PREAMBLE

University of Hawai‘i – Maui College (“UHMC”) exists so that the people it serves have learning and enrichment opportunities to improve their quality of life and their standard of living. UHMC supports a positive educational environment that will benefit student success. In order to ensure this vision, UHMC has established guidelines for the redress of grievances by individuals accused in such proceedings. In addition, UHMC has established a Student Conduct Code (“Code”) to ensure the protection of student rights and the health and safety of the UHMC community, as well as to support the efficient operation of UHMC programs.

In cases where a UHMC student is found responsible for a violation of the UHMC Student Conduct Code, UHMC will impose discipline that is consistent with the impact of the offense on the UHMC community (See Article IV (B) below). UHMC reserves the right to pursue criminal and/or civil action where warranted. The Student Conduct Code shall apply from the time of enrollment to UHMC and continue as long as the student remains enrolled at UHMC or declares UHMC as his or her home campus. The Student Conduct Code shall also be applicable to a student's conduct even if the student withdraws from UHMC while a disciplinary matter is pending.

If an individual has violated the Student Conduct Code on UHMC property while not enrolled as a student at UHMC, but then later seeks to enroll, he or she must first contact the Vice Chancellor of Student Affairs (VCSA) (or his or her designee). The same Due Process procedures listed in Article IV below will be followed to determine an admission decision.
ARTICLE I: DEFINITIONS

A. “Academic negligence” means unknowingly or unintentionally claiming credit for the work or effort of another person, or unknowingly or unintentionally gaining (or causing another to gain) an unfair academic advantage.

B. “Assault” means intentionally, knowingly, or recklessly causing bodily injury to another person. In this context, “bodily injury” means physical pain, illness, or any impairment of physical condition. ¹

C. “Bullying” means any written, verbal, graphic, or physical act that a student or group of students exhibit toward other particular student(s) and the behavior causes mental or physical harm to the other student(s); and is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student(s). ²

D. “Cheating” is an act of academic dishonesty and includes, but is not limited to:

1. use of any unauthorized assistance in taking quizzes, tests, or examinations;
2. use of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments;
3. the acquisition, without permission, of tests or other academic material belonging to a member of the UHMC faculty, staff or student; and
4. engaging in any academic behavior specifically prohibited by a faculty member in the course syllabus or class discussion. ³

E. “Coercion” means intentionally compelling or inducing another person to engage in conduct from which another has a legal right to abstain, or to abstain from conduct in which another has a legal right to engage, by threatening by words or conduct to take some negative action that may impact the other person. In this context, some examples of “negative action” include, but are not limited to: causing bodily injury (defined above), causing property damage, physical confinement or restraint, or revealing information that is sought to be concealed. ⁴

F. “Complainant” means any person who submits a charge alleging that a student violated this Student Code Conduct. When a student believes that s/he has been a victim of another student’s misconduct, the student who believes s/he has been a victim of another student’s misconduct, the student

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¹ This definition combines language from Hawaii Revised Statutes (HRS) 707-700 and 707-710.
² Hawaii Department of Education’s Policy 8-19-2.
³ University of Hawaii Executive Policy EP 7.208, II.C.
⁴ This definition comes from HRS 707-764, crime of extortion (formerly criminal coercion) because of its similarities. However, the definition as written in this Code is not identical to that in the HRS. It has been modified specifically for this administrative procedure.
victim will have the same rights under this Student Conduct Code as are provided to the Complainant, even if another member of the UHMC community submitted the report.\textsuperscript{5}

G. "Consent" is an affirmative, conscious, and voluntary agreement to engage in agreed upon forms of sexual contact. A person cannot give Consent if the person is under the age of consent\textsuperscript{6} for sexual contact, the person is developmentally or intellectually disabled, or the person is mentally incapacitated or physically helpless. Lack of protest or resistance cannot be interpreted as Consent. Silence cannot be interpreted as Consent. Consent must be ongoing throughout any sexual contact and can be revoked at any time. The existence of a dating relationship, domestic partnership or marriage between the persons involved, or the existence of past sexual relations between the persons involved, is never by itself an indicator of Consent.\textsuperscript{7}

H. "Dating violence" is physical, sexual, emotional, financial, or psychological abuse or threats of abuse against another person who is or has been in a social relationship of a romantic or intimate nature with the alleged abuser; and where the existence of such a relationship shall be determined based on a consideration of the following factors: The length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.\textsuperscript{8}

I. "Domestic violence" is physical, sexual, emotional, financial, or psychological abuse or threats of abuse against another person who is a family or household member. For purposes of this definition, the term "household member" means a cohabitant who is or was a spouse or intimate partner.\textsuperscript{9}

J. "Faculty member" means any person hired by UHMC to conduct classroom or teaching activities or who is otherwise considered by UHMC to be a member of its faculty.\textsuperscript{10}

K. "Force" means physical contact, violence, threat, intimidation, or coercion.

L. "Harassment" means conduct that is so severe, pervasive, and objectively offensive that it unreasonably interferes with a person’s UHMC employment, academic performance or participation in UHMC programs or activities and

\textsuperscript{5} University of Hawaii Executive Policy EP 7.208, II.D.
\textsuperscript{6} In Hawaii, the age of consent is sixteen (16) generally, or the age of consent is between fourteen (14) and fifteen (15) when either the other person is less than (5) years older or when the other person is legally married to the person between the ages of fourteen (14) and fifteen (15). See Haw. Rev. Stat. § 707-732
\textsuperscript{7} University of Hawaii Interim Executive Policy EP 1.204, II.C.2.
\textsuperscript{8} University of Hawaii Interim Executive Policy EP 1.204, II.B.7.
\textsuperscript{9} University of Hawaii Interim Executive Policy EP 1.204, II.B.6.
\textsuperscript{10} University of Hawaii Executive Policy EP 7.208, II.E.
creates a working, learning, program or activity environment that a reasonable person would find intimidating, hostile or offensive. The conduct does not have to be threatening and may include deliberate and persistent communication that unreasonably disturbs the recipient.\(^{11}\)

M. “Hazing” means an act which endangers the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for the continued membership in, a group or organization. The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing is not a neutral act; both are violations of this rule.\(^{12}\)

N. “Incapacitation” (or “incapacitated”) is a mental or physical state in which a person lacks the ability to understand the consequences of their actions and, therefore, cannot make a rational, reasonable decision.

An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, or any other state where the individual is unaware that sexual contact is occurring. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact.

Alcohol or drug use is one of the prime causes of incapacitation. Because the impact of alcohol or other drugs varies from person to person, evaluating whether an individual is incapacitated (and is therefore unable to give consent in cases involving sex or gender based discrimination) requires an assessment of whether the consumption of alcohol or other drugs has rendered the individual physically helpless or substantially incapable of:

1. Making decisions about the potential consequences of sexual contact;
2. Apprising the nature of one’s own conduct;
3. Communicating Consent to sexual contact; or
4. Communicating unwillingness to engage in sexual contact.

An individual’s intoxication is never an excuse for or a defense to committing sexual or gender-based harassment, sexual assault, sexual exploitation, or sexual violence.\(^{13}\)

O. “Member of the UHMC community” means any person who is a UHMC student, UHMC faculty member, UHMC official or any other person employed by (or

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11 This definition was developed from *Davis v. Monroe County Bd. of Ed.*, 526 U.S. 629, 651 (1999).
12 University of Hawaii Executive Policy EP 7.208, II.F.
13 University of Hawaii Interim Executive Policy EP 1.204, II.C.3.
directly connected to) UHMC. A person’s status in a particular situation shall be
determined by the VCSA (or his or her designee). 14

P. “Plagiarism” is an act of academic dishonesty and includes, but is not limited to,
the use, by paraphrase or direct quotation, of the published or unpublished work
of another person without full and clear acknowledgement. It also includes the
unacknowledged use of materials prepared by another person or agency engaged
in the selling of term papers or other academic materials. 15

Q. “Policy” means the written regulations of UHMC as found in, but not limited to,
its Policies and Bylaws of the Board of Regents, its Administrative Procedures,
the Student Code Conduct, the UHMC web page and computer use policy, and
school catalogs. 16

R. “Respondent” means a UHMC student who is currently taking courses at UHMC,
either full or part time, pursuing undergraduate or graduate studies, against whom
a complaint has been filed alleging a violation of the Student Code (also known
as, “accused student”). A Respondent who withdraws from UHMC (after a
complaint or report is filed alleging he or she committed any form of sexual
misconduct), but who has a reasonable or continuing relationship with UHMC, or
has been notified of their acceptance for admission, will be considered a
Respondent, even if they are not currently enrolled or have not yet begun
attending classes, for the purposes of this process. 17

S. “Sexual assault” is the act of committing unwanted physical contact of a sexual
nature, whether by an acquaintance or by a stranger. Such contact is unwanted
when it occurs:

1. Without the Consent of at least one of the individuals; or
2. When at least one of the individuals is incapacitated or otherwise
   incapable of giving Consent. 18

For purposes of this section, “Sexual Contact” is defined as intentional touching
or penetration of another person’s clothed or unclothed body, including, but not
limited to, the mouth, neck, buttocks, anus, genitalia, or breast, by another with
any part of the body or any object in a sexual manner. Sexual contact also

14 University of Hawaii Executive Policy EP 7.208, II.O.
15 University of Hawaii Executive Policy EP 7.208, (G).
17 University of Hawaii Executive Policy EP 7.208, II.A.
18 University of Hawaii Interim Executive Policy EP 1.204, II.B.5.
includes causing another person to touch their own or another body in the manner described above.\textsuperscript{19}

T. "Sexual Exploitation" means taking sexual advantage of another person without effective consent, and includes, without limitation, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such other person; causing the prostitution of another person; recording, photographing or transmitting identifiable images of private sexual activity and/or the intimate parts (including genitalia, groin, breasts or buttocks) of another person; allowing third parties to observe private sexual acts; engaging in voyeurism; and/or knowingly and intentionally exposing another person to a significant risk of a sexually transmitted infection.\textsuperscript{20}

U. "Sexual Harassment" means unwelcome conduct (either direct or indirectly when others are aware of it) that is severe or pervasive, and has either the purpose or effect of:

1. unreasonably interfering with an employee's work performance or a student(s) academic performance or environment, or
2. creating an intimidating, hostile, or offensive work or educational environment.\textsuperscript{21}

V. "Sexual Intercourse" means penetration (anal, oral or vaginal) by a penis, tongue, finger, or an inanimate object.

W. “Stalking” is two or more acts of unwanted and harassing behavior, directed at a specific person that is sufficiently serious to cause physical, emotional, or psychological fear or to create a hostile, intimidating or abusive environment. The conduct must be both objectively and subjectively perceived as hostile, intimidating or abusive. That is, the reporting party must view the conduct as hostile, intimidating or abusive, and a reasonable person with the same fundamental characteristics as the reporting party (e.g., actual or perceived sex, age, race, gender, sexual orientation, gender identity, or gender expression) must also view the conduct as hostile, intimidating or abusive if they were in similar circumstances. Stalking may include (but is not limited to) situations occurring in person or through mail, electronic mail, text messaging, instant messaging, telephone, facsimile, social media websites (Facebook, Twitter, MySpace, Tumblr, Instagram, etc.), or other internet communications; for several days or for many years.\textsuperscript{22}

\textsuperscript{19} University of Hawaii Interim Executive Policy EP 1.204, II.C.1.
\textsuperscript{20} This definition comes from the ATIXA Model Policy (2012).
\textsuperscript{21} This definition is a condensed version from University of Hawaii Interim Executive Policy EP 1.204, II.G.
\textsuperscript{22} University of Hawaii Interim Executive Policy EP 1.204, II.B.8.
X. “Student” means a person who is currently enrolled in courses (credit and non-credit) at UHMC, either full or part time, or classified or unclassified, or who has declared UHMC as the person’s home campus, regardless of where an alleged violation of the Student Conduct Code may have occurred (e.g., another UH campus).  

23 This definition is modified from University of Hawaii Executive Policy EP 7.208, II.K.

Y. “Student Code” means UHMC’s Student Conduct Code.

Z. “Vice Chancellor Student Affairs (or his or her designee)” means a person authorized by the Vice Chancellor of Student Affairs (or his or her designee) to consider whether “more likely than not” a student has violated the Student Code and to determine sanctions when appropriate, or to determine if the case should be disposed of administratively.  

24 This definition is a synthesis of University of Hawaii Executive Policy EP 7.208, (B) and (M).

AA. “UHMC” means University of Hawai’i – Maui College.

BB. “UHMC official” means any person employed by UHMC, performing their assigned administrative or professional responsibilities.  

25 University of Hawaii Executive Policy EP 7.208, II.P.

CC. “UHMC premises” means all land, buildings, facilities, and other property in the possession of, owned, used, or controlled by UHMC (including adjacent streets and sidewalks).  

26 University of Hawaii Executive Policy EP 7.208, II.Q.

DD. “Under the influence” means that a person has ingested an intoxicant which has impaired the person's normal mental faculties or ability to care for the person and guard against casualty.  

27 This definition comes from HRS 291E-61(1).

EE. “Weapon” includes, but is not limited to: a pistol or other firearm or dagger, dirk, razor, stiletto, or knife (regardless of length or size), or any other dangerous or deadly weapon or instrument.  

28 HRS §134-9; University of Hawaii Executive Policy EP 9.210, III.F.
ARTICLE II: STUDENT CODE AUTHORITY

A. The VCSA has the ultimate oversight and authority over the Student Conduct Code process.

B. For the purposes of this UHMC Student Conduct Code process, the Vice Chancellor Student Affairs (or his or her designee) is the official who shall be authorized to render decisions and sanctions, assign cases to other trained student conduct officers and/or make determinations as to whether or not a case may be administratively resolved in accordance with this process.

C. The VCSA shall develop processes and procedural rules for the administration of the UHMC Student Conduct Code.

D. Decisions made by the VCSA (or his or her designee) shall be final, pending the appropriate appeal process.

ARTICLE III: PROSCRIBED CONDUCT

A. Jurisdiction of the UHMC Student Conduct Code

The UHMC Student Code shall apply to conduct that occurs on UHMC premises, at UHMC sponsored activities, and to off-campus conduct that adversely affects the UHMC community and/or the pursuit of its objectives. Each student shall be responsible for his/her conduct and the conduct of his/her guests, from the time of enrollment through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end. Additionally, students are responsible for conduct that occurs during the academic year as well as during periods between terms of actual enrollment (even if their conduct is not discovered until after a degree is awarded).

The Student Code shall apply to a student’s conduct even if the student withdraws from UHMC while a disciplinary matter is pending. The VCSA shall decide whether the Student Code shall be applied to conduct occurring off campus, on a case by case basis, in his or her sole discretion.

The Student Code applies at all UHMC locations, and may also apply to any other ancillary educational locations, including, but not limited to: practicum, lab or internship sites, when applicable and/or related to UHMC coursework. This code also applies to all current UHMC students regardless of the geographical location of their courses, for example, online.
B. Prohibited Conduct

Any student found to have committed (or to have attempted to commit) any of the following misconduct is subject to the disciplinary sanctions outlined in Article IV:

1. Acts of dishonesty, including but not limited to the following:
   a. Cheating [as defined in Article I (D)], plagiarism [as defined in Article I (P)], academic negligence [as defined in Article I (A)] and any other forms of academic dishonesty.
   b. Misrepresentation of facts or furnishing false information to any UHMC official, faculty member, staff or office.
   c. Forgery, alteration, or misuse of any UHMC document, record, or instrument of identification.
   d. Financial Aid fraud or corresponding behaviors that would allow a student to receive a monetary benefit for which they are not eligible.

2. Disruption or obstruction of teaching, research, administration, disciplinary proceedings, other UHMC activities, including its public service functions on or off campus, or of other authorized non-UHMC activities when the conduct occurs on UHMC premises.

3. Physical abuse or assaults, threats of physical harm or threatening behavior that would cause fear in a reasonable person, intimidation, harassment, coercion, bullying, hazing and/or other conduct which threatens or endangers the health or safety of any person (including, but not limited to, messages sent via text messages, emails, on social media networks, or any electronic format including phone, etc.).

   This provision also includes, but is not limited to: unlawful discrimination or related harassment on the basis of race, color, age, religion, national origin, creed, ancestry, familial status, disability, marital status, height, weight, or veteran's status.

   Retaliation against any person submitting a complaint of discrimination or related harassment or against any person cooperating in the fact-finding of (including testifying as a witness) any allegation of discrimination or related harassment. For these purposes, "retaliation" includes, but is not limited to, intimidation, threats, harassment, and other adverse action threatened or taken against any such complainant or third party.
4. Any sexual misconduct, which includes the following:

   a) Sexual Exploitation [as defined in Article I (T)]
   b) Sexual Harassment [as defined in Article I (U)]
   c) Sexual Assault [as defined in Article I (S)]
   d) Retaliation against any person filing a complaint or report alleging sexual misconduct or against any person cooperating in the fact-finding of (including providing information as a witness) any allegation of sexual misconduct. For these purposes, "retaliation" includes, but is not limited to, intimidation, threats, harassment, and other adverse action threatened or taken against any such complainant or third party.

   ● For charges based on Article III (B)(4)(a-d), UHMC will follow the current UH Interim Executive Policy, EP 1.204

5. Theft of and/or damage to property of UHMC or property of a member of the UHMC community or other personal or public property, on or off campus.

6. Failure to comply with the directions of UHMC officials or campus security officers acting in performance of their duties and/or failure to identify oneself to these persons when requested to do so.

7. Unauthorized possession, duplication, or the use of keys to any UHMC premises or unauthorized entry to or use of UHMC premises.

8. Violation of any UHMC policy, rule, or regulation published in hard copy, included in a course syllabus or available electronically on the UHMC website.

9. Use, possession, manufacturing, distribution, or being under the influence of marijuana, heroin, narcotics, or other controlled substances (except as expressly permitted by state and federal law) while on any UHMC premises or at any UHMC sponsored event or ancillary site. Possession of drug paraphernalia is also prohibited on UHMC premises.

10. Use, possession, manufacturing, distribution, or being under the influence of alcoholic beverages (except as expressly permitted by UH System Policies, state or federal law), or public intoxication while on any UHMC premises or at any UHMC sponsored event or ancillary site. Alcoholic beverages may not, in any circumstance, be used, possessed, or distributed to any person under twenty-one (21) years of age.

11. Possession of firearms (except as permitted by law), tasers, stun guns, explosives, weapons [see Article I (EE)], or dangerous chemicals on UHMC premises, and/or
use of any such item in a manner that harms, threatens or causes fear to others within the UHMC community.

12. Participating in an on-campus or off-campus demonstration, riot or activity that disrupts the normal operations of UHMC and/or infringes on the rights of other members of the UHMC community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area.

13. Obstruction of the free flow of pedestrian or vehicular traffic on UHMC premises or at UHMC-sponsored or supervised functions.

14. Conduct that is disorderly: breach of peace; or aiding, abetting, or procuring another person to breach the peace on UHMC or at functions sponsored by, or participated in by UHMC or members of the academic community. Disorderly Conduct includes but is not limited to: the use of any device to capture audio, video or digital record or photograph of any person while on UHMC premises or UHMC events where there is a reasonable expectation of privacy (i.e. restrooms, locker rooms, etc.).

15. Theft or other abuse of computer facilities and resources, including but not limited to:
   a. Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.
   b. Unauthorized transfer of a file.
   c. Use of another individual’s identification and/or password.
   d. Use of computing facilities and resources to interfere with the work of another student, faculty member or UHMC Official.
   e. Use of computing facilities and resources to send obscene or abusive messages.
   f. Use of computing facilities and resources to interfere with normal operation of the UHMC computing system.
   g. Use of computing facilities and resources in violation of copyright laws.
   h. Any violation of the UH System’s Use and Management of Information Technology Resources Policy.29

29 University of Hawaii Executive Policy 2.210
16. Abuse of the Student Code process, including but not limited to:

a. Falsification, distortion, or misrepresentation of information before the Vice Chancellor Student Affairs (or his or her designee).

b. Disruption or interference with the orderly conduct of a Vice Chancellor Student Affairs (or his or her designee) meeting.

c. Attempting to discourage an individual’s proper participation in, or use of, the Student Code process.

d. Attempting to influence the impartiality of a Vice Chancellor Student Affairs (or his or her designee) prior to, and/or during the course of, the Vice Chancellor Student Affairs (or his or her designee) meeting.

e. Harassment (verbal or physical) and/or intimidation of a Vice Chancellor Student Affairs (or his or her designee) prior to, during, and/or after a Vice Chancellor Student Affairs (or his or her designee) meeting.

f. Influencing or attempting to influence another person to commit an abuse of the Student Code process.

17. Students are required to engage in responsible social conduct that reflects credit upon the UHMC community and to model good citizenship.

C. Violation of Law and UHMC Discipline

1. UHMC disciplinary proceedings may be instituted against a student charged with conduct that potentially violates both the criminal law and this Student Code (that is, if both possible violations result from the same factual situation) without regard to the pendency of civil or criminal litigation in court or criminal arrest and prosecution. Proceedings under this Student Code may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus at the discretion of the VCSA (or his or her designee). Determinations made or sanctions imposed under this Student Conduct Code shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of the UHMC’s Code were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

2. When a student is charged by federal, state, or local authorities with a violation of law, the UHMC will not request or agree to special consideration for that individual because of his or her status as a student. If the alleged
offense is also being processed under the Student Code, UHMC may advise off-campus authorities of the existence of the Student Code and of how such matters are typically handled within the UHMC community. UHMC will attempt to cooperate with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators (provided that the conditions do not conflict with campus rules or sanctions). Individual students and other members of the UHMC community, acting in their personal capacities, remain free to interact with governmental representatives as they deem appropriate.

ARTICLE IV: STUDENT CONDUCT PROCESS (DUE PROCESS)

A. Charges and Vice Chancellor Student Affairs (or his or her designee) Meetings

1. Any member of the UHMC community may file a report against a student for alleged violations of the Student Code.

2. An allegation of a Student Code violation must be directed to the VCSA (or his or her designee) using the online report found here: http://maui.hawaii.edu/conduct-code-complaint-form/. Any report of a violation of the Student Code should be submitted as soon as possible after the event takes place. However, all reports will be reviewed in accordance with this process, regardless of when the report is filed.

3. For the purposes of this Student Code, the VCSA (or his or her designee) is the “designee” authorized to resolve complaints that allege(s) a potential violation(s) of the Student Code.

4. The VCSA (or his or her designee) will be responsible for training and assigning Student Code cases to appropriate student code officers when necessary.

5. The VCSA (or his or her designee) will conduct an impartial and reliable preliminary fact-finding of all allegations to determine if the allegations have merit and/or if they can be resolved administratively. Such disposition shall be final and there shall be no subsequent proceedings.

6. If it is determined that the allegation(s) has/have merit, the Respondent will receive written notification that a(n) alleged violation(s) has/have occurred.
7. All official correspondence regarding the Student Code process will be communicated to the Respondent through their official UHMC email account, unless otherwise requested in writing by the Respondent.

8. In the notification, the student will be directed to make an appointment with the VCSA (or his or her designee) to review the facts concerning the alleged violation(s) in order to determine if the Respondent will be formally charged with (a) violation(s) of the Student Code.

9. During the scheduled meeting, the Respondent meets one on one with the Vice Chancellor Student Affairs (or his or her designee), and must provide a picture ID to confirm the proper identity of the Respondent. Representatives or parents will only be allowed in this meeting at the discretion of the Vice Chancellor Student Affairs (or his or her designee) when deemed appropriate. In addition, a FERPA release must be signed by the Respondent.

10. If the Respondent is unable to, or does not wish to meet with the Vice Chancellor of Student Affairs (or his or her designee) in person, the Respondent may submit a statement in writing (via their UHMC email account or in person) responding to the allegation(s), within the required response period.

Other arrangements may be made to facilitate the meeting, such as video or phone conference, when a face-to-face meeting may be difficult for the Respondent and at the sole discretion of the Vice Chancellor Student Affairs (or his or her designee). In situations where a meeting other than a face to face meeting will be held, the student must provide a copy of their identification to the Vice Chancellor Student Affairs (or his or her designee) before the meeting occurs. However, a face to face meeting is always the preferred option.

11. After reviewing the available facts with the Respondent, and/or after reviewing the Respondent’s statement, a decision will be made whether to formally charge the Respondent with (a) violation(s) of the Student Code, administratively resolve the complaint, or further the fact-finding based on information provided by the Respondent.

12. If the decision is made to further the fact-finding, the Respondent will be notified via email once the fact-finding has been completed and/or for follow-up information when necessary.

13. Based on all the facts and circumstances presented, the charge(s) may be amended or changed, and the Respondent will be made aware of the change(s) immediately or as soon as possible verbally or in writing.
14. In the event that the Respondent fails to contact the Vice Chancellor Student Affairs (or his or her designee) within five (5) working days of the date listed on the written notification (excluding Saturday and Sunday), a hold will be placed on the Respondent's record until the Respondent responds to the notification, which may result in the Respondent's enrollment or records being delayed or withheld.

15. If a decision is made to formally charge the Respondent, the Respondent shall be notified by the Vice Chancellor Student Affairs (or his or her designee) of the formal charge(s) and the sanctions that have been assigned as soon as possible via the student’s UHMC email.

16. If the Complainant requests an alternate form of resolution, and the Respondent agrees, then the parties will engage in informal resolution. If the informal resolution results in mutual satisfaction of both parties, then the case will be considered resolved. If the case is not resolved, then it may be forwarded to the Vice Chancellor Student Affairs (or his or her designee) for resolution.

Informal resolution is not available for cases involving discrimination and/or sex/gender based discrimination [Article III (B)(3) and III (B)(4)(a-e)] unless the Complainant or Victim requests it, and the Respondent agrees to participate.

17. Prior to a Vice Chancellor Student Affairs (or his or her designee) meeting, the Respondent shall be provided the following:

   a. Written notification regarding how the alleged violation came to the attention of UHMC;

   b. A detailed written summary of the allegation(s) so that the Respondent may properly prepare for his or her meeting or response to the allegation(s);

   c. A reasonable opportunity to provide his or her statement for consideration, as well the names of any relevant witnesses for consideration by the Vice Chancellor Student Affairs (or his or her designee) before a final decision is made.

18. Vice Chancellor Student Affairs (or his or her designee) meetings shall be conducted using the following guidelines except as provided by Article IV (A)(21) below:

   a. The Vice Chancellor Student Affairs (or his or her designee) meeting will be scheduled at the convenience of the Vice Chancellor Student Affairs
(or his or her designee), however, all efforts will be made to schedule the meeting as soon as possible (considering the student’s on campus schedule).

b. The parties may provide the Vice Chancellor Student Affairs (or his or her designee) with a list of potential witnesses and a summary of information and/or copies of documents or relevant information they believe will assist the Vice Chancellor Student Affairs (or his or her designee) in understanding their version of events.

c. The Vice Chancellor Student Affairs (or his or her designee), in his or her sole discretion, will determine which information is relevant given the report and or the facts and circumstances.

d. All Vice Chancellor Student Affairs (or his or her designee) meetings shall be conducted in private. In cases involving sex and gender-based discrimination [as defined under Article III (B)(4)(a-d)], UHMC will keep the complaint and fact-finding private to the extent possible or as required by law. [Please refer to the UH System’s Executive Policy EP 1.204: Interim Policy and Procedure on Sex Discrimination and Gender-Based Violence] However, for safety reasons, the Vice Chancellor Student Affairs (or his or her designee) may request the presence of Campus Security during any conduct meeting.

e. In cases involving more than one Respondent, the Vice Chancellor Student Affairs (or his or her designee), will conduct the meetings separately, to determine the responsibility of each student.

f. The tone of the meeting will be educational and not adversarial.

g. Pertinent information received from witnesses and the parties, records, exhibits, and written statements may be accepted as information for consideration by a Vice Chancellor Student Affairs (or his or her designee) at the sole discretion of the Vice Chancellor Student Affairs (or his or her designee).

h. Requests for a continuance shall be at the discretion of the Vice Chancellor Student Affairs (or his or her designee).

i. During the meeting, the Vice Chancellor Student Affairs (or his or her designee) shall determine whether the Respondent has violated each section of the Student Code in which the Respondent is alleged with violating. However, the Vice Chancellor Student Affairs (or his or her designee) may also consider a different charge if he or she believe the
facts support charge(s) different than the charge(s) the Respondent was originally charged with. If the charges are different from the charges listed in the original notification, then the Vice Chancellor Student Affairs (or his or her designee) will discuss or notice the Respondent so that he/she may respond appropriately to the new charges.

j. The Vice Chancellor Student Affairs (or his or her designee)’s determination shall be made on the basis of whether “more likely than not” (“preponderance of the evidence” standard of proof) the Respondent violated the Student Code.

k. Formal rules of procedure, and/or technical rules of evidence, such as those that are applied in criminal or civil court, are not used (and do not apply) in this Student Code process.

l. If a disruption occurs during the meeting, the Vice Chancellor Student Affairs (or his or her designee), in his or her sole discretion may have the disruptive party removed from the meeting, and the Vice Chancellor Student Affairs (or his or her designee) shall be authorized to make a determination on the information already provided. If the individual causing the disruption is a student, he or she may be charged with a violation of the Student Conduct Code, specifically, “disruption of administration.”

19. There shall be a single verbatim record of all Vice Chancellor Student Affairs (or his or her designee) meetings. The digital recording shall be the property of UHMC. This recording will be maintained only until the appeal process has concluded (if applicable) or as deemed necessary by UHMC. For the purposes of FERPA the recording is considered an educational record and cannot be released unless a release is signed by all students with identifiable information contained in the recording. A student involved in the recording may request an opportunity to review the recording (in the presence of an authorized employee) if the meeting only involved one student without discussion of any witnesses (on the recording), and the student on the recording is the individual requesting the review.

20. If after receiving notice, a Respondent elect not to appear or provide a written statement (in lieu of an appearance) to a Vice Chancellor Student Affairs (or his or her designee) prior to a meeting, the Vice Chancellor Student Affairs (or his or her designee) shall render a determination using information that has been provided. In addition, the Respondent shall be considered to have

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30 Per HRS 803-42(b)(4), HI allows a recording of a communication as long as one of the parties in the meeting consents to the recording. For the purposes of the recording in this process, the Vice Chancellor Student Affairs (or his or her designee) is the consenting party.
“waived” his or her right to an appeal, and the decision of the Vice Chancellor Student Affairs (or his or her designee) will be considered final.

21. If the Vice Chancellor Student Affairs (or his or her designee) has made a decision as to whether “more likely than not” the Respondent has violated at least one provision of the Student Conduct Code, the Vice Chancellor Student Affairs (or his or her designee) will consider an appropriate sanction.

22. UHMC uses progressive discipline as a means for preserving its educational and working environment. Once a Respondent has been found responsible for violating the Student Code, the Vice Chancellor Student Affairs (or his or her designee) will use all information available, including but not limited to: prior violations of the Student Code (if any), community service involvement, and/or employment to determine an appropriate sanction.

23. All Complainants will receive information regarding the notification of the alleged violations to the Respondents, as well as, the outcome and final decision of the case. Sexual misconduct Complainants or Victims [offenses listed under Article III (B)(4)(a-d)] will receive a copy of the actual notification and sanction letter sent to the Respondent, with appropriate redactions (or as required under Interim Executive Policy EP 1.204).

24. The Vice Chancellor Student Affairs (or his or her designee) may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the Conduct Officer, Complainant, Respondent, and/or other witness while the case is being resolved. These concerns may be addressed in a variety of ways including, but not limited to, UHMC No Contact Orders, campus security presence at meetings, removal from class, campus or area for a short period or reasonable schedule adjustments. Removal for a period longer than a day requires an Interim Suspension [see Article IV (C)].

25. Due Process procedures apply to complaints of unlawful discrimination or related harassment on the basis of race, color, age, religion, national origin, creed, ancestry, familial status, disability, marital status, height, weight, sexual orientation, veteran's status, or sexual discrimination including sexual misconduct and sexual harassment raised by employees, students, or third parties against any currently enrolled UHMC students in accordance with Title IX of the Higher Education Amendments of 1972, 20 USC 1681 et seq.

26. Both parties will be given information regarding the status of the case when it has been resolved by a Vice Chancellor Student Affairs (or his or her designee) via email. Information regarding the appeal process shall be made available to both parties.
B. Sanctions

1. In cases where a student has been found “more likely than not” to have engaged in prohibited conduct [as listed under Article III (B)(1-3) & (5-17) above], UHMC will impose discipline that is consistent with the impact of the offense on the UHMC community. Progressive discipline principles will be followed in that the student's prior discipline history at UHMC (and any other institution of higher education, if applicable) will be taken into account, along with any other relevant information while determining sanctions. Disciplinary action taken against a student may include, but is not limited to, one or more of the following:

   a. **Written Warning**—A notice in writing to the student that the student is violating or has violated institutional regulations and a copy of the warning letter is placed in the student’s disciplinary file.

   b. **Probation**—Probation is for a designated period of time (which may include the remainder of their enrollment at UHMC) and includes the probability of more severe disciplinary sanctions if the student is found to violate any institutional regulation(s) during the probationary period. This sanction may require the student to meet with the VCSA (or his or her designee) upon request.

   c. **Loss of Privileges**—Denial of specified privileges for a designated period of time.

   d. **Restitution**—Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

   e. **Discretionary Sanctions**—Work assignments, essays, service to UHMC, Community Service or other related discretionary or educational related assignments.

   f. **UHMC No Contact Orders**—No unnecessary contact between the Respondent and the Complainant, witnesses, or other individuals (when appropriate).

   g. **Suspension**—Separation of the student from UHMC for a definite period of time (usually 1 year or less) after which the student is eligible to return. Conditions for readmission may be specified. Suspensions may be effective immediately or deferred.

   h. **Dismissal**—Separation of the student from UHMC for more than 1 year. The student may be eligible for return. Conditions for readmission may be specified. Dismissals will be effective immediately unless otherwise stated.

   i. **Expulsion**—Separation of the student from UHMC permanently. Expulsions will be effective immediately, unless otherwise stated.

   j. **Revocation of Admission and/or Degree**—Admission to or a degree awarded from UHMC may be revoked for fraud, misrepresentation, or other violation of UHMC standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.
2. Withholding Degree or Certificate—UHMC may withhold awarding a degree otherwise earned until the completion of the process set forth in this Student Conduct Code, including the completion of all sanctions imposed, if any.

3. More than one of the sanctions listed above may be imposed for any single violation.

4. The following sanctions may be imposed upon recognized UHMC student groups or organizations:
   
a. Those sanctions listed above in Article IV (B)(1)(a-j).
   b. Loss of selected rights and privileges for a specified period of time.
   c. Deactivation. (Loss of all privileges may be issued, including UHMC recognition, for a specified period of time.)

5. Once the Vice Chancellor Student Affairs (or his or her designee) has determined that a student and/or group or organization has violated the Student Code, the Vice Chancellor Student Affairs (or his or her designee) shall make a final determination of the sanction to be imposed, taking into consideration all information presented at the meeting.

6. The Vice Chancellor Student Affairs (or his or her designee) shall advise the Respondent, group and/or organization in writing of the decision and of the sanction(s) imposed, if any.

C. Interim Suspension

In certain circumstances, the Vice Chancellor Student Affairs (or his or her designee), may impose an interim suspension prior to a Vice Chancellor Student Affairs (or his or her designee) meeting.

1. Interim suspension may only be imposed in the following circumstances:
   
a. To ensure the safety and well-being of members of the UHMC community or preservation of UHMC property; or
   b. To ensure the student’s own physical or emotional safety and well-being; or
   c. If the student poses an ongoing threat of disruption of, or interference with, the normal operations of UHMC.

2. Interim suspension will take effect immediately upon the direction of the Vice Chancellor Student Affairs (or his or her designee) and last for no more than ten (10) working days (Saturdays and Sundays are not included). The 10-day
period may be extended for good cause by the VCSA or by agreement with
the Respondent.

3. During the interim suspension, the respondent shall be denied access to the
campus (including face-to-face and online classes when appropriate) and/or
all other UHMC activities or privileges for which the student might otherwise
be eligible, as the VCSA may determine to be appropriate.

4. The interim suspension does not replace the regular process, which shall
proceed on the normal schedule, up to and including the completion of the
Vice Chancellor Student Affairs (or his or her designee) meeting, if required,
and may include appeal processes (if any).

D. System Applicability of Sanctions

Sanctions may also be effective on another campus within the University of Hawaii
System.

E. Conduct Records

Disciplinary sanctions shall not be made part of the student’s permanent academic
record, but shall become part of the student’s disciplinary record, and will be retained
by the institution for a minimum of five (5) years from the date of the final
disposition of the case. University of Hawai‘i Maui College suspension, University of
Hawai‘i Maui College dismissal or revocation or withholding of a degree shall be
permanently retained by the institution.

F. Appeals

1. **A decision reached by the Vice Chancellor Student Affairs (or his or her
designee)** may be appealed by either the Respondent(s) or the Complainant
within ten (10) working days, excluding Saturday and Sunday, of the decision
(postmarked or dated). Such appeals shall be in writing and shall be delivered
to the Office of the Vice Chancellor of Student Affairs C-247 or submitted
using the online appeal form here: [http://maui.hawaii.edu/conduct-code-
appeal-form/](http://maui.hawaii.edu/conduct-code-appeal-form/)

2. The VCSA shall assign an appropriate Appellate Officer to the case. The
Appellate Officer shall have sole authority to determine whether or not an
appeal warrants further review.

3. When one party has submitted an appeal, a copy of the appeal will be sent to
the other party to allow the non-appealing party to respond.
The non-appealing party will be given (3) working days to submit a response to the appeal. If no response by the non-appealing party is submitted, the Appellate Officer shall render a final determination on the information provided by the appealing party.

4. An appeal that has been accepted for review shall be limited to a review of the verbatim recording of the Vice Chancellor Student Affairs (or his or her designee) meeting and all supporting documents for one (or more) of the following reasons only:

a. There was a material deviation from written procedures that jeopardized the fairness of the process; or
b. There is new material and relevant information that was unavailable at the time of the meeting, which would have resulted in a different outcome; or
c. There was demonstrable bias by the Vice Chancellor Student Affairs (or his or her designee) (This option is available only in cases where there is a recording of the Vice Chancellor Student Affairs (or his or her designee’s) meeting.); or

d. The sanction was substantially disproportionate to the severity of the violation, given the facts and relevant information.

5. The Appellate Officer shall consider the basis for the appeal and make a determination on the issue presented that fairly addresses the alleged appeal issue ONLY.

The Appellate Officer may request written clarification from the parties, as the Appellate Officer deems appropriate to make a determination regarding the appeal.

The Appellate Officer shall render a decision in writing on the appeal. The Appellate Officer may affirm the decision of the Vice Chancellor Student Affairs (or his or her designee), modify or reverse the decision, or remand the matter for further proceedings.

6. The decision of the Appellate Officer shall be final and binding upon all involved.

ARTICLE V: INTERPRETATION AND REVISION

A. Any question of interpretation or application of the Student Code shall be referred to the VCSA (for Student Code cases), the Chancellor (or his or her designee) in appellate cases for a final determination.
B. The Student Code shall be reviewed and updated every year during May by the VCSA. Changes, when made, shall be effective immediately.

C. A copy of UHMC’s most current Student Code will be made available online.

Additional Notes

UHMC students are responsible for knowing the information, policies and procedures outlined in this document.

UHMC reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. Students are encouraged to check online (http://maui.hawaii.edu/student-conduct-code) for the updated versions of all policies and procedures. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

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