9/2019 7:30:00	x			Kailua, O'ahu	x	x	x	x	
Morgan Stierman	3/9/2019 9:00:00		x		Waialua, O'ahu	x	x	x	x	"UH cannot continue with this, especially while claiming to be "a native Hawaiian place of learning"
Paul Neves	3/9/2019 9:47:00	x			Keaukaha- Hilo, HI	x	x	x	x	"Who are the Right Holders? Who has the responsibility to insure the care of lands and resources og the Right Holders? What does the State of Hawaii Constitution say

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										about the use of Crown Lands?"
Gene Tamashiro	3/9/2019 11:41:00			Sovereign Hawaiian national	Hilo, HI	x	x	x	x	"No Lawful title = No Lawful Jurisdiction. Adjudicate all controversy on THIS SOIL in the Hawaiian Kingdom."
Mel Wildman	3/9/2019 14:23:00	x			Honolulu, HI	x	x	x	x	"UNTIL YOU CAN PROVIDE PROOF YOU ARE THE HEIR..DO NOT ATTEMPT TO DO ANYTHING WITH THAT LAND !"
Cindy Freitas	3/9/2019 18:24:00	x			Kailua Kona, HI	x	x	x	x	
Roxane Keliikipikaneokoloha ka	3/9/2019 22:07:00	x			Hilo, HI	x	x	x	x	"UH's continual play to pave the way for desecration to be perpetuated on Mauna Kea is in direct contrary to their PR of being an exemplary indigenous institution of learning."
Janet Graham	3/9/2019 23:55:00		x		Honolulu, Oahu	x	x	x	x	
Monique Bal	3/10/2019 2:39:00			Dutch	Zoetermeer, Netherlands	x	x	x	x	
Trina Bashem	3/10/2019 6:56:00	x			Ewa Beach, O'ahu	x	x	x	x	
Kimberly Patterson	3/10/2019 8:14:00	x			Pahoa, HI	x	x	x		

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Lehua Kaulukukui	3/10/2019 8:35:00	x			Waikoloa, HI	x	x	x	x	"Do not TRAMPLE on our souls and the souls of our kupuna."
Mel Wildman	3/10/2019 11:45:00	x			Honolulu, HI	x	x	x	x	"We then can assume that HAWAII STATE GOVERNMENT has NOT made a clear and virtue statement or conceded that Hawai'i "is a State". "
Colleen Corrigan	3/10/2019 12:50:00		x		Pahoa, HI	x	x	x	x	
Liza Franzoni	3/10/2019 14:10:00		x		Pa'auilo, HI		x	x	x	"There is no way to trample compassionately on a people's soul."
Kyle Nahoi	3/10/2019 15:53:00	x			Waianae, HI	x	x	x	x	
Jerry Ferro	3/10/2019 17:22:00			I am kanaka Aupuni	Hilo, HI	x	x	x	x	"The UH is part of the illegal occupation of na moku and are participating in the war crime filed with NATO."
Tatiana Young	3/11/2019 11:17:00	x			Waianae, HI	x	x	x	x	
Ku'ulei Ortiz	3/11/2019 11:42:00	x			Waianae, HI	x	x	x	x	
Mehana Kihoi	3/11/2019 15:10:00	x			Honaunau, HI	x	x	x	x	

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Ana-Melissa Kea	3/11/2019 15:17:00	x			Waianae, HI	x	x	x	x	
Issac Demello	3/11/2019 15:30:00	x			Hawai'i	x	x	x	x	"Ku kia'i Mauna"
Kamehaikana Santiago	3/11/2019 15:37:00	x			O'ahu, Hawaii	x	x	x	x	"...University of Hawaii as[sic] absolutely NO JURISDICTION..."
Brexson Kamano	3/11/2019 15:57:00	x			Honolulu, O'ahu	x	x	x	x	
Olivia Poggioli Cataraha	3/11/2019 16:06:00	x			Kailua Kona, HI	x	x	x	x	
Kaiwikuamoo Canda Alvarez	3/11/2019 16:07:00	x			Kailua Kona, HI	x	x	x	x	
Jolyn Ho	3/11/2019 16:21:00	x			Puna, HI	x	x	x	x	
D. Keali'i MacKenzie	3/11/2019 16:37:00	x			Honolulu, HI	x	x	x	x	
Lisa Cook	3/11/2019 16:38:00			Maori	Ngarimu Bay Aotearoa	x	x	x	x	"Ko au te Maunga ko te Maunga ko au I am the mountain the mountain is me. I stand with my whanaunga when they say NO to the desecration of the sacred Mauna Kea. POKOKOHUA UoH"

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Wyatt Souza	3/11/2019 17:14:00	x			Kohala, Hawaii	x	x	x	x	
Asia St John	3/11/2019 18:14:00		x		Waipahu, O'ahu	x	x	x	x	
Leimomi's Wheelr	3/11/2019 18:15:00	x			Waikahekahe Nui, Moku O Keawe	x	x	x	x	
Ashlie McGuire	3/11/2019 18:20:00		x		Pukalani, Maui	x	x	x	x	
Tuscany Lemons	3/11/2019 18:35:00		x		Kamuela, Hawaii	x	x	x	x	"What's left of the unprivitized sacred lands needs to be preserved and decisions need to be made by Kanaka Maoli."
Kuulei Vickery	3/11/2019 18:40:00	x			Mountain View, Hawai'i Island	x	x	x	x	"I'm an avid hiker, hunter, photographer, conservationist, and mother that enjoys spending time on Mauna Kea for many different reasons and activities. The rules are severely limiting and are meant to target a certain group. That is unjust."
Lydia Pontin	3/11/2019 18:43:00	x			Hilo, Hawaii Island	x	x	x	x	"Please think about our future kanaka maoli generations, Aole TMT"
Julia Espaniola	3/11/2019 18:47:00			Native to this land, Polynesian	Pahala, Hawai'i		x	x	x	

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Kela Killam	3/11/2019 18:56:00	x			Kula, Maui	x	x	x	x	"This project is an act against Hawai'i in its entirety."
Nicole Oamilda	3/11/2019 19:09:00	x			Hawai'i, Hawai'i	x	x	x	x	
Palikulani Ekau	3/11/2019 19:50:00	x			Nanakuli, HI	x	x	x	x	
Alexandra Soileau	3/11/2019 19:53:00	x			Long Beach, CA	x	x	x	x	
Kira DeGaetano	3/11/2019 19:57:00				Honokaa	x	x	x	x	"Protect our water aquifer and the future of our Keiki"
Alex Carmel	3/11/2019 19:59:00	x			Long Beach, CA	x	x	x	x	
Deann Thornton	3/11/2019 20:17:00	x			Moanalua, Oahu	x	x	x	x	
Taylor Warner	3/11/2019 20:59:00			Caucasian	Mountain View, HI	x	x	x	x	
Rhonda Vincent	3/11/2019 21:38:00	x			Kapolei, HI	x	x	x	x	"Mauna Kea is SACRED. I oppose the UH process to promulgate Administrative Rules for Mauna Kea"
Robin Stone	3/11/2019 21:59:00				Kalaloa, HI	x	x	x	x	Kanaka Maoli should be the only group governing Mauna Kea and they alone."

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Shay Bingo	3/11/2019 22:11:00	x			Kailua, HI	x	x	x	x	"University of Hawaii does not have jurisdiction and/or authority to make such proposals, nor will the kanaka maoli give them such rights, considering their blatant disregard for sacred traditions and our culture."
Schae Hill	3/11/2019 22:27:00		x		Oahu	x	x	x	x	
Tai Kaneakua	3/11/2019 23:05:00	x			Kauai	x	x	x	x	"#Corruption"
Sherilyn Yim	3/12/2019 3:30:00	x			Honolulu, HI	x	x	x	x	
Mapuana Lukela	3/12/2019 4:01:00	x			Waianae, HI	x	x	x	x	"I oppose"
VivianMalia Fa'agata	3/12/2019 5:37:00	x			Ola'a, HI	x	x	x	x	"Cultural Rights in International Law Article 27 of the Universal Declaration of Human Rights and beyond."
Marina Shimada	3/12/2019 5:45:00		x		Honolulu, HI	x	x	x	x	"UH is formed of the people who care about their homelands, their culture. And absolutely should have rights to stand with the Kanaka Maoli people in what's right and just for their lands- especially given the true history and atrocious

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										overthrow of their government. Respect the culture, respect the lands, respect the people."
Marina Shimada	3/12/2019 5:50:00		x		Honolulu, HI	x	x	x	x	"There's no way to change my previous comments- which I was under the impression UH was for the people. But rereading now, I see they are not. I stand with the people, the culture, and the land."
Keahi Lind	3/12/2019 6:01:00	x			Kipahulu, Maui	x	x	x	x	"my culture, religion and land base are one in the same"
Vida Cavaco	3/12/2019 6:34:00	x			Papaikou, HI	x	x	x	x	
Sherrisa Keolanui	3/12/2019 7:24:00	x			Papaikou, HI	x	x	x	x	"NOT YOUR MOUNTAIN!"
Nicole Kauwilaokalani Sees	3/12/2019 7:26:00	x			Maili, HI	x	x	x	x	
Dawn Kualii	3/12/2019 8:01:00	x			Waimea, HI			x	x	
Dennise Acio	3/12/2019 10:10:00	x			Honolulu, Hawaii	x	x	x	x	

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Gordon Lacy	3/12/2019 10:14:00	x			Hilo	x	x	x	x	
Jacob Noa	3/12/2019 12:40:00	x			Palolo, Oahu	x	x	x	x	"The University of Hawai'i must listen to the voices of its indigenous students and faculty in order to retain any legitimacy as an ethical place of learning in this community."
Joy McLeod	3/12/2019 13:09:00	x			Hilo, Hawai'i	x	x	x	x	
Kapua Keliikoa-Kamai	3/12/2019 15:31:00	x			Wai'anae, Oahu	x	x	x	x	"I will not have my heart & soul trampled on no matter how carefully or compassionately you try to do it. Would you?"
Michael Orr	3/12/2019 16:17:00		x		Honolulu, Oahu	x	x	x	x	
Stephen Loo	3/12/2019 17:27:00	x			Hilo, Hawaii	x	x	x	x	
Helena Raja	3/12/2019 19:04:00			California who, loves[sic] the Hawaii the people, culture, language and the beauty	San Bernardino, CA 92404	x	x	x	x	"Mauna Kea is the sacred dwellings of the Hawaiian people that must be respected."

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				that is there.						
Kevin Akiyama	3/12/2019 21:06:00		x		Honolulu, O'ahu	x	x	x	x	
Candace Fujikane	3/12/2019 21:22:00		x		Kane'ohe, O'ahu	x	x	x	x	
Angelina Misseri	3/13/2019 3:45:00		x		Kealekekua Bay, Big Island	x	x	x	x	"Mauna Kea is sacred and protected land, no science experiment should ever put at risk the unique and worshipped land that is Mauna Kea, that is Hawai'i."
Sharol Awai	3/13/2019 4:06:00	x			Hilo, Hawaii Moku	x	x	x	x	
Whitney Whittington	3/13/2019 4:54:00		x		Asheville, NC	x	x	x	x	
Kawena Brooks	3/13/2019 8:02:00	x			Hilo	x		x		
Josephine Keliipio	3/13/2019 10:46:00	x			Kailua Kona Island of Hawaii	x	x	x	x	"UH has no right to be imposing thier stupid rules upon our Mauna in order to silence its indigenous people.
Piialoha Teves	3/13/2019 11:05:00	x			Makawao, Maui	x	x	x	x	"Mauna Kea has been a trash can for the science community for too long. Stop and look at other ways to create income

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										that involves community participation. Harmony is the way of our ancestors. Stop just syop[sic]"
Tara Crystal	3/13/2019 19:09:00				Puna Hawaii	x	x	x	x	
Jim Albertini	3/13/2019 20:19:00		x		P.O. Box 489 Kuristown, HI 96760	x	x	x	x	"Mauna Kea is sacred. Sacred is sacred. No TMT."
Leilani Villiaros	3/13/2019 21:02:00	x			O'ahu	x	x	x	x	
Jordyn Saito	3/14/2019 8:12:00		x		Honolulu	x	x	x	x	
Kaukaohu Wahilani	3/14/2019 8:17:00	x			Puea Wai'anae Valley	x	x	x	x	"It is just absurd in my opinion"
Barbara Underwood	3/14/2019 10:07:00		x		Kailua-Kona, Hawaii	x	x	x	x	
Millicent Cummings	3/14/2019 10:28:00		x		Honomu	x	x	x	x	"This is as rediculous[sic] as it is illegal."
Rhonda Vincent	3/14/2019 10:34:00	x			Kapplei[sic], Oahu	x	x	x	x	"Stop TMT"
Rosa Rackley	3/14/2019 11:09:00		x		Pahoa, Moku o Keawe	x	x	x	x	"Ku Kia'i Mauna"

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Shannon Rudolph	3/14/2019 11:20:00		x		Holualoa Hawai'i island	x	x	x	x	
Caroline Delano	3/14/2019 12:29:00			Caucasian	Pahoa	x	x	x	x	
Malia Marquez	3/14/2019 12:47:00	x			Maunaloa, O'ahu	x	x	x	x	
Erin Kahunawai Wright	3/14/2019 13:20:00	x			Honolulu, HI 96819	x	x	x	x	
Shane Pale	3/14/2019 13:38:00	x			Honolulu Oahu	x	x	x	x	
Hooheho Haumea	3/14/2019 14:07:00	x			Waianae, Oahu	x	x	x	x	"UH has no right what so ever, shame on them."
Roberto Pereyra	3/14/2019 14:08:00		x		Waianae, Oahu	x	x	x	x	
Alisa Haumea	3/14/2019 14:09:00	x			Waianae, Oahu	x	x	x	x	
David Haumea	3/14/2019 14:09:00	x			Waianae, Oahu	x	x	x	x	
Henry Kapihe	3/14/2019 14:11:00	x			Waianae, Oahu	x	x	x	x	

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Sidney Keamo	3/14/2019 14:12:00	x			Waianae, Oahu	x	x	x	x	
Naomi Kapihe	3/14/2019 14:12:00	x			Waianae, Oahu	x	x	x	x	
Anuenue Kanahale	3/14/2019 14:25:00	x			Kauai and Oahu	x	x	x	x	"Get it straight. You are nkt[sic] welcome to defile our Mauna"
Eolani Mose	3/14/2019 14:26:00	x			Oahu	x	x	x	x	"Hewa"
Elia Mose	3/14/2019 14:26:00	x			Oahu	x	x	x	x	
Nalani Kanahale	3/14/2019 14:27:00	x			Kauai	x	x	x	x	
Ephraim Mose	3/14/2019 14:28:00	x			Oahu and Kauai	x	x	x	x	
Esaias Mose	3/14/2019 14:28:00	x			Oahu	x	x	x	x	
Esera Mose	3/14/2019 14:29:00	x			Kauai	x	x	x	x	
Elisara Mose	3/14/2019 14:29:00	x			Kauai	x	x	x	x	

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Enoka Mose Kanahele	3/14/2019 14:30:00	x			Oahu	x	x	x	x	
Ekena Mose Kanahele	3/14/2019 14:30:00	x			Oahu	x	x	x	x	
Kinohi Mooiki Kanahele	3/14/2019 14:31:00	x			Kauai	x	x	x	x	
Kahiwahiwa Lee	3/14/2019 14:31:00	x			Kauai	x	x	x	x	
Jesse Kahoonei	3/14/2019 14:44:00	x			Kona, Hawaii	x	x	x	x	
Rona Kahoonei	3/14/2019 15:17:00		x		Kailua-Kona, HI	x	x	x	x	
Julia Stowell	3/14/2019 16:19:00				Laupahoehoe , Hawaii	x	x	x	x	"The University of Hawaii deos not have jurisdiction on the summit of Mauna Kea period."
Susan Rosier	3/14/2019 17:15:00				Waikahekahe , Puna Moku o Keawe	x	x		x	"As a senior citizen I find some of these rules to be rediculous! If you are truly concerned with people's safety, you wouldn't even be considering some of these necessary items in case someone is lost or injured while hiking. And Kanaka Maoli right? You can't dictate those things that are constitutionally guaranteed!"

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										Geesh I actually thought you were a school of higher education .. seems more like a bunch of people just high from their control power Trip!"
E. Kalani Flores	3/14/2019 22:42:00	x			Pu'ukapu, Waimea, Moku o Keawe	x	x	x	x	
Skylane Ishibashi	3/15/2019 9:33:00	x			Kea'au, Hawaii	x	x	x	x	
Kaeleen Martinez	3/15/2019 13:20:00	x			Kalopa/Hono kaa, Hawaii Island	x	x	x	x	
Jodi Mercier	3/15/2019 18:06:00		x		Kealakekua, Island of Hawaii			x		"The rule limiting groups to 10 people before needing a permit is designed to stop the protectors. Do you really plan to cite 15 members of a "Smith" family reunion who gather without a permit. This rule is racist."
Ronni Pratt	3/16/2019 6:26:00	x			Kane'ohe, Oahu				x	
Kau'ilani Trainer	3/16/2019 21:18:00	x			Hilo, Hawaii		x	x	x	Summary: 20-26-34 and 20-26-38 restricts cultural activities, "foreigners" allowed to break 20-26-22, 20-26-25,

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Bryan Moore	3/19/201 9 9:26:00	x			Pearl City, Oahu	x	x	x	x	20-26-32 and 20-26-61, opposed to 20-26-67 charging of photographers, 20-26-73 directly targets Kanaka Maoli and 20-26-75 and 20-26-73(d) are concerning. "We are the the Kingdom of Hawaii"

Amended UH Administrative Rules

Governing Public and Commercial Activities on Maunakea Lands

Office of
Maunakea Management



Authority and Purpose

- 1998: Audit
- Authority : Act 132 (2009)
 - Governing public and commercial activities
- Purpose
 - Proper use
 - Management
 - Protection of resources
 - Health and safety

Approved by the Governor
on JUN 18 2009

ACT 132
H.B. NO. 1174
H.D. 3
S.D. 2
C.D. 1

HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

A BILL FOR AN ACT


RELATING TO THE UNIVERSITY OF HAWAII.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Pursuant to the Hawaii Constitution and Hawaii
2 Revised Statutes, the University of Hawaii is vested with
3 autonomous authority to control and manage its educational and
4 proprietary affairs. This authority extends to the use and
5 oversight of lands and real property owned by the University of
6 Hawaii or leased, demised, or transferred to the University of
7 Hawaii from various owners, including state, federal, or private
8 entities, for the furtherance of the University of Hawaii's
9 educational, research, and agricultural activities.

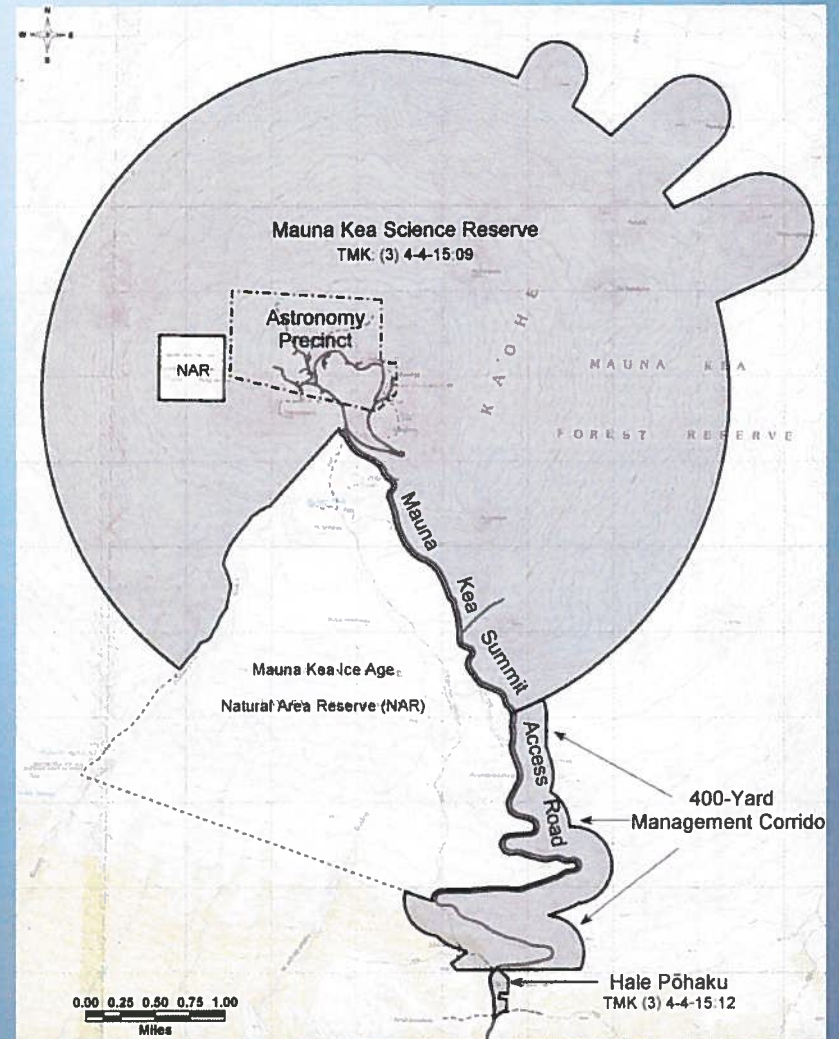
10 Such autonomous authority presumably carries with it the
11 necessary legal means to supervise, oversee, and permit public
12 activities on lands it leases and controls on Mauna Kea,
13 including the Mauna Kea Science Reserve, Hale Pohaku, and the
14 connecting roadway corridor between Hale Pohaku and the Mauna
15 Kea Science Reserve (collectively the Mauna Kea lands), and may
16 be implied from the autonomous character of the University of
17 Hawaii. Nevertheless, the purpose of this Act is to clarify and

HB1174 CD1 HMS 2009-4361



DLNR and UH

- **Consistency with DLNR Forest Reserve & Natural Area Reserves System Rules**
 - Group size: 10
 - NAR limits to 10
- **UH's managed lands**
- **Land use**
 - Conservation District rules



DELETED SECTIONS

ORIGINAL RULE	AMENDED RULE
<p data-bbox="197 574 840 748">If a cultural practice or activity has an impact on the resources:</p> <p data-bbox="243 764 884 927">Encouraged to consult with OMKM & Kahu Ku Mauna to obtain a special use permit</p>	<p data-bbox="947 574 1682 688">Removed: focus on resource protection</p> <p data-bbox="947 727 1793 906">Added: acknowledgement of constitutional rights; shall not be abridged</p>

DELETED SECTIONS

ORIGINAL RULE	AMENDED RULE
Permits for public assemblies and meetings	Removed – perceived as restricting cultural activities; requires registration to manage resource impact
<u>Snow Play</u> Use of devices not equipped with braking mechanisms or do not provide directional control on snow or ice is prohibited.	Removed – to allow more flexibility on what is allowed while ensuring public safety
<u>Bicycles</u> No previous rule	Use of bicycle, north of Halepōhaku, except by written permission

PUBLIC ACTIVITIES

ORIGINAL RULE	AMENDED RULE
<p><u>Vehicle</u> Only vehicles equipped with low-range, 4-wheel drive allowed north of Halepōhaku</p>	<p>Use of two-wheel drive motorized vehicles north of Halepōhaku is prohibited</p>
<p><u>Audio Devices</u> Creating noise using ... public address systems, radios, television sets, musical instruments, or amplifying devices are prohibited</p>	<p>Removed specific use type prohibitions. Instead, changed to prohibit audio amplifying devices that create a nuisance.</p>

PUBLIC ACTIVITIES

ORIGINAL RULE	AMENDED RULE
Prohibited: cellular telephones, except for use in an emergency	Cellphones are prohibited except for emergencies or <u>if transmission is suspended, such as airplane mode</u>
Prohibited: use of artificial illumination, except headlights	Prohibited: directing artificial illumination such as lasers or flashlights at or near observatories
Group Use Permit	Permit replaced with registration; ensure public safety and manage impacts to resources



ROAD HAZARDS

Road Closures



PUBLIC ACTIVITY - ISSUES

ISSUE	RULE
Air conveyances (paragliding); air toys (for example, kites, boomerangs, drones)	Prohibited



PUBLIC ACTIVITY - ISSUES

ISSUE

Invasive species



RULE

Prohibited:

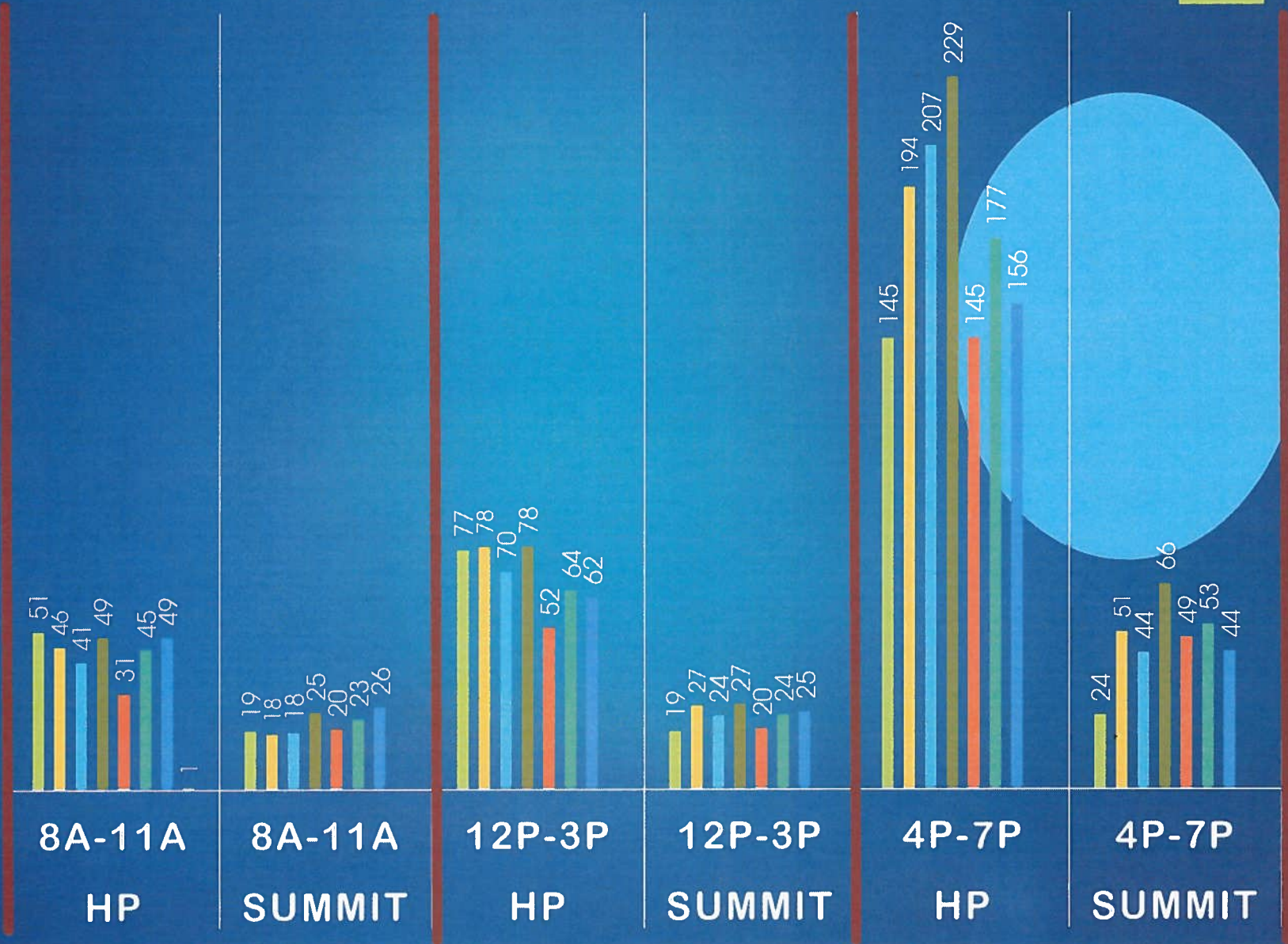
- Introducing any form of plant and animal life except for dogs used in hunting
- Littering or depositing garbage, trash other than in receptacles



Average Daily Private Vehicles (2018)

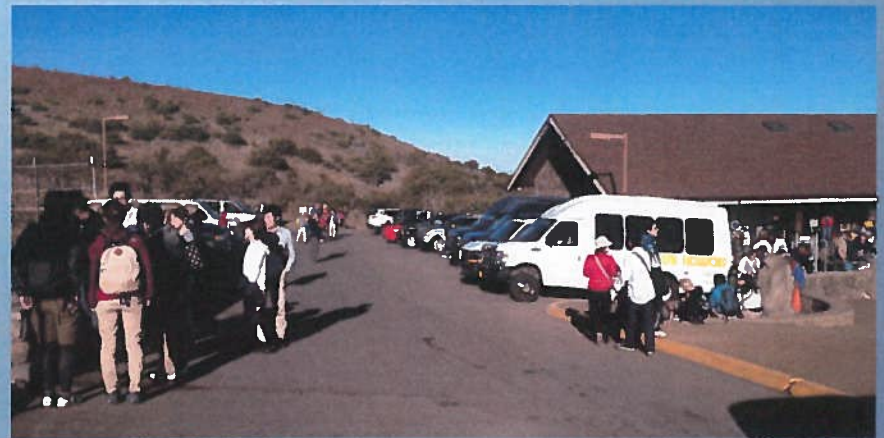
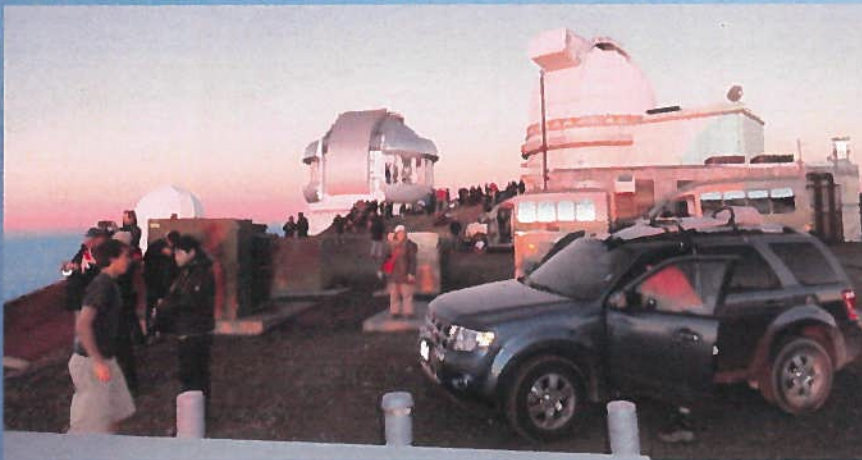
■ April
 ■ May
 ■ June
 ■ July
 ■ August
 ■ September
 ■ October

NUMBER OF VEHICLES



PUBLIC ACTIVITY - ISSUES

ISSUE	RULE
Impacts from heavy visitor and vehicle traffic	Limit number of cars; shuttle system
Visitor unawareness: Significance Do's and Don'ts Hazards	Orientation



PUBLIC ACTIVITIES

- **Special use permits:**
 - Activities otherwise prohibited
 - Compatible with the functions and purpose of the Maunakea lands
 - Examples:
 - Group hikes with more than 10 persons
 - Weddings
 - Scientific research



FINES

ORIGINAL RULE

Act 132 sets fine schedule
1st offense - up to \$2,500
2nd offense – up to \$5,000
3rd offense – up to \$10,000

AMENDED RULE

Fees: more detailed and categorized based on specific violation



SUMMARY: PROCESS & NEXT STEPS

- BOR Approved holding public hearings
- September 2018 public hearings held
- Reviewed public comment and amended rules
- Informal consultation – additional revisions
- **BOR Approval for Public Hearing/Notice**
- Revise rules if necessary
- University review (KKM, MKMB, UHH Chancellor)
- BOR adoption and final approval
- SBRRB review
- Governor approves

UNIVERSITY OF HAWAII
BOARD OF REGENTS

19 APR 10 10:43

V. Vance Roley
Dean
First Hawaiian Bank Chair
of Leadership and Management

RECEIVED


*19 APR -2 P2:59


March 28, 2019


MEMORANDUM

UNIVERSITY OF HAWAII
PRESIDENT'S OFFICE

TO: Lee Putnam
Chair, University of Hawai'i Board of Regents

VIA: David Lassner 
President, University of Hawai'i
Chancellor, University of Hawai'i at Mānoa

FROM: Tim Dolan 
CEO, University of Hawai'i Foundation

V. Vance Roley 
Dean, Shidler College of Business University of Hawai'i at Mānoa

SUBJECT: APPROVAL TO ELEVATE THE DONOR RECOGNITION NAMING
OPPORTUNITY FOR THE HON KAU AND ALICE LEE ENDOWED
FACULTY FELLOWSHIP TO THE HON KAU AND ALICE LEE
DISTINGUISHED PROFESSORSHIP AT THE UNIVERSITY OF HAWAII'
AT MĀNOA SHIDLER COLLEGE OF BUSINESS

SPECIFIC ACTION REQUESTED:

The University of Hawai'i at Mānoa Shidler College of Business seeks the approval of the University of Hawai'i Board of Regents to accept an additional \$250,000 commitment to the \$308,284 already received in honor of Hon Kau and Alice Lee, to elevate the named Endowed Faculty Fellowship to an endowed Distinguished Professorship in Business at the University of Hawai'i Foundation in recognition of the cumulative gifts.

RECOMMENDED EFFECTIVE DATE:

Request that this is effective upon Board of Regents approval.

ADDITIONAL COST:

No additional costs are associated with this request.

PURPOSE:

The purpose of the Fund is to provide a professorship at the University of Hawai'i at Mānoa Shidler College of Business to recruit and retain faculty of the highest caliber.

Funds may be used for, but not limited to:

1. A salary or supplement for the recipient; and/or
2. Any combination of costs as follows to support the recipient's research and education goals. The recipient will consider input from the Dean in determining priorities and activities for research and education programs.
 - a. Research and education program support as the recipient sees fit, including but not limited to, delivery of research and papers at conferences, manuscript preparation, library and equipment acquisition, software, office supplies, and other requirements of an active scholar and teacher.
 - b. Travel by the recipient to other universities and research institutes, government agencies, and industry visits.
 - c. Recipient's attendance at workshops, short courses, and other educational opportunities.
 - d. Extended education programs by the recipient such as workshops, short courses, on or off campus programs for industry.
 - e. Graduate student research assistants.
 - f. Graduate and undergraduate student internships and travel.

Selection

The Dean of the Shidler College of Business will appoint a committee to recommend candidates for the Professorship. The Dean will make the final decision in awarding the Professorship after conferring with the committee.

Annual Budget and Reporting

The recipient shall submit an annual budget to the Dean for approval. The recipient is also required to submit an annual report on the previous year's related activities to the Dean.

Criteria

Candidate must:

1. Be a current faculty member or new recruit.
2. Hold a doctorate, and be eligible for appointment to a tenure-track faculty position.
3. Have a documented record of research and knowledge.

4. Be able to provide program leadership and to make contributions to the education and research goals of the Shidler College of Business.
5. Have a strong interest in and substantial record of working with students.

BACKGROUND:

Ms. Shirley M. Lee (“Donor”), born and raised in Honolulu, received her Bachelor of Science degree in Apparel Product Design and Merchandising in 1971 from the University of Hawai‘i at Mānoa College of Tropical Agriculture and Human Resources (“CTAHR”). Soon afterwards, she utilized her degree working as a merchandise buyer. In 1977, she received her MBA from the University of Hawai‘i at Mānoa College of Business Administration. Subsequently, she worked as a corporate auditor and eventually became a CPA for Arthur Andersen.

The Hon Kau and Alice Lee Endowed Faculty Fellowship (seeking elevation to a Distinguished Professorship) at the Shidler College of Business, was established in honor of the Donor’s parents who did not attend college, but worked hard to provide for the education of the Donor and her siblings. This endowment is also an expression of the Donor’s appreciation for her professors at the University of Hawai‘i.

In August 2008, along with the establishment of the Hon Kau and Alice Lee Endowed Faculty Fellowship, the Donor also established the Shirley M. Lee Endowed Fund for Fashion Merchandising to support faculty development in the Apparel Product Design and Merchandising program in the Department of Family and Consumer Sciences at CTAHR, and the Shirley M. Lee Endowed Faculty Award Fund for Graduate Business School to support awards presented to faculty at the Shidler College of Business.

ATTACHMENT

Memorandum to the Board of Regents to approve the establishment and naming of the Hon Kau and Alice Lee Endowed Faculty Fellowship dated August 21, 2008 (See Attachment A).

ACTION RECOMMENDED:

Board of Regents approval to elevate the Hon Kau and Alice Lee Endowed Faculty Fellowship to the endowed Hon Kau and Alice Lee Distinguished Professorship at the University of Hawai‘i at Mānoa Shidler College of Business in recognition of the cumulative commitments totaling \$558,284 to the University of Hawai‘i Foundation.

19 APR 10 10:43

RECEIVED

V. Vance Roley
Dean

First Hawaiian Bank Chair
of Leadership and Management

'19 APR 10 10:42

March 28, 2019

MEMORANDUM

UNIVERSITY OF HAWAII
PRESIDENT'S OFFICE

TO: Lee Putnam
Chair, Board of Regents
University of Hawai'i

VIA: David Lassner
President
University of Hawai'i



VIA: David Lassner
Chancellor
University of Hawai'i at Mānoa



FROM: Tim Dolan
Chief Executive Officer
University of Hawai'i Foundation



V. Vance Roley
Dean, Shidler College of Business
University of Hawai'i at Mānoa



SUBJECT: APPROVAL OF THE ESTABLISHMENT OF THE FIRST INSURANCE
COMPANY OF HAWAII DISTINGUISHED PROFESSORSHIP IN
INSURANCE AT THE SHIDLER COLLEGE OF BUSINESS, UNIVERSITY
OF HAWAII AT MĀNOA

SPECIFIC ACTION REQUESTED:

The University of Hawai'i at Mānoa, Shidler College of Business, seeks the approval of the University of Hawai'i Board of Regents to approve the naming of a First Insurance Company of Hawaii Distinguished Professorship in Insurance at the Shidler College of Business ("Shidler") in recognition of a private donation.

RECOMMENDED EFFECTIVE DATE:

Request that this be effective upon Board of Regents approval.

ADDITIONAL COST:

No additional costs are associated with this request.

PURPOSE:

The purpose of this pledge is to provide support to recruit and retain an endowed Distinguished Professorship in Insurance in area of risk management at the Department of Finance at the Shidler College of Business, who would be of the highest caliber in the area of risk management. The donor has already paid \$180,000 towards the \$500,000 gift. This donor has made numerous other gifts to Shidler in the past.

Funds for this endowed position may be used for, but are not limited to:

1. A salary or supplement for the recipient; and/or
 - a. Any combination of costs as follows to support the recipient's research and education goals in the program area of risk management. The recipient will consider input from the Dean in determining priorities and activities for risk management research and educational programs.
 - b. Research and education program support as the recipient sees fit, including but not limited to, delivery of research and papers at conferences, manuscript preparation, library and equipment acquisition and other requirements of an active scholar and teacher.
 - c. Travel by the recipient to other universities and research institutes, government agencies, and industry visits.
 - d. Recipient's attendance at workshops, short courses, and other educational opportunities.
 - e. Extended education programs by the recipient such as workshops, short courses, on or off campus programs for industry.
 - f. Graduate student research assistants.
 - g. Graduate and undergraduate student internships and travel.

The Dean of the College will appoint a committee to recommend candidates for the Distinguished Professorship in Insurance. The Dean will make the final decision in awarding the Distinguished Professorship after conferring with the Committee.

The recipient shall submit an annual budget to the Dean for approval. The recipient is also required to submit an annual report on the previous year's related activities to the Dean.

The criteria for the selection of the Distinguished Professor are as follows: The candidate must:

- Be a current faculty member or new recruit.
- Hold a doctorate, and be eligible for appointment to a tenure-track faculty position.
- Have a documented record of research and strong knowledge in risk management as determined by the Dean.
- Be able to provide program leadership and to make contributions to the education and research goals of the College of Business.
- Have a strong interest in and substantial record of working with students.

The program and the recipient of the Distinguished Professorship in Insurance shall be reviewed for reassignment either to the current holder or for assignment to another individual at three (3) year intervals.

BACKGROUND:

The funding for this endowed, named Distinguished Professorship in Insurance shall come from a \$500,000 pledged by First Insurance Company of Hawaii Charitable Foundation, a private foundation domiciled in Honolulu, Hawai'i, that is funded by First Insurance Company of Hawaii (FICOH). This \$500,000 is being matched by matching funds available to the Shidler College of Business from Mr. Jay H. Shidler. FICOH has an existing relationship with the College having made numerous other gifts to the College in the past. If accepted, this pledge would add to FICOH's support for the College by creating an endowed Distinguished Professorship in Insurance. (*FICOH has another distinguished professorship at the College in risk management*).

ACTION RECOMMENDED:

The University of Hawai'i at Mānoa Shidler College of Business recommends the Board of Regents approve the naming of the First Insurance Company of Hawaii Distinguished Professorship in Insurance in recognition of the donor's \$500,000 pledge.

19 APR 10 A10:43

DT 8900
19500-2

Office of the Dean
2404 Maile Way
Honolulu, Hawai'i 96822 USA
Phone: (808) 956-8377
Fax: (808) 956-9640
Web: www.shidler.hawaii.edu

V. Vance Roley
Dean
First Hawaiian Bank Chair
of Leadership and Management


RECEIVED


'19 APR 10 A10:42 March 28, 2019

MEMORANDUM

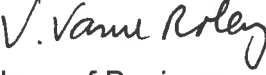
UNIVERSITY OF HAWAII
PRESIDENT'S OFFICE

TO: Lee Putnam
Chair, Board of Regents
University of Hawai'i

VIA: David Lassner
President
University of Hawai'i 

VIA: David Lassner
Chancellor
University of Hawai'i at Mānoa 

FROM: Tim Dolan 
Chief Executive Officer
University of Hawai'i Foundation

V. Vance Roley 
Dean, Shidler College of Business
University of Hawai'i at Mānoa

SUBJECT: APPROVAL OF THE RE-NAMING OF THE FIRST INSURANCE
COMPANY OF HAWAII DISTINGUISHED PROFESSORSHIP AT THE
SHIDLER COLLEGE OF BUSINESS, UNIVERSITY OF HAWAII AT
MĀNOA

SPECIFIC ACTION REQUESTED:

The University of Hawai'i at Mānoa, Shidler College of Business ("Shidler"), seeks the approval of the Board of Regents to approve the re-naming of a First Insurance Company of Hawaii Distinguished Professorship at the University of Hawai'i at Mānoa in recognition of the donor's past private donations. Approval is sought to rename this professorship to The First Insurance Company of Hawaii Distinguished Professorship in Risk Management. It is currently named The First Insurance Company Distinguished Professorship.

RECOMMENDED EFFECTIVE DATE:

The Foundation requests that this request is effective upon approval of the Board of Regents.

ADDITIONAL COST:

No additional costs are associated with this request.

PURPOSE:

The purpose of the gift that established the existing distinguished professorship originally in 2007 was to provide support to recruit and retain an endowed Distinguished Professor who would be of the highest caliber in the area of risk management. The donor has already paid the \$500,000 pledge, which was matched by funds contributed by Mr. Jay H. Shidler, and has been invested in the Foundation's endowment. This donor has made numerous other gifts to the College in the past.

Funds for this endowed position may be used for, but are not limited to:

1. A salary or supplement for the recipient; and/or
 - a. Any combination of costs as follows to support the recipient's research and education goals in the program area of risk management. The recipient will consider input from the Dean in determining priorities and activities for risk management research and educational programs.
 - b. Research and education program support as the recipient sees fit, including but not limited to, delivery of research and papers at conferences, manuscript preparation, library and equipment acquisition and other requirements of an active scholar and teacher.
 - c. Travel by the recipient to other universities and research institutes, government agencies, and industry visits.
 - d. Recipient's attendance at workshops, short courses, and other educational opportunities.
 - e. Extended education programs by the recipient such as workshops, short courses, on or off campus programs for industry.
 - f. Graduate student research assistants.
 - g. Graduate and undergraduate student internships and travel.

The Dean of Shidler will appoint a committee to recommend candidates for the Distinguished Professorship in Risk Management. The Dean will make the final decision in awarding the Professorship after conferring with the Committee.

The recipient shall submit an annual budget to the Dean for approval. The recipient is also required to submit an annual report on the previous year's related activities to the Dean.

The criteria for the selection of the Distinguished Professorship in Risk Management are as follows:

- The candidate must:
- Be a current faculty member or new recruit.
- Hold a doctorate, and be eligible for appointment to a tenure-track faculty position.
- Have a documented record of research and strong knowledge in risk management as determined by the Dean.
- Be able to provide program leadership and to make contributions to the education and research goals of the College of Business.
- Have a strong interest in and substantial record of working with students.

The program and the recipient of the Distinguished Professorship in Risk Management shall be reviewed for reassignment either to the current holder or for assignment to another individual at three (3) year intervals.

BACKGROUND:

In 2007, the donor established the First Insurance Company Distinguished Professorship at the Shidler College of Business. The funding for this endowed, named Distinguished Professorship came from a \$500,000 gift by the First Insurance Company of Hawaii Charitable Foundation a private foundation domiciled in Honolulu, Hawai'i, that is funded by First Insurance Company of Hawaii (FICOH). FICOH has an existing relationship with the College having made numerous other gifts in the past.

If approved, this existing distinguished professorship will be re-named to The First Insurance Company of Hawaii Distinguished Professorship in Risk Management to more appropriately reflect this professorship's academic focus. (*FICOH has also recently endowed another distinguished professorship at the College in Insurance*).

ACTION RECOMMENDED:

The College recommends the Board of Regents approve the re-naming of the First Insurance Company of Hawaii Distinguished Professorship to the First Insurance Company of Hawaii Distinguished Professorship in Risk Management in recognition of the donor's \$500,000 past gift.



UNIVERSITY *of* HAWAII®

2019 University of Hawai'i Legislative Measures of Interest

For Presentation

UH Board of Regents
April 18, 2019



2019 Legislative Session

SUBJECT AREAS

- 2019 Budget Bills
- 2019 UH Legislative Package and Similar Measures
- 2019 Measures of Interest
 - Board of Regents/Governance
 - UH Operations
- Board of Regents' Nominees
- Legislative Calendar



2019 Budget Bills

HB 2 HD1 SD1 CD1 RELATING TO THE STATE BUDGET

Appropriates funds for the operating budget of the Executive Branch for fiscal years 2019-2020 and 2020-2021.

Update: Governor signed into law as Act 5, SLH 2019

HB 116 SD1 RELATING TO THE STATE BUDGET

Appropriates funds for the operating budget of the Executive Branch for fiscal years 2019-2020 and 2020-2021.

Update: Conference committee meeting has recessed

SB 126 SD1 HD1 RELATING TO THE STATE BUDGET

Appropriates funds and positions to fulfill requests made by the Governor.

Update: House and Senate conferees appointed; pending Conference meeting



2019 Budget Bills

HB 1259 SD1

RELATING TO CAPITAL IMPROVEMENT PROJECTS

Appropriates funds for the capital improvement project costs for the fiscal biennium 2019–2021.
Effective 1/7/2059.

Update: House conferees appointed

SB 859 SD1 HD1

RELATING TO CAPITAL IMPROVEMENT PROJECTS

Short form bill relating to capital improvement projects.

Update: Senate conferees appointed

The following budget bills failed to meet the Second Decking Deadline:

- **HB 1521 HD1 (base)**
- **HB 1522 HD1 (add-ons)**



2019 UH Legislative Package and Similar Measures

Hawai'i Promise Program

SB 316 SD2 HD2

RELATING TO THE UNIVERSITY OF HAWAII

Appropriates funds to the University of Hawai'i for additional funding for the Hawai'i Community College Promise Program. Requires a report to the Legislature.

Position: Support

Update: Senate agrees with House amendments

The following Hawai'i Promise bills failed to meet the Second Decking Deadline:

- **HB 813 HD1 SD1, HB 1277 HD1**

HI-NET

SB 50 SD2 HD1

RELATING TO HUMAN SERVICES

Appropriates funds to the University of Hawai'i for the Hawai'i Nutrition Employment and Training Program to include materials and supplies and the hiring of seven full-time equivalent instructional and student support positions

Position: Support

Update: Senate agrees with House amendments



2019 Select Measures of Interest

Board of Regents

SB 919 SD2 HD2

RELATING TO THE UNIVERSITY OF HAWAII BOARD OF REGENTS

Amends the composition of the Board of Regents of the University of Hawai'i, and reduces the number of board members from 15 members to 11 members. Specifies terms of holdover board members. Specifies that the Board of Regents shall hold the president of the University of Hawai'i and university administration accountable for decisions, actions, and leases that incur additional costs to the university.

Position: No position

Update: Recommitted to House FIN on 4/5/19 – Failed to meet the Second Decking Deadline

SB 928 HD2

PROPOSING AN AMENDMENT TO ARTICLE X, SECTION 6, OF THE HAWAII STATE CONSTITUTION, TO MODIFY THE APPOINTMENT PROCESS FOR THE BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII

Proposes an amendment to article X, section 6, of the Hawai'i State Constitution to repeal the requirement that the Governor make appointments to the University of Hawai'i Board of Regents from pools of qualified candidates presented to the Governor by the Candidate Advisory Council for the University of Hawai'i Board of Regents.

Position: No position

Update: Recommitted to House FIN on 4/5/19 – Failed to meet the Second Decking Deadline



2019 Select Measures of Interest

Board of Regents

HB 398 HD1 SD2

RELATING TO THE UNIVERSITY OF HAWAII

Part I: Requires the University of Hawai'i system to create additional distance-learning classes in teaching for students who are pursuing undergraduate or graduate degrees in education. Part II: Amends the composition of the Board of Regents of the University of Hawai'i, and reduces the number of board members from 15 members to 11 members. Specifies terms of holdover board members. Specifies that the Board of Regents shall hold the President of the University of Hawai'i and university administration accountable for decisions, actions, and leases that incur additional costs to the university. Repeals requirement for additional distance-learning on 12/31/2023.

Position: No position

Update: House conferees appointed



2019 Select Measures of Interest Operations

Ceded Lands - Pro Rata

HB 402 HD1 SD2

RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF PUBLIC LAND TRUST FUNDS

Requires that all grants and contracts awarded by the Office of Hawaiian Affairs shall be subject to be individually approved by the board of trustees. Reduces the University of Hawaii's portion of receipts from the use, sale, lease, or other disposition of lands within the public land trust to be collected during each fiscal year to the amount equal to the University of Hawaii's receipts derived from tuition and special funds utilized for Native Hawaiian programs. Establishes a public land trust revenues negotiating committee to determine the increase to the annual amount of the income and proceeds from the public land trust that the Office of Hawaiian Affairs shall receive annually under the state constitution and other state law. Requires the Department of Budget and Finance to conduct a financial review of the amounts of revenue generated from the public land trust. Requires the Auditor to report to the Legislature on a comprehensive review of programs administered by the State that serve Hawaiians. Appropriates funds. Prohibits any increases proposed by the public land trust revenues negotiating committee that are not already approved for use by or appropriated to the Office of Hawaiian Affairs until the fiscal and comprehensive reviews required by this measure are completed and submitted to the Legislature. Effective 7/1/2050.

Position: Oppose

Update: Senate conferees appointed



2019 Select Measures of Interest Operations

Land Development – Stadium Facility

HB 1586 HD1 SD2

RELATING TO THE STRUCTURE OF GOVERNMENT

Establishes the stadium development district, which includes all state property under the jurisdiction of the stadium authority. Transfers title of lands under the jurisdiction of the Stadium Authority to the Hawai'i Community Development Authority. Authorizes the issuance of general obligation bonds and reimbursable general obligation bonds and appropriates funds. Exempts lands owned by the Stadium Authority from the definition of public lands but establishes certain restrictions on leases within the stadium development district and requires all dispositions of those lands to be done consistently with requirements applicable to public lands. Effective 7/1/2050.

Position: Support

Update: House disagrees with Senate amendments

HB 1497 HD3 SD1

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY

Establishes the Stadium Development District comprising all state land under the Stadium Authority's jurisdiction. Authorizes HCDA to facilitate the development of all state property within the District including building a new stadium. Authorizes the issuance of revenue bonds and general obligation bonds. Appropriates funds. Effective 1/1/2050.

Position: Support

Update: Failed to meet the Second Decking Deadline



2019 Select Measures of Interest Operations

Athletics

HB 1547 HD2 SD3

MAKING AN APPROPRIATION TO THE UNIVERSITY OF HAWAII

Appropriates funds to the University of Hawai'i to provide incidental benefits to student-athletes as permitted by National Collegiate Athletics Association bylaws. Effective 7/1/2050.

Position: Support

Update: House conferees appointed

Online Privacy

HB 6 HD3 SD1

RELATING TO THE UNIFORM EMPLOYEE AND STUDENT ONLINE PRIVACY PROTECTION ACT

Establishes The Uniform Employee and Student Online Privacy Protection Act that adopts uniform laws on protecting the online accounts of employees, prospective employees, unpaid interns, applicants, students, and prospective students from employers and educational institutions. Takes effect 1/1/2050.

Position: Support

Update: House conferees appointed



2019 Select Measures of Interest Operations

UHWO – Film Studio

SB 33 SD3 HD2

RELATING TO ECONOMIC DEVELOPMENT

Amends the annual \$35,000,000 rolling cap and extends the repeal date for the Motion Picture, Digital Media, and Film Production Income Tax Credit; provided that the University of Hawai'i, West O'ahu campus and HTDC execute a memorandum of understanding for a no-cost lease agreement for at least 65 years that includes a provision for the potential transfer of title to a certain parcel of University of Hawai'i, West O'ahu campus land.

[Position: Comments](#)

[Update: Senate conferees appointed](#)

HB 312 HD1 SD2

RELATING TO CREATIVE MEDIA

Requires the University of Hawai'i, West O'ahu campus, to offer a Bachelor of Arts degree in creative media by the start of the 2020 spring semester. Repeals the annual \$35,000,000 rolling cap and extends the repeal date for the motion picture, digital media, and film production income tax credit; provided that title to a certain parcel of University of Hawai'i, West O'ahu campus land is successfully transferred to the Hawai'i Technology Development Corporation. Appropriates funds.

[Position: Comments](#)

[Update: Senate conferees appointed](#)



2019 Select Measures of Interest Operations

HTDC

HB 624 HD1 SD3

RELATING TO THE STRUCTURE OF GOVERNMENT

Part I: Purpose section. Part II: Establishes the Hawai'i innovation technology and research corporation (HITRC) and consolidates powers, duties, and programs of Hawai'i Technology Development Corporation (HTDC) and Hawai'i Strategic Development Corporation (HSDC) under HITRC. Part III: Makes conforming amendments. Part IV: Repeals HSDC and transfers all duties, employees, rules, records, and equipment from HTDC and HSDC to HITRC. Part V: Appropriates funds for staffing for HITRC. Part VI: Establishes the Hawai'i broadband office and appropriates funds. Part VII: Appropriates funds for HITRC. Effective 7/1/2072; parts V, VI, VII, and VI11 effective 7/1/2019.

[Position: Comments on original version of the bill](#)

Update: House conferees appointed



2019 Select Measures of Interest Operations

Collective Bargaining for Graduate Students

HB 1274 HD1 SD1 RELATING TO EDUCATION

Establishes a collective bargaining unit for graduate student assistants employed by the University of Hawai'i. Effective 1/1/2051.

Position: Oppose

Update: House disagrees with Senate amendments

SB 1368 SD1 RELATING TO COLLECTIVE BARGAINING

Establishes a collective bargaining unit for graduate student assistants employed by the University of Hawai'i.

Position: Oppose

Update: Failed to meet the Second Decking Deadline

SCR210/SR169 URGING THE UNIVERSITY OF HAWAII TO SUPPORT THE ESTABLISHMENT OF A COLLECTIVE BARGAINING UNIT FOR GRADUATE STUDENT ASSISTANTS EMPLOYED AT THE UNIVERSITY

Update: Failed to meet the First Crossover Deadline



2019 Select Measures of Interest Operations

Immunization

HB 1157 HD1 SD2

RELATING TO POST-SECONDARY EDUCATION STUDENT IMMUNIZATIONS

Exempts students in post-secondary education programs from immunization requirements if they attend classes exclusively online or through distance learning, under certain conditions.

Position: Support

Update: House conferees appointed

General Excise Tax

SB 1474 SD2

RELATING TO TAXATION

Increases the general excise tax and use tax by 0.5% to provide a dedicated funding source for the department of education and the University of Hawai'i. Effective 7/1/2050.

Position: Supportive

Update: Failed to meet the Second Decking Deadline

2019 Select Measures of Interest Operations

Title III Funding Audit

SR 120

REQUESTING THE UNIVERSITY OF HAWAII OFFICE OF INTERNAL AUDIT TO CONDUCT AN AUDIT OF VARIOUS PROGRAMS AT THE UNIVERSITY OF HAWAII WEST OAHU THAT RECEIVE EXTRAMURAL FUNDING, INCLUDING TITLE III GRANT FUNDING

Position: Supportive

Update: Senate WAM passed unamended

SCR154

REQUESTING THE UNIVERSITY OF HAWAII OFFICE OF INTERNAL AUDIT TO CONDUCT AN AUDIT OF VARIOUS PROGRAMS AT THE UNIVERSITY OF HAWAII WEST OAHU THAT RECEIVE EXTRAMURAL FUNDING, INCLUDING TITLE III GRANT FUNDING

Position: Supportive

Update: Failed to meet the Second Lateral deadline for resolutions



2019 Select Measures of Interest Operations

UH Travel Audit

SCR44 SD1

**REQUESTING THE AUDITOR TO EVALUATE THE 2017 UNIVERSITY OF HAWAII
INTERNAL AUDIT OF TRAVEL POLICY COMPLIANCE FOR FISCAL YEARS 2015-
2017 AND REPORT TO THE LEGISLATURE**

Position: Supportive

Update: Failed to meet the Second Lateral deadline for resolutions



2019 Select Measures of Interest Operations

UH Manoa Faculty Classification

SR 149 Proposed SD1

REQUESTING THE UNIVERSITY OF HAWAI‘I BOARD OF REGENTS TO REVIEW AND, AS NEEDED, CONFORM THE CLASSIFICATION OF ITS FACULTY TO ENSURE GREATER ALIGNMENT WITH THE MISSION AND PURPOSE OF THE UNIVERSITY AND INCORPORATE THE ASSOCIATION OF AMERICAN UNIVERSITIES' MEMBERSHIP INDICATORS INTO ITS STRATEGIC PLAN FOR THE UNIVERSITY OF HAWAI‘I AT MĀNOA

Position: [Supportive comments](#)

Update: [Senate HRE passed as a SD1](#)

Board of Regents

SR 134 Proposed SD1

URGING THE BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII TO FOLLOW AND ABIDE BY THE PUBLIC NOTICE REQUIREMENTS FOR ITS MEETINGS PURSUANT TO CHAPTER 92, HAWAII REVISED STATUTES

Position: [Supportive comments](#)

Update: [Senate HRE passed as a SD1](#)



Board of Regents Nominees

GM 570 - Board of Regents of the University of Hawai'i, Gubernatorial Nominee, ROBERT WESTERMAN, for a term to expire 06-30-2022

GM 571 - Board of Regents of the University of Hawai'i, Gubernatorial Nominee, ALAPAKI NAHALE-A, for a term to expire 06-30-2023

GM 572 - Board of Regents of the University of Hawai'i, Gubernatorial Nominee, KELLI ACOPAN, for a term to expire 06-30-2020

Update: Senate HRE recommended to advise and consent for all three nominees



Legislative Calendar

April 18 – Constitutional Amendments

April 22 – Second Crossover (Concurrent Resos)

April 25 – Final Decking (*non-fiscal*)

April 26 – Final Decking (*fiscal*)

May 2 – Adjournment *Sine Die*

June 24 – 35th day after *Sine Die* (intent to veto)

July 9 – 45th day after *Sine Die* (veto)



Conclusion

Item VI.H.

Performance Evaluation
Process for the President of
the University of Hawai'i

**ITEM TO BE
DISCUSSED AT
MEETING**

EVALUATION OF THE PRESIDENT FOR THE PERIOD JULY 1, 2018 - JUNE 30, 2019

RP 2.203 Policy on Evaluation of the President:

III.B.2. The standard evaluation period shall be July 1 to June 30... A comprehensive evaluation shall be conducted every three years, with an annual evaluation during the other years.

Last comprehensive evaluation conducted in August 2017. Next comprehensive evaluation due in 2020.

III.B.3.a. The board chair and vice chairs shall be primarily responsible for the framework of the annual evaluation. At a minimum, the annual evaluation shall include a discussion of performance between the president and the full board and the subsequent issuance of a public statement by the board chair on behalf of the board.

Purposes:

Provide for the Board and the President to have meaningful discussion on progress toward mutually agreed upon goals during the period under review

Serve as the basis to establish between the Board and the President shared understandings of ongoing expectations and priorities

Timetable:

April Board of Regents meeting - share with the Board in public session plans for the evaluation

May Board of Regents meeting – in open session, President gives a self-assessment of progress and accomplishments for AY 18/19, including differentiation of the roles of BOR CEO, UH CEO, and UHM CEO as stated in RP 2.202, Duties of the President

Goals for AY18/19

- Continuing development of land projects and capacity, including for P3s
- Development of a more integrated, long-term planning framework
- Strengthening enrollment management and degree completion across the UH System
- Developing strategic, holistic systemwide programs in grand challenge areas for Hawai'i, including health, sustainability, and the economy

Summer 2019 – Board to conduct evaluation of the President

Methodology for Assessment of Performance

Discussion conducted in three parts, in accord with RP 2.202 Duties of the President

Assessment of Performance as BOR CEO

The President:

- Supports the Board in fulfilling its fiduciary responsibilities
- Ensures that board policies are implemented and adhered to throughout the organization
- Keeps the board informed on all matters related to the attainment of the mission and purpose of the university
- Reports regularly on processes and progress toward attaining strategic goals
- Provides notice, to the extent practical, of decisions or actions within delegated authority that are likely to cause public controversy

Assessment of Performance as UH CEO

The President:

- Implements integrated procedures for academic, facilities, and financial plans designed to promote student success and advance the instructional, research and service goals of the University
- Leads collaborative and collegial budget development processes
- Oversees and coordinates the work of officers of the university, including clarification of roles among academic and support functions
- Maintains effective working relationships between the university and governing officials at the county, state, and federal levels
- Maintains effective working relationships between the university and collective bargaining leaders
- Maintains effective working relationships between the university and affiliated organizations such as RCUH and UHF
- Promotes shared governance across the university and cultivates frequent communication with student, faculty, and staff advisory groups

Assessment of Performance as UHM CEO [and Interim Chancellor]

Note: condensed by Chair; refer to RP 2.202 for full statements.

The President:

- Develops collaborative high-level strategies for student success, faculty and staff excellence and success; high-quality academic programs, excellence in research and scholarship; impactful community outreach and service; maintenance and modernization of facilities; responsible and accountable stewardship of public resources
- In partnership with the Provost and through the Mānoa leadership team, lead collaborative campus budget development processes for top-level allocations
- Insure that the Provost has full discretion over allocations to academic research, and academic support units under his direction

- Define roles and responsibilities among Mānoa units and hybrid vice presidents that report directly to the President
- Execute responsible budget execution for Mānoa campus functions that report directly to the President
- Serve as the public voice, advocate, and liaison for the Mānoa campus to broad external constituencies
- Build support with the general public; collaborate with UHF to ensure a robust advancement program
- Foster collaboration among campus administrators and all vice presidents
- Promote and lead a system of shared governance and cultivate frequent communication with student faculty and staff advisory groups

Item VII.A.1.
Executive Session
Legal Matters

**ITEMS TO BE
DISCUSSED IN
EXECUTIVE
SESSION**

Item VII.B.1.
Executive Session
Personnel Matters

**ITEMS TO BE
DISCUSSED IN
EXECUTIVE
SESSION**



UNIVERSITY
of HAWAII

UNIVERSITY OF HAWAII
BOARD OF REGENTS

19 APR 11 P4:14

April 9, 2019

RECEIVED

MEMORANDUM

'19 APR 10 P1:02

TO: Lee Putnam
Chair, Board of Regents

FROM: David Lassner
President

UNIVERSITY OF HAWAII
PRESIDENT'S OFFICE

SUBJECT: APPOINTMENT OF DR. ERIKA LACRO AS INTERIM VICE PRESIDENT
FOR COMMUNITY COLLEGES

SPECIFIC ACTION REQUESTED:

It is requested that the Board of Regents approve the appointment of Dr. Erika Lacro as Interim Vice President for Community Colleges, at an annual salary of \$220,008 (\$18,334 per month), effective June 1, 2019 through May 31, 2020 or unless sooner relieved, subject to executive salary adjustments, as appropriate.

RECOMMENDED EFFECTIVE DATE:

Effective June 1, 2019 through May 31, 2020, or unless sooner relieved.

ADDITIONAL COST:

There will be no additional costs associated with this request.

PURPOSE:

The appointment of Dr. Lacro as Interim Vice President for Community Colleges is necessary to provide critical leadership and direction for the University of Hawai'i Community College System.

BACKGROUND:

Pursuant to Board of Regents Policy, RP 9.212, Executive and Managerial Personnel Policies, and Executive Policy 9.212, Executive/Managerial Classification and Compensation, appointments to executive positions that report to the President require the approval of the Board of Regents. Due to the anticipated retirement of current Vice

President John Morton effective June 1, 2019, it is necessary to fill the Vice President position on an interim basis while we begin the recruitment process to fill the position on a regular basis.

Dr. Lacro earned a Master's degree in Travel Industry Management and a Doctorate in Communication and Information Sciences from the University of Hawai'i at Mānoa. She is currently the Chancellor at Honolulu Community College where she provides leadership for the overall administration and management of the campuses' instructional, student services, institutional support, academic support, continuing education and training programs, and workforce development. Prior to that, she was the Vice Chancellor for Academic Affairs at Honolulu Community College where she was responsible for the overall management of the academic affairs and student services programs, academic support, and management information and research. Dr. Lacro also served as the Assistant Dean of Student Services, Director of Student Services, and Director of Internship and Career Development at the University of Hawai'i at Mānoa, School of Travel Industry Management. Her prior experience also included a variety of managerial positions with the Hilton Hawaiian Village, including supervising all management trainee and internship programs.

As an administrator, Dr. Lacro has provided consistent, stable leadership and is capable of completing tasks and moving both short-term and long-term development projects to meet strategic plan objectives. Her well rounded experience make her well qualified to serve as Interim Vice President for Community Colleges where she will provide executive leadership in setting and communicating expectations of educational excellence throughout the community college system.

The recommended salary for Dr. Lacro's appointment is \$220,008 (\$18,334 per month), which falls between the minimum (\$195,000) and midpoint (\$247,500) of the Band SM-4 of the Vice President class. This is a 25.39 percentage increase over her current salary of \$175,452. Dr. Lacro's resume is attached for your reference.

ACTION RECOMMENDED:

It is recommended that the Board approve the appointment of Dr. Erika Lacro as Interim Vice President for Community Colleges, at an annual salary of \$220,008 (\$18,334 per month), effective June 1, 2019 through May 31, 2020 or unless sooner relieved, subject to executive salary adjustments, as appropriate.

Attachments

1. Resume

c: Executive Administrator and Secretary of the Board Oishi

Erika Lynn Lacro

Education:

Ph.D. in Communication and Information Sciences

University of Hawaii at Manoa, Spring 2013

- Dissertation Title: “*Enhancing Student Learning and Success through the use of Social Networking Technology*”

Master of Science in Travel Industry Management

University of Hawaii at Manoa, December 1999

- Recipient of Merit-Based Tuition Waivers, Spring and Fall 1999

Bachelor of Science in Travel Industry Management, Hotel Management Emphasis

University of Hawaii at Manoa, December 1994

- \$1,000 Tuition Grant, August 1994

Management Experience:

Honolulu Community College, University of Hawaii

07/12- Present, Chancellor

Provides leadership as the Chief Executive Officer for Honolulu Community College and is responsible for the overall administration and management of the College’s instructional, student services, institutional support, academic support, continuing education and training programs, and workforce development. Represents the University of Hawaii and acts on behalf of Honolulu Community College within the community. Serves as the College liaison officer to the President of the University and President’s staff, and the Board of Regents.

04/08 – 06/12, Vice-Chancellor, Academic Affairs

08/07-04/08, Interim Vice-Chancellor, Academic Affairs

Duties include providing leadership and overall management functions of all academic programs, management information and research, academic support and student services. Oversee all academic credit and non-credit programs within the academic units and provide coordination in curriculum alignment with industry standards, workforce development needs and state needs. Coordinate with faculty governance bodies on curriculum development and review processes, accreditation matters and academic schedules. Manage the program review, budgeting and planning process. Work in collaboration with faculty, staff and administration in regards to personnel issues such as recruitment, hiring, evaluation and terminations. Ensure compliance with University regulations and accreditation standards in curriculum review, program success and student learning outcomes. Integrate academic related functions with student services to ensure student success. Provide testimony to Legislative members and committees on campus priorities, funding requests and resources. Work with members of the Board of Regents on approval of campus requirements such as establishing academic programs, review of accreditation reports and resource planning.

- Co-Author, “STAR: Enhancing the Academic Journey,” Educes e-book publication, 2012
- Women Leaders in Higher Education, President Elect 2012

- Achieving the Dream State Policy Team Member, 2010-2011
- Complete College America, Community College Representative, 2010
- Emerging Leaders Participant, 2007-2008

School of Travel Industry Management, University of Hawaii at Manoa

10/04 – 08/07, Assistant Dean of Student Services

Responsibilities included overseeing the day-to-day operations of the Travel Industry Management (TIM) School's administrative office, including support staff, alumni affairs, internship and career placement, public relations and special projects. Responsible for all student service and academic related activities. These included the management of advising, graduation and academic action functions, recruiting, admissions and orientation processes, management of all scholarship and awards, oversee internship and career placement activities and student record keeping. Worked closely with the School's undergraduate curriculum committee and faculty senate members in the design and implementation of the School's curriculum and areas of study, including certificate programs, undergraduate and graduate degree programs. Responsible for the implementation of all curriculum or academic related changes. Accountable for tracking and providing data needed in the budgeting process.

- Certified Hospitality Educator, 2007-2011 American Hotel & Lodging Educational Institute

01/04-10/04, Director of Student Services

Duties included managing all student and academic related services. These functions included providing academic and internship advising to 370 undergraduate students, handling academic action, scholarship awards activities, and all student admissions and recruiting efforts. Responsibilities included working with faculty and staff in determining course offerings and schedules, monitoring course enrollment and providing input on curriculum design. Also responsible for coordinating employment of outside lecturers and monitoring work performance. Managed all public relations activities and alumni related events. Taught upper and lower division TIM courses as needed.

- Teaching Excellence Award, 2004

1/02-12/03, Director of Internship and Career Development

Duties included managing the TIM School's internship program at the undergraduate and graduate level. These functions included assisting students in gaining internship experiences and teaching the four internship courses each semester, with an average enrollment of 170 students per semester. Responsible for developing, organizing and implementing internships in Hawaii, on the US Mainland and in international locations. Responsible for all career development advising and career placement activities, achieving 100% career placement in the travel industry both locally and abroad. Duties included fostering positive relationships between the TIM School and the travel industry and working closely with local high schools on recruitment efforts. Planned and implemented the annual networking function open to students and industry members. Additional responsibilities included teaching lower and upper division courses at the undergraduate level.

Hilton Hawaiian Village

1/00 – 11/01, Quality Training Manager

Duties included planning, organizing, implementing and evaluating all training and quality programs. These included departmental, as well as hotel-wide and management focused training classes, and continuous improvement teams. Created and delivered courses ranging from basic introductory training courses through specialized management development courses. Responsibilities also included supervising all management trainee and internship programs. A special focus included the professional development of management trainees, interns and other managers and supervisors. Responsible for leading quality teams to ensure Hilton standards were met and developed team member hotel relations and incentive programs to promote a well-trained staff and high morale.

7/97 – 1/00, Executive Assistant Housekeeper

Duties included overseeing entire rooms division operations, totaling 2,545 guestrooms and 400 employees. Responsible for ensuring all guestrooms and public space cleaning were in accordance with client/guest expectations and Hilton's standards of product and service. Responsible for ensuring managing staff were able to develop employee schedules, delegate work load to ensure maximum productivity, and ensure quality standards were met. Special projects included developing self-directed works teams, outsourcing specific housekeeping functions, and downsizing the staff at the line level.

- Hilton Hawaiian Village's Commitment Award Winner, 1998
- Dale Carnegie Course Graduate, 1998

3/95 – 7/97, Assistant Executive Housekeeper

Duties included ensuring quality standards were met by planning, organizing, and monitoring operational and department activities. Distributing and delegating workload to ensure maximum productivity while providing clear direction. Developed employee schedules and staffing levels based on hotel occupancy. Provided staffing, training, counseling, and performance reviews. Developed self-directed work teams to function without working supervisors.

- Young Hoteliers Award Candidate, 1996

Grant Activities:

Co-Principal Investigator, Educause grant award: "Enhancing the STAR Academic Journey," \$249,121, AY 2011-2013

Academic Affairs Lead, Trade Adjustment Assistance Community College and Career Training (C3T) Grant Opportunity awarded to Honolulu Community College as a system initiative, \$24,653,118, AY 2011 - 2014

Principal Investigator for Honolulu Community College, National Science Foundation funded "System Pre-Engineering Education Collaborative (PEEC) for Renewable Energy and Island Sustainability (REIS)," \$581,090, AY 2010-2015

Leadership Activities:

2018 – present

Conflicts of Interest Committee – University of Hawaii, Chair

2017 – present	Northwest Commission on Colleges and Universities, Commissioner
2017 – present	American Association of Community Colleges, Commissioner on the Commission for Student Success
2017	Accrediting Commission for Colleges and Junior Colleges, Chair for San Diego Mesa College Comprehensive 7-year accreditation visit
2016	Accrediting Commission for Colleges and Junior Colleges, Chair for Los Angeles Trade Tech Comprehensive 7-year accreditation visit
2015 – present	American Association of Community Colleges, Commissioner on the Commission on Structured Pathways
2015 – present	Women Leaders in Higher Education Board, Hawaii Chapter, Chair
2013 – 2014	Omidyar Fellow, Cohort 2
2013	Hawaii Business Recognition, Top 20 to Watch in the Next 20 Years
2007 – 2008	President’s Emerging Leaders Program participant, University of Hawaii
1998	Dale Carnegie Program Graduate
1998	Hilton Hawaiian Village, Commitment Award Winner

Other Activities:

2018 – present	Commission on the Status of Women, University of Hawaii
2015 – present	Network Enterprises, Inc., Board Member
2012 – present	Kalihi Business Association, Member
2012 – present	Aloha United Way University of Hawaii Campaign, Co-Chair
2012 - present	State-wide Longitudinal Data System, Advisory Member
2013 - present	EPIC Community Outreach, Member
2010 - 2013	Achieving the Dream State Policy Team Member, UHCC
2011 - 2012	Complete College America, State of Hawaii Team Member
2009 - 2012	UHCC System Vice-Chancellor liaison for the Achieving the Dream Initiative
2011- 2012	UH System Vice-Chancellor liaison for the Banner Advisory Committee
2011 - present	Data Governance Advisory Committee Member
2007	University of Hawaii System Transfer and Advising Network, Co-Chair
2006-2007	System-Wide Articulation Committee Member, UH System
2005 - present	STAR Team Member (advisory role in the development of an electronic student advising system), UH-Manoa
2003-2007	Academic Procedures Committee Member, UH-Manoa
2003-2007	Academic Advisors Council Member, UH-Manoa (Chair Fall 2005 – Spring 2007)
2002-2007	Academy of Travel and Tourism - Oahu Chapter, Advisory Board Member
2002-2006	Honolulu Harbor Festival, Executive Committee Member
2002-2006	Miss Hawaii Scholarship Pageant, Scholarship Committee Member
2001-Present	TIM Alumni Association Board of Directors Member
2001	Committee Member of the Hawaii FoodBank, FoodDrive
1999- 2007	Committee Member of the Hawaii Hotel Association’s TRENDS Committee

1998 Hilton Hawaiian Village's Honolulu Festivals Chairperson
1997 Hilton Hawaiian Village's Hawaii Foodbank Co-Chairperson
1997 Hilton Hawaiian Village's Brand Standards Committee Chair
1996 Hilton Hawaiian Village, Quality Board Member