



UNIVERSITY of HAWAII®
MAUI COLLEGE

**UNIVERSITY OF HAWAII – MAUI COLLEGE
POLICIES AND PROCEDURES FOR STUDENT CONDUCT CODE**

Effective: March 15, 2021

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 after a report has been submitted for review of an alleged violation of the Student Conduct Code.

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). This also includes intentional harm or controlling another person physically or emotionally, and are not protected by freedom of expressions.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:

¹ This definition combines language from Hawaii Revised Statutes (HRS) 707-700 and 707-710.

² This definition combines language from Hawaii Department of Education’s Policy 8-19-2 and University of Hawaii Executive Policy EP 7.208, IV.B.3.c (Dated 4/1/19).

³ University of Hawaii Executive Policy EP 7.208, IV.B.1 (Dated 4/1/19).

causing bodily injury (defined above), causing property damage, physical confinement or restraint, or revealing information that is sought to be concealed.⁴

- F. "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 consent⁵ 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.⁶
- G. "Cyberbullying" means electronically transmitted acts, i.e., internet, cell phone, personal digital assistant (PDA), or wireless hand-held device that a student has exhibited towards another student or employee of the department, either on or off-campus, that hurts, harms, or humiliates that student or employee physically or emotionally; and is sufficiently severe, persistent, or pervasive, or created an intimidating, threatening, or abusive educational environment for the other student(s). This also includes intentional harm or controlling another person physically or emotionally, and are not protected by freedom of expression.⁷

Electronic transmissions include but are not limited to the use of data, computer software that is accessed through a computer, a computer network devices that display email, text messaging, blogs, photos, drawings, video clips, on-line community websites, social media, or faxes, or a combination of the foregoing.⁸

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.

⁵ 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

⁶ University of Hawaii Interim Executive Policy EP 1.204, II.C.2.

⁷ This definition combines language from Hawaii Department of Education's Policy 8-19-2 and University of Hawaii Executive Policy EP 7.208, IV.B.3.c (Dated 4/1/19)

⁸ Hawaii Department of Education's Policy 8-19-2

- 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.⁹
- 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, or shares a child in common.¹⁰
- 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.¹¹
- K. "Force" means physical contact, violence, threat, intimidation, or coercion.
- L. “Gender-Based Harassment” is a form of sex-based harassment and refers to unwelcome conduct based on an individual’s actual or perceived sex. Gender-based harassment involves verbal, physical, or electronic conduct based on sex, gender, sexual orientation, or sex-stereotyping that creates a hostile, intimidating, or abusive environment, even if those acts do not involve conduct of a sexual nature. Gender-based harassment also includes harassment for exhibiting what is perceived as a stereotypical characteristic for one’s sex or for failing to conform to stereotypical notions of masculinity and femininity, regardless of the actual or perceived sex, gender, sexual orientation, gender identity, or gender expression of the individuals involved.¹²
- M. “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** 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

⁹ University of Hawaii Executive Policy EP 1.204, II.B.7.

¹⁰ This definition combines language from the University of Hawaii Executive Policy EP 1.204, II.B.6 and the crime Control & Law Enforcement 34 U.S.C. 12291(a)(8).

¹¹ This definition is modified from University of Hawaii Executive Policy EP 7.208, II.I (Dated 4/1/19).

¹² University of Hawaii Executive Policy EP 1.204, II.B.3.

unreasonably disturbs the recipient.¹³

- N. “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.¹⁴
- O. “Hostile Environment” is when unwelcome harassment is sufficiently severe, pervasive (or persistent) and objectively offensive that it unreasonably interferes with, limits or denies the ability to participate in or benefit from the UH Maui College educational programs or activities.¹⁵
- P. “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 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.

¹³ This definition was developed from *Davis v. Monroe County Bd. of Ed.*, 526 U.S. 629, 651 (1999).

¹⁴ University of Hawaii Executive Policy EP 7.208, IV.B.9 (Dated 4/1/19).

¹⁵ University of Hawaii Executive Policy EP 7.208, IV.B.3.h (Dated 4/1/19).

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.¹⁶

- Q. "Intimidation" is implied threats or acts that cause a reasonable fear of harm in another.¹⁷
- R. "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 directly connected to) UHMC. A person's status in a particular situation shall be determined by the VCSA (or his or her designee).¹⁸
- S. "Physical abuse" means the nonaccidental infliction of physical or bodily injury, pain, or impairment, including but not limited to hitting, slapping, causing burns or bruises, poisoning, or improper physical restraint; or causing physical injuries that are not justifiably explained or where the history given for an injury is at variance with the degree or type of injury.¹⁹
- T. "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.²⁰
- U. "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.²¹
- V. "Registered Independent Organization" (RIO) refers to a student organization, association, or club that has been formed to meet special interests of certain groups of students on campus.²² The Relationship of an RIO to the University

¹⁶ University of Hawaii Executive Policy EP 1.204, II.C.3.

¹⁷ University of Hawaii Executive Policy EP 7.208, IV.B.3.b (Dated 4/1/19).

¹⁸ University of Hawaii Executive Policy EP 7.208, II.O.

¹⁹ Hawaii Revised Statutes 346-222. This definition comes from the statute governing the Department of Human Services, Adult Protective Services.

²⁰ This definition is modified from University of Hawaii Executive Policy EP 7.208, IV.B.1.a (Dated 4/1/19).

²¹ University of Hawaii Executive Policy EP 7.208, (H).

²² University of Hawaii Executive Policy EP 7.208, II.A (Dated 4/1/19).

are:

1. An RIO, like a CSO, is not an agency of the university. RIO, unlike the CSO, is not involved in the governance process and does not represent or serve the entire student body on their campus.
2. The university assumes no responsibility for the activities of an RIO. An RIO must fully inform its members and the public of its relationship to the university by including the following disclaimer in its publications and communication with third parties: “Although the registered organization has members who are university students, the registered organization is independent of the university and does not represent the views of the university. The registered organization is responsible for its own contracts, acts, or omissions.”
3. An RIO’s leaders shall assume full responsibility for the organization’s activities and conduct of its members. As benefits for university registration, staff resource liaisons may be provided by its campus to answer further questions regarding the relationships of the RIO to the university campus and to offer educational assistance services that support the effective functioning of the RIO.²³

W. “Reporter”, “Reporting Party”, or “Complainant” means any person who submits a charge alleging that a student violated this Student Conduct Code. 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 will have the same rights under this Student Conduct Code as are provided to the Reporter, even if another member of the UHMC community submitted the report.²⁴

X. “Respondent,” or “Responding Part” 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

²³ University of Hawaii Board of Regents Policy BR 7.203 III.(B)(1-3).

²⁴ University of Hawaii Executive Policy EP 7.208,II.B (Dated 4/1/19). As used in this Policy, “Reporter” includes “Reporting Party” as that term is used in EP 7.208 and EP 1.204. Furthermore, for the purposes of EP 1.204, a “reporter” may also be considered a “victim” in sexual misconduct cases. “Complainant” as defined in the Nondiscrimination on the Basis of Sex in education Programs or Activities Receiving Federal Financial Assistance; DOE 34 CFR Part 106 Definition 106.30 Page 2013.

enrolled or have not yet begun attending classes, for the purposes of this process.²⁵

Y. “Retaliation” is adverse actions taken against a person because of his/her good faith participation in the following types of protected activities:

1. Seeking advice or assistance about conduct prohibited under this policy, a Student Conduct Code, or System wide sanction concern;
2. Opposing or filing an informal or formal complaint against conduct reasonably believed to be prohibited under this policy;
3. Testifying, assisting, or participating in an investigation or other proceeding related to a complaint of conduct prohibited under this policy.²⁶

Z. “Sex Discrimination” is any lawful distinction, preference, or detriment to an individual as compared to others that is based on a individual’s sex or gender and its sufficiently serious to unreasonably interfere with or limit:

1. A student’s or admission applicant’s ability to participate in, access, or benefit from educational programs, services, or activities (e.g. admission, academic standing, grades, assignment, campus housing);
2. An employee’s or applicant for employment’s access to employment or conditions and benefits of employment (e.g. hiring, advancement, assignment);
3. An authorized volunteer’s ability to participate in a volunteer activity;
4. A guest’s or visitor’s ability to participate in, access, or benefits from the University’s program.²⁷

AA. “Sexual assault” is a forcible or non-forcible act of committing unwanted physical contact of a sexual nature with an intimate body part, whether by an acquaintance or by a stranger.²⁸ Intimate body parts include breast, buttocks, groin, or genitals, or mouth. Such contact is unwanted when it occurs:

²⁵ This definition is modified from University of Hawaii Executive Policy EP 7.208, II.C (Dated 4/1/19) as used in this Policy, “Respondent” includes “Responding Party” as that term is used in EP 7.208 and EP 1.204.

²⁶ University of Hawaii Executive Policy EP 1.204 and EP 7.208 IV.B.24 (Dated 4/1/19).

²⁷ University of Hawaii Executive Policy EP 1.204, II.B.1.

²⁸ This definition combines language from the University of Hawaii Executive Policy EP 1.204, II.B.5 and the Institutional & financial assistance information for students 20 U.S.C. 1092(f)(6)(A)(v).

1. Without the Consent (as defined in Section II.C.2. in EP 1.204) of at least one of the individuals; or
2. When at least one of the individuals is incapacitated or otherwise incapable of giving Consent (as defined in Section II.C.2. EP1.204)²⁹

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 includes causing another person to touch their own or another body in the manner described above.³⁰

BB. “Sexual Exploitation” is violating the sexual privacy of another, or taking unjust or abusive sexual advantage of another, without Consent (as defined above), and when such behavior does not otherwise constitute Sexual Assault.³¹

CC. “Sexual Harassment” means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of UHMC conditioning the provision of an aid, benefit or service of UHMC on an individual’s participation in unwelcome sexual conduct;
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University program or activity;
3. Sexual assault, dating violence, domestic violence, or stalking³²

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

EE. “Stalking” is two or more acts of unwanted and harassing behavior, directed at a specific person that is sufficiently serious to cause physical, emotional distress, 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 Reporter or reporting party, or

²⁹ University of Hawaii Executive Policy EP 1.204, II.B.5.

³⁰ University of Hawaii Executive Policy EP 1.204, II.C.1.

³¹ University of Hawaii Executive Policy EP 1.204, II.B.4.

³² Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance; DOE 34 CFR Part 106 Definition 106.30 Page 2014-2015.

Complainant must view the conduct as hostile, intimidating or abusive, and a reasonable person with the same fundamental characteristics as the Reporter, reporting party, or Complainant (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, Tumblr, Instagram, Snapchat, etc.), or other internet communications; for several days or for many years.³³

- FF. “Student” means a person who is currently enrolled in courses (credit and non-credit) at UHMC, either full or part time, 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). Persons who withdraw after allegedly violating the Student Conduct Code, who are not officially enrolled for a particular term but who have a continuing relationship with UHMC or who have been notified of their acceptance for admission are considered students.³⁴
- GG. “Student Code” means UHMC’s Student Conduct Code.
- HH. “Student Conduct Officer” is 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.³⁵
- II. “UHMC” means University of Hawai’i – Maui College.
- JJ. “UHMC official” means any person employed by UHMC, performing their assigned administrative or professional responsibilities.³⁶
- KK. “UHMC premises” means all land, buildings, facilities, and other property in the possession of, owned, used, or controlled by UHMC (including

³³ This definition combines language from the University of Hawaii Executive Policy EP1.204, II.B.8 and the Crime Control & Law Enforcement 34 U.S.C. 12291(a)(30).

³⁴ This definition is modified from the University of Hawaii Executive Policy EP 7.208, II.K.

³⁵ This definition is a synthesis of University of Hawaii Executive Policy EP 7.208, (B) and (M).

³⁶ University of Hawaii Executive Policy EP 7.208, II.J (Dated 4/1/19).

adjacent streets and sidewalks).³⁷ UHMC vehicles are covered by this policy at all times regardless of whether they are on UHMC premises or not.

- LL. “Under the influence” means that a person has ingested an intoxicant which has impaired the person's normal mental functioning or ability to care for the person and guard against casualty.³⁸ Examples of individuals “under the influence” includes, but are not limited to: slurred speech, lack of coordination, and the smell of alcohol or marijuana on the student, that is coupled with unusual behavior of the student in general.
- MM. “Verbal abuse” is shouting or yelling in a threatening or hostile manner and/or use of abusive or belligerent language.³⁹
- NN. “Vice Chancellor of Student Affairs (VCSA)” or “Senior Student Affairs Officer” means the campus administrator who is in charge of the division of student affairs, and generally charged by the campus Chancellor to be responsible for the administration of the Student Conduct Code.⁴⁰
- OO. “Weapon” includes but is not limited to: a pistol or other firearm, dagger, dirk, razor, stiletto, or knife (regardless of length or size), or any other dangerous or deadly weapon or instrument.⁴¹
- PP. The term “shall” is used in the imperative sense.⁴²
- QQ. The term “may” is used in the permissive sense.⁴³

ARTICLE II: STUDENT CODE AUTHORITY

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

³⁷ University of Hawaii Executive Policy EP 7.208, II.K (Dated 4/1/19)

³⁸ This definition is based on Hawaii Revised Statutes, 291E-61(1).

³⁹ University of Hawaii Executive Policy EP 7.208, IV.B.3.f (Dated 4/1/19)

⁴⁰ This definition is modified from University of Hawaii Executive Policy EP 7.208, II.D (Dated 4/1/19)

⁴¹ HRS § 134-9; University of Hawaii Executive Policy EP 9.210, III.F (10/31/14)

⁴² University of Hawaii Executive Policy EP 7.208, II.L (Dated 4/1/19)

⁴³ University of Hawaii Executive Policy EP 7.208, II.M. (Dated 4/1/19)

- B. For the purposes of this UHMC Student Conduct Code process, the Vice Chancellor of Student Affairs (or his or her designee) as 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 consistent 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 classes at UHMC after a report was submitted or while a disciplinary matter is pending. The VCSA shall decide whether the Student Code shall be applied to conduct occurring off campus (including but not limited to the use of social media and other electronic forums), 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 Student Code also applies to all current UHMC students regardless of the geographical location of their courses, for example, online or other University of Hawai'i campuses (If UHMC is designated as their home campus).

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(T)], 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. This provision can include but not limited to grades, documents, records, or instrument of identification.
 - 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. This includes creating noise or other disturbances on campus or in student life areas sufficient to disrupt the normal functioning of campus activities including classroom instructions.
3. Abuse that is physical or psychological in nature. This includes actual physical abuse (as defined in Article I(S) or assaults (as defined in article I(B)), threats or physical harm or threatening behavior that would cause fear in a reasonable person, intimidation (as defined in Article I(Q)), harassment (as defined in Article I(M), coercion (as defined in Article I(E), bullying/cyberbullying (as defined in Article I(C) and I(G)), hazing (as defined in Article I(N)) and/or any 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, sex, age, religion, color, national origin, ancestry, handicap, marital status, arrest and court record, sexual orientation veteran's status.⁴⁴

⁴⁴ University of Hawai'i Executive Policy E 1.202, III

Retaliation (as defined in Article I(Y)) against any person submitting a report of any alleged violation of this Student Code or against any person cooperating in the fact-finding (including participating with the investigation as a witness, etc.) of any alleged violation of this Student Code. For these purposes, “retaliation” includes, but is not limited to, physical abuse, intimidation, threats, harassment, and other adverse action threatened or taken against any such Reporter or third party, and dissuades a reasonable person from making or supporting a complaint under this policy. University Of Hawai‘i prohibits and will not tolerate retaliation as defined in the *UH System Executive Policy EP 7.205 III(H)*

Retaliation complaint, allegation, or report will be reviewed as a separate offense under this policy; that is, a student can be found responsible for retaliation even if not found to be responsible for the underlying reported Student Conduct Code violation.

4. Any sexual misconduct, which includes the following:
 - a) Sexual Exploitation [as defined in Article I (BB)]
 - b) Sexual Harassment [as defined in Article I (CC)]
 - c) Sexual Assault [as defined in Article I (AA)]
 - d) Dating Violence [as defined in Article I(H)]
 - e) Domestic Violence [as defined in Article I(I)]
 - f) Retaliation against any person filing a complaint or report alleging sexual misconduct or against any person cooperating in the fact-finding of (including participating with the investigation as a witness, etc.) 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 System Executive Policy, EP 1.204*
5. Any discrimination (as defined in UH System Executive Policy E 1.202), sex discrimination (as defined in Article I (Z)), and/or gender-based harassment (as defined in article I (L)), will follow the current *UH System Executive Policy, EP 1.204*.and/or *A 9.920*.
6. Creation of health and safety hazards, e.g., dangerous pranks, hanging out of or climbing from/on/in windows, balconies, roofs.

7. 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, and/or knowingly maintaining possession of stolen property.
8. 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. This provision also includes a failure to complete required sanctions upon a finding of responsibility by VCSA (or his or her designee), Appellate Officer or Decision Maker in any student disciplinary related process by UHMC.
9. Unauthorized possession, duplication, the use of keys, or security mechanism to any UHMC premises or unauthorized entry to or use of UHMC premises, including trespassing, propping, or unauthorized use of doors for entry into or exit from a UHMC building.
10. Violation of any UHMC policy, rule, or regulation published in hard copy, included in a course syllabus or available electronically on the UHMC website.
11. 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.
12. Use, possession, manufacturing, distribution/sale, 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.
13. Possession of firearms (except as permitted by law), tasers, stun guns, explosives, weapons [see Article I (OO)], 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.
14. 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.

15. Obstruction of the free flow of pedestrian or vehicular traffic on UHMC premises or at UHMC-sponsored or supervised functions.
16. Conduct that is disorderly, lewd, or indecent; 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, gym, etc.) without their prior knowledge, or without their consent when such a recording is likely to cause injury or distress.
17. Violation of local, state, federal or campus fire policies including, but not limited to:
 - a. Intentionally or recklessly causing or attempting to cause a fire which damages or intended to damage UHMC property or personal property of a member of the UHMC community or which causes or is intended to cause injury.
 - b. Failure to evacuate a UHMC- controlled building during a fire alarm.
 - c. Improper or reckless use of UHMC fire safety equipment. Tampering with or improperly engaging a fire alarm or fire detection/control equipment while on UHMC.
18. 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 or resources to interfere with the work of another student, faculty member or UHMC Official.

- e. Use of computing facilities or resources to send obscene or abusive messages.
 - f. Online harassment of members of the UHMC community.
 - g. Use of computing facilities or resources to interfere with normal operation of the UHMC computing system.
 - h. Use of any computing facilities or resources in violation of copyright laws.
 - i. Any violation of the UH System's Use and Management of Information Technology Resources Policy.⁴⁵
19. Abuse of the Student Code process, including but not limited to:
- a. Falsification, distortion, or misrepresentation of information under review by the Vice Chancellor of Student Affairs (or his or her designee).
 - b. Disruption or interference with the orderly conduct of the Vice Chancellor of 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 the Vice Chancellor of Student Affairs (or his or her designee) prior to, and/or during the course of, the Vice Chancellor of Student Affairs (or his or her designee) meeting.
 - e. Harassment (verbal or physical) and/or intimidation of the Vice Chancellor of Student Affairs (or his or her designee) prior to, during, and/or after the Vice Chancellor of 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.
20. Smoking or use of tobacco on campus property. "Smoking" means in haling,

⁴⁵ University of Hawaii Executive Policy EP 2.210

exhaling, burning, or carrying and lighted or heated tobacco product or plant product intended for inhalation in any manner or in any form. “Smoking” means the personal use of any tobacco product, including the use of smokeless tobacco, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means.⁴⁶

21. Failure to engage in responsible social conduct that reflects credit upon the UHMC community and failing 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 status of any 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 from the same factual circumstances as the alleged UHMC code violation were dismissed, reduced, or resolved in favor of or against the Respondent/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). UHMC will comply with the Family Educational Rights and Privacy Act (FERPA). Individual students and other members of the UHMC community, acting in their personal capacities, remain free to interact with governmental

⁴⁶ Hawaii Public Act 160 of 2018. Note: *As of November 15, 2018 no guidance has been provided to campuses on the suggested implementation and enforcement of the law on campus properties. Therefore, students who are caught smoking tobacco or using an electronic smoking device on any UHMC property will only be given a verbal warning only; reports will not be formally recorded by the Vice Chancellor of Student Affairs (or his or her designee).*

representatives as they deem appropriate.

ARTICLE IV: STUDENT CONDUCT PROCESS (DUE PROCESS)

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

1. Anyone may file a report against a student for (an) alleged violation(s) of the Student Code. All students accused of violating this Code are entitled to due process, which includes written notification of the alleged violation and a reasonable opportunity to respond and provide evidence and/or witnesses to be considered prior to any final decision.
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 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 investigation of all allegation(s) 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 an official notification that (an) alleged violation(s) has/have been reported. All official correspondence regarding the Student Code process will be communicated to the Respondent through their official UHMC email account.
7. If either party requests an alternate form of resolution and the other party agrees, the parties will engage in an 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 of Student Affairs (or his or her designee).

8. In the notification:
 - a. Written notification regarding how the alleged violation came to the attention of UHMC;
 - b. The Respondent shall be provided 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. The Respondent student will be directed to make an appointment with the Vice Chancellor of Student Affairs (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. In the event that the Respondent fails to contact the Vice Chancellor of Student Affairs (or his or her designee), fails to schedule an appointment, or fails to submit a written statement within five (5) working days of the date listed on the written notification (excluding Saturday, Sunday, and Holidays), a hold will be placed on the Respondent's record until the Respondent responds to the notification, which may result in the Respondent's inability to register.
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) and must provide a picture ID to confirm the proper identity of the Respondent (if unknown to the VCSA (or his or her designee)) 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 of 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 of Student Affairs (or his or her designee) before the meeting occurs. A face to face meeting is always the preferred option.

If a Respondent fails to provide a copy of their identification prior to the start

of the meeting, the meeting may be rescheduled at the Discretion of the Vice Chancellor of Student Affairs (or his or her designee).

11. If after receiving notice, a Respondent elects not to appear or provide a written statement (in Lieu of an appearance) to the Vice Chancellor of Student Affairs (or his or her designee) prior to a meeting, the Vice Chancellor of 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 “waived” his or her right to appeal, and the decision of the Vice Chancellor of Student Affairs (or his or her designee).
12. During the scheduled meeting, the Respondent meets one on one with the Vice Chancellor of Student Affairs (or his or her designee) and must provide a picture ID to confirm the proper identity of the Respondent. Representatives, parents or authorized campus personnel will only be allowed in this meeting at the discretion of the Vice Chancellor of Student Affairs (or his or her designee) when deemed appropriate. In addition, a FERPA release must be signed by the Respondent.
13. There shall be a single verbatim record of all Student Code meetings. The digital recording⁴⁷ shall be the property of 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.
14. Vice Chancellor of 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 of Student Affairs (or his or her designee) meeting will be scheduled at the convenience of the Vice Chancellor of Student Affairs (or his or her designee), however, all efforts will be made to

⁴⁷ 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.

schedule the meeting as soon as possible (considering the student's on campus schedule).

- b. Requests for a continuance shall be at the discretion of the Vice Chancellor of Student Affairs (or his or her designee).
- c. The Vice Chancellor of 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-g)], UHMC will keep the report 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 of Student Affairs (or his or her designee) may request the presence of Campus Security during any conduct meeting.
- d. In cases involving more than one Respondent, the Vice Chancellor of Student Affairs (or his or her designee), will conduct the meetings separately, to determine the responsibility of each student.
- e. The tone of the meeting will be educational and not adversarial.
- f. If a disruption occurs during the meeting, the Vice Chancellor of 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 of 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, Article III(B)(19)(b): "Abuse of Student Conduct Code process, including but not limited to : b. Disruption or interference with the orderly conduct of the Vice Chancellor of Student Affairs (or his or her designee).
- g. The Respondent will be provided 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 of Student Affairs (or his or her designee) before a final decision is made.
- h. The Vice Chancellor of 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.
- i. The parties may provide the Vice Chancellor of 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 of Student Affairs (or his or her designee) in understanding their version of events. Pertinent information

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

- j. During the meeting, the Vice Chancellor of 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 to have violated. However, the Vice Chancellor of Student Affairs (or his or her designee) may also consider a different charge if he or she believes the facts support (a) charge(s) different than the charge(s) the Respondent was originally charged with. If the charge(s) is/are different from the charge(s) listed in the original notification, then the Vice Chancellor of Student Affairs (or his or her designee) will discuss or notice the Respondent so that he/she may respond appropriately to the new charges.
 - k. The Vice Chancellor of 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.
 - l. 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 the Student Code process.
15. 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 report, or further the fact-finding based on information provided by the Respondent.
16. 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
17. 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.
18. If a decision is made to formally charge the Respondent, the Respondent shall be communicated verbally during the meeting with a follow up in writing via

email from the Vice Chancellor of Student Affairs (or his or her designee) to the student's UHMC email address stating the formal charge(s) and the sanctions imposed.

19. If the Vice Chancellor of 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 of Student Affairs (or his or her designee) will consider (an) appropriate sanction(s).
20. 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 of 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(s).
21. The Vice Chancellor of Student Affairs (or his or her designee) may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the Vice Chancellor of Student Affairs (or his or her designee), 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)].
22. 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-g)] 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).
23. Both parties will be given information regarding the status of the case when it has been resolved by the Vice Chancellor of Student Affairs (or his or her designee) via email. Information regarding the appeal process shall be made available to both parties.
Due Process procedures apply to complaints of unlawful discrimination or re
24. lated 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 Amendment of 1972, 20 USC 1681 et seq.

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) & (6-20) 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 or related assignments.
 - f. **UH Maui College 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, if any, 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. Recommend a system sanctions.⁴⁸
 3. 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.
 4. More than one of the sanctions listed above may be imposed for any single violation.
 5. 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.)
 6. Once the Vice Chancellor of 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 of Student Affairs (or his or her designee) shall make a final determination of the sanction to be imposed, taking into consideration all information available to the Vice Chancellor of Student Affairs (or his or her designee), if applicable.
 7. The Vice Chancellor of Student Affairs (or his or her designee) shall advise the Respondent, group and/or organization in writing via email of the

⁴⁸ University of Hawaii Executive Policy EP 7.205

decision and of the sanction(s) imposed, if any.

C. Interim Suspension

In certain circumstances, the Vice Chancellor of Student Affairs (or his or her designee), may impose an interim suspension prior to the Vice Chancellor of 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 of Student Affairs (or his or her designee) and last for no more than ten (10) working days (Saturdays, Sundays and Holidays are not included). The 10-day period may be extended for good cause by the VCSA (or his or her designee) 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 (or his or her designee) 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 of Student Affairs (or his or her designee) meeting, submission of sanctions (if any), and if required, may include appeal processes (if any).

D. Appeals

1. **A decision reached by the Vice Chancellor of Student Affairs (or his or her designee)** may be appealed by either the Respondent(s) or the Complainant(s) within ten (10) working days, excluding Saturday, Sunday, and Holidays of the decision (postmarked or dated). Such appeals shall be

in writing and must be delivered to the Office of the Vice Chancellor of Student Affairs or submitted using the online appeal form here: <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 an appeal has been submitted by one party, a copy of the appeal will be sent to the other party to allow the non-appealing party to respond, if they chose. The non-appealing party will be given (3) working days, excluding Saturday, Sunday and Holidays, 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 of 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 unknown or 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 of Student Affairs (or his or her designee) (This option is available **only** available in cases where there is a recording of the Vice Chancellor of 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. **If an appeal is granted**, then the designated 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**. Decisions of the Appellate Officer when an appeal is granted are as follows:
 - a. Assign to another Student Conduct Officer and re-notice the student in accordance with the procedures (start the whole process over).
 - b. Consider the new information presented and make the final determination

of responsibility.

- c. Issue appropriate sanctions that are proportionate to the severity of the violation.

The Appellate Officer may request written clarification from the parties, or involved faculty or staff (investigators, previous decision maker) that the Appellate Officer deems appropriate to make a determination regarding the appeal.

The decision of the Appellate Officer (or a Student Conduct Officer, when the case is assigned by an Appellate Officer for the appellate purpose) when made in any circumstances listed above, shall be final and binding upon all involved.

6. **If an appeal is denied by the Appellate Officer**, the matter shall be considered final and binding upon all parties involved.

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 seven (7) 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.

ARTICLE V: INTERPRETATION AND REVISION

- A. Any question of interpretation or application of the Student Code shall be referred to the VCSA (or his or her designee) (for Student Code cases) or 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 beginning in September and completed by December 31st of every year, 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.

Appendix I: Student Infectious Disease Mitigation in Response to COVID-19³⁴

Purpose:

Purpose of this addendum, is to make clear during the COVID-19 pandemic how health and safety requirements, including those incorporated in the [University of Hawai'i COVID-19 Guidelines \(Interim\)](#) are incorporated into EP 7.208.

Background:

The mission of the 10-campus system, as the state's only public institution of higher education, is to provide environments in which faculty, staff and students can discover, examine critically, preserve and transmit the knowledge, wisdom, and values that will help ensure the survival of present and future generations with improvement in the quality of life. In carrying out that mission, it is the basic purpose of the university to afford all qualified people in Hawai'i an equal opportunity for quality college and university education at both undergraduate and graduate levels.

In fulfilling that mission during the COVID-19 pandemic, the UH's top priority is the health and safety of its students and employees as we face the myriad of challenges caused by COVID-19. As members of the UH ohana, we have obligations to ourselves and to each other to abide by health and safety requirements and guidelines established by federal, State, county and the University relating to COVID-19. Because of the imposing nature of the health and safety requirements during a pandemic, this addendum is deemed necessary to make clear the University's expectations and requirements, and the consequences of failure to meet those requirements.

COVID-19 Expectations

The University of Hawai'i has established expectations for students, staff, faculty and visitors interacting on campuses related to the COVID-19 pandemic and public health concerns. These guidelines are available here: <https://www.hawaii.edu/covid19-guidelines/>. Additionally, individual University of Hawai'i campuses have established additional

³⁴ University of Hawaii Executive Policy EP 7.208 [COVID-19 & Student Conduct Code Appendix 2020.08.10](#) (2020-08).

guidelines to further communicate measures and expectations of those interacting on campus:

- Mānoa
- Hilo
- WestO‘ahu
- Hawai‘i
- Honolulu
- Kapi‘olani
- Kaua‘i
- Leeward
- Maui
- Windward

Proscribed Conduct:

Section IV.B of EP 7.208 enumerates behavior proscribed by the Student Conduct Code. The following examples of misconduct are illustrative of how behaviors that violate federal, State, county, UH System or campus COVID policies and guidelines may constitute violation of the Student Conduct Code and be subject to progressive disciplinary action. Established institutional Student Conduct Code procedures will be administered for all alleged violations before students are denied any educational opportunity, including attending classes or living on campus, afforded to them as a University of Hawai‘i student. Due to the severity of public health risk, students in violation may be asked to be removed from the class, building/office, or campus immediately.

Violations may include, but are not limited to:

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

- Example: Failure to heed the instructions of faculty with respect to physical distancing in lab spaces.
- Example: Failure to heed the instructions of faculty with respect to face coverings in classroom spaces.

IV.B.3. Any conduct that threatens or endangers the health or safety of any person including but not limited to, physical abuse, verbal abuse, threats, intimidation, harassment, bullying, coercion, stalking as defined below.

- Example: Belligerent behavior towards faculty, teaching assistants, staff and other students when reminded of the need for proper face coverings in indoor spaces (including classrooms) and outdoor spaces where social distancing is not being practiced.
- Example: Failure to heed instructions when reminded of proper face coverings and physical distancing in indoor spaces and outdoor spaces.

IV.B.4. Creation of health and/or safety hazards, e.g., dangerous pranks, hanging out of or climbing from/on/in windows, balconies, roofs.

- Example: Failure to wear face coverings correctly while interacting with others.
- Example: Gathering in groups and interacting with others and not properly wearing face coverings and practicing social distancing in indoor spaces and outdoor spaces.

IV.B.10.: Failure to comply with any directions of UH officials or law enforcement officers acting in performance of their duties and/or failure to provide identification to these persons when requested to do so.

- Example: Failure to show UH COVID App clearance when on campus or at a UH-sponsored event, when requested.

IV.B.12.: Violation of any UH policy, rule, regulation, contract, or agreement published in hard copy or available electronically on any UH website <https://www.Hawaii.edu/policy/>.

- Example: Failure to follow the COVID Guidelines (Interim), <https://www.hawaii.edu/covid19-guidelines/>
- Example: For those participating in the University's modified quarantine program, violating the terms of the "Pre-Travel Agreement Between the University of Hawai'i and An Out-of-State Student Choosing to Participate in the Modified Quarantine Program".
- Example: Failure to conduct daily health self-screenings via the UH app when planning to be on campus or at a UH sponsored event.

IV.B.13.: Violation of any federal, state or local law.

- Example: Violating applicable provisions of the State of Hawai'i Emergency Proclamations, which have the force and effect of law (and which also may involve criminal sanctions):
 - <https://governor.hawaii.gov/covid-19/>

- https://governor.hawaii.gov/wp-content/uploads/2020/07/2007090- ATG_Tenth-Supplementary-Proclamation-for-COVID-19- distribution-signed.pdf, and any subsequent proclamations, e.g., https://governor.hawaii.gov/wp-content/uploads/2020/08/2008022- ATG_Eleventh-Proclamation-for-COVID-19- distribution-signed.pdf
- Example: Violating applicable provisions of the various county emergency orders and proclamations, including those relating to the wearing of facial coverings, physical distancing, and limitations on gatherings, which also have the force and effect of law (and which also may involve criminal sanctions):
 - City & County of Honolulu: <https://www.honolulu.gov/mayor/proclamations-orders-and-rules.html>
 - County of Kauai: <https://www.kauai.gov/covid-19>
 - County of Maui: <https://www.mauicounty.gov/2370/COVID-19-Coronavirus-Information>
 - County of Hawaii: <https://www.hawaiicounty.gov/departments/civil-defense/active-emergency-proclamations>

Sanctions:

Pursuant to EP 7.208, sanctions, as defined by the Student Conduct Code procedures, may be issued upon a student found responsible for violating the rules and standards contained within the Student Conduct Code and are intended to be primarily educational in nature. Student Conduct Administrator reserves the discretion to impose sanctions commensurate with the violations found to have occurred, up to and including expulsion. Repeat violations of the Student Conduct Code will be subject to progressive discipline.

Once a student has been found responsible for violating the Student Conduct Code, the Student Conduct Administrator will use all information available, including but not limited to: prior violations of the Student Conduct Code (if any), community service involvement, and/or employment to determine (an) appropriate sanction(s). Specifically, with respect to this Addendum, the Student Conduct Administrator will consider facts relevant to the student's level of disregard for the student's own health and safety, as well as for the health and safety of others.

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/>] or 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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