

## **REFERENCE SECTION**

**R-1**

[*Duplicated text of APPENDIX T*]

**TEMPORARY DISABILITY\***

Sick Leave Policy for Faculty Members of the University of Hawaii

August 1977

Every eligible Faculty member of the University of Hawaii, including Community College Faculty, not covered by an approved sick leave plan shall be entitled to receive in the aggregate, a minimum of three (3) calendar weeks of sick leave. Should a Faculty member be entitled to earn and accumulate sick leave by any other policy, he shall be entitled to the number of days necessary to aggregate a minimum of three (3) calendar weeks by this policy.

Coverage under this policy shall extend 14 days beyond the termination of the appointment period and shall include leave required due to complications arising from pregnancy or its termination thereof of any eligible appointee unless equal coverage is provided by any other sick leave plan or Temporary Disability Insurance Plan.

Approved by Board of Regents  
September 16, 1971

\*NOTE: This policy was approved by the Board of Regents for all eligible Faculty members of the University of Hawaii to comply with the requirements of the State's Temporary Disability Insurance Law.

[Duplicated text of Board of Regents Policy Chapter 9, Section 15]

**SECTION 9-15, EVALUATION OF BOARD OF REGENTS' APPOINTEES**

Section 9-15 Evaluation of Board of Regents' Appointees

- a. Board of Regents' appointees will be evaluated periodically in accordance with the guidelines below and the specific procedures developed by the appropriate administrative offices to implement this policy. These performance evaluations shall be conducted in order:
  - (1) to provide assurance to the University and its constituents that professional staff resources and particular areas of expertise are being used to the best advantage;
  - (2) to provide for the systematic recognition of excellence and develop incentives for superior performance; and
  - (3) to provide means for the improvement of performance in furtherance of the University's mission.
- b. In recognition of the special role of the Faculty in the academic mission of the University, procedures for periodic review of Faculty performance must provide safeguards for academic freedom and shall provide the opportunity for participation of Faculty peers in the review process. Accordingly, each Chancellor, in consultation with appropriate Faculty governance organizations, shall develop procedures for such review which incorporate these principles. The procedure shall include a requirement for evaluation of every Faculty member at least once every five (5) years, and may provide for exempting Faculty who have undergone a review for reappointment, tenure, or promotion, or who have received a merit salary increase during this period. Faculty review procedures shall be submitted by the Chancellor for approval by the President.
- c. Administrative, Professional, and Technical (APT) employees shall be evaluated at least once every three years according to procedures approved by the President.
- d. Employees in the Executive and Administrative/Managerial classification shall be evaluated annually as specified in Section 9-14.
- e. For any campus which does not have an approved Faculty review procedure development in accordance with Section b. for implementation in academic year 1981-82, Faculty shall be evaluated according to procedures approved by the President. These procedures shall remain in effect until procedures developed in accordance with Section b. are approved and implemented. (Oct. 16, 1981)

[Duplicated text of Board of Regents Policy, Chapter 9, Section 16]

**SECTION 9-16, TEACHING ASSIGNMENTS FOR INSTRUCTIONAL FACULTY**

Section 9-16 Teaching Assignments for Instructional Faculty. The instructional Faculty of the University of Hawaii has duties and responsibilities that encompass a number of professional activities in addition to teaching. The nature and scope of these additional duties depend on the particular mission of the unit and program and the relationship of that mission to the Faculty member's professional qualifications. As instruction is the University's highest priority, however, teaching remains the most important duty of its Faculty. This policy sets standards for the assignment of the instructional component of Faculty responsibilities.

a. Except as otherwise provided herein, the standard teaching assignments for full-time instructional Faculty shall be as follows:

- (1) 24 semester credit hours per academic year at the University of Hawaii at Manoa,
- (2) 24 semester credit hours per academic year at the University of Hawaii at Hilo, excepting Hawaii Community College,
- (3) 24 semester credit hours per academic year at the University of Hawaii at West Oahu, and
- (4) 30 semester credit hours per academic year in the University of Hawaii Community Colleges, and at Hawaii Community College.

b. The teaching assignments in Section a. refer to classroom lecture instruction. For other modes of instruction (clinical practice, laboratory, thesis supervision, etc.), each Chancellor shall develop and recommend:

- (1) an appropriate measure of the instructional activity (contact hours, number of students supervised, etc.), and
- (2) an equivalence relating the designated measure to semester credit hours.

It is expected that the development of appropriate equivalents will involve consultation of the appropriate Faculty, department chairpersons, and academic deans.

Such equivalents shall be reviewed and approved by the President and reported to the Board of Regents upon their establishment or subsequent revision consistent with Board policy.

c. In recognition of the diverse responsibilities of the University and its Faculty, each Chancellor shall develop and recommend equivalents for specific non-instructional activities that are consistent with and in furtherance of the mission of the University unit and program.

It is expected that the development of appropriate equivalents will involve consultation of the appropriate Faculty, department chairpersons, and academic deans.

The definitions of these equivalents shall include:

- (1) a description of the professional activities for which they may be granted,
- (2) an explanation of the relationship of these activities to institutional and program mission and priorities, and
- (3) guidelines for determining the circumstances which warrant granting them.

Such equivalents shall be reviewed and approved by the President and reported to the Board of Regents upon their establishment or subsequent revision consistent with Board policy.

The implementation of this policy shall be the responsibility of the Chancellors of the respective units.

- d. Teaching assignments for part-time instructional Faculty or for Faculty paid less than full time from instructional funds shall be as in Section a. pro-rated by their fractional full-time equivalent in instruction.
- e. Each unit shall ensure against discriminatory teaching assignments. In addition, Chancellors shall establish procedures to monitor the effectiveness of teaching reductions for non-instructional duties.
- f. During the spring semester of academic year 1981-82, equivalencies shall be developed by April 30, 1982, in accordance with this policy, and teaching assignments beginning in fall semester 1982-83 shall be determined as set forth herein. (Jan. 22, 1982)

**R-4**

[Duplicated text of CCCM#2250 on Teaching Assignment Policy]

**UNIVERSITY OF HAWAII**

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**Office of the Chancellor for Community Colleges**

**MEMORANDUM**

July 2, 2001

TO:           Chancellor   Peggy Cha  
                                Angela Meixell, Interim  
                                John Morton  
                                Ramsey Pedersen, Interim  
                                Sandra Sakaguchi  
                                flo wiger, Acting  
                                Mark Silliman, Interim  
          Director    Kathy Jaycox, Interim

SUBJECT:      **CCCM#2250 Teaching Assignment Policy**

The attached CCCM#2250 represents the culmination of discussions concerning standard teaching assignments for community college Faculty.

Please note that the Board of Regents established standard remains as 30 semester credit hours per year. The attached policy clarifies equivalencies to be used when courses being taught are not standard lecture format, and includes details of standard teaching assignment reductions (Appendix 1) to be used for a variety of non-classroom activities.

Also noted that Appendices 3 and 4 contain the necessary forms for Faculty to request assigned time, and to provide their assigned time completion reports.

Please feel free to have people contact Vice Chancellor Rota at 956-7471 or [mrota@hawaii.edu](mailto:mrota@hawaii.edu) if they have any questions.

Joyce S. Tsunoda  
Chancellor

c:   Vice Chancellors  
      Faculty Senate Chairs

Attachment

## CHANCELLOR FOR COMMUNITY COLLEGES MEMO

CCCM# 2250 July 2001

SUBJECT: Teaching Assignment Policy

A. REFERENCES:

1. University of Hawaii Board of Regents Policy 9.16 - *Teaching Assignments for Instructional Faculty*.
2. University of Hawaii Administrative Policy on *Teaching Assignments for Instructional Faculty*, Office of the President, September 1990.
3. Board of Regents Policy Chapter 9-1a, *Appointments*.
4. Administrative Procedure, A9.235, *Administrative Stipends for Department Chairs, Special Program Directors and Chairs of Academic Subdivisions*.

B. PURPOSE:

This CCCM addresses the Community Colleges' implementation of the University of Hawaii Administrative Policy relating to the Board of Regents policy on Teaching Assignments for Instructional Faculty, to delineate the general duties and responsibilities of division/department chairs, to provide for the general criteria by which chairs are to be compensated, and to provide for the general criteria by which assigned time will be determined for chairs to perform their duties and responsibilities.

C. DEFINITION:

The University of Hawaii Board of Regents has established a standard teaching assignment for full-time Faculty in the Community Colleges as 30 semester credit hours per year (30 SCH/Yr), or equivalent.

The special mission of the Community Colleges has resulted in the establishment of a diverse group of educational programs which, in turn, has resulted in the establishment of equivalencies to the established BOR policy, expressed in terms of weekly class contact hours and student registrations. Class contact hours are defined as 50-minute periods during which Faculty members instruct or supervise groups of students.

At the present time, the following equivalencies to this 30 SCH/Yr standard teaching assignment are being utilized:

For Faculty members teaching science, business and/or basic academic skills classes which require a combination of lectures and laboratory exercises, 18 weekly class contact hours per academic year is equivalent to the standard teaching assignment.

For Faculty members teaching classes in technical/occupational programs, studio art and health and physical education, and/or basic academic skills classes, which require a different combination of lectures and laboratory or shop activities, 23-25 weekly class contact hours per academic year is equivalent to the standard teaching assignment.

For Faculty members teaching classes in Cooperative Education or Work Practicum where students are learning by working in business or industry, following a prearranged sequence of learning activities, 150 student registrations each academic year is equivalent to the standard teaching assignment.

For Faculty teaching under uniquely special circumstances, other equivalencies are defined on a case-by-case basis.

D. POLICY:

Faculty Responsibilities. The responsibilities of Faculty generally involve two (2) distinct categories of activities, assigned instructional activities, and non-instructional activities.

1. Instructional Activities

This category refers to teaching and teaching-related activities such as curriculum development; preparing for and conducting class meetings, including: laboratory, studio, clinical, practicum, or shop practice; developing instructional materials; preparing and grading assignments and examinations; conferring with students about course work; non-credit and community services instructional offerings; engaging in other teaching-related activities; academic advising and career counseling of students; recruiting students; evaluating student transcripts and life experience equivalencies; assisting students in planning their programs of study; advising student groups; serving as a mentor to individual students; other related student life and student support activities; and other "hours arranged" such as credit by examination and independent study.

2. Non-Instructional Activities

a. Professional Development.

This category refers to those activities that contribute to the continued development of the professional competence of a Faculty member. It includes reading that is related to the individual's discipline and the profession; keeping current with industry standards and technologies; proposal and grant application writing; attending conferences, conventions, seminars, professional meetings, and workshops; significant scholarly activities including taking credit and non-credit courses; engaging in professional discussions with colleagues; participating in staff development activities; etc.

b. Institutional Service.

This category refers to a broad spectrum of activities, including: library and academic support service; general administration (serving as department or division head or Faculty senate/council chair, writing correspondence, keeping records, preparing budgets, ordering supplies, materials, and equipment, etc.); attending meetings and functions common to University campuses; serving on University committees; systemwide special project coordination; acting as a campus public relations liaison; technical systems designer; holding office or serving on committees of Faculty senate/councils and other recognized Faculty organizations; acting as special project leader or conference coordinator; engaging in major curriculum revision, new program development, institutional assessment, and proposal or grant application writing; assignment as student activities coordinator, student development coordinator, or managing a laboratory, studio, or shop; coordinating with outside agencies; and other academic duties that are part of the assigned responsibilities.

c. Scholarly Endeavors.

This category refers to a broad range of intellectual and creative activities related to the Faculty member's professional expertise. These activities typically result in some type of publication, performance, or display that is judged by peers at the state, national, or international levels. Activities in this category include: conducting institutional and/or pedagogical research; writing text books; writing articles or reviews; development of new instructional methods, procedures or techniques; etc.

d. Professional Service.

This category includes uncompensated service to a state, national, or international organization, related to the Faculty member's professional status, as an officer, board member, journal editor, etc.; serving as a mentor to junior Faculty members and lecturers.

e. Public Service.

This category refers to uncompensated activities which normally occur outside of the college and are related to the Faculty member's professional status. These activities include consulting; making speeches to public groups; playing a leadership role in public organizations; conducting on-campus conferences and workshops for the benefit of the community at large; writing for non-academic

publications; providing expert testimony; providing expert technical assistance to federal, state, and/or county agencies; and other related activities that serve the public.

Allocation of the Standard Teaching Assignment. The duties and responsibilities of full-time Faculty members consist of a combination of instructional and non-instructional activities designed to conform with established Board of Regents policy. The "mix" of these activities may vary from individual to individual.

When the combination of these activities exceed that which is normally expected of an individual Faculty member, the standard teaching or service assignment (30 SCH/Yr, or equivalent) may be reduced.

Appendix 1 details the normal range of semester credit hour equivalencies on a per semester basis which may be assigned to Faculty members for selected non-instructional activities. If special circumstances arise, the Chancellor may request approval from the Chancellor to make modifications to the established range of semester hour equivalencies.

The reduction in the Standard Teaching Assignment is to provide Faculty who have assumed responsibilities beyond the normal expectation the time necessary to meet both their remaining teaching obligations, and the demands of their additional responsibility. Therefore, except for unusual circumstances, an overload payment will not be made in lieu of the teaching assignment reduction.

The amount of teaching assignment reductions may result in less than a full class reduction. The excess credits may be banked for future teaching assignment reductions. The total of banked teaching assignment reductions may not exceed six SCH during any semester. However, at the request of the Faculty member, any banked credits remaining at the end of the academic year may be paid in overload rather than carried over to the following year.

The list of non-instructional activities identified in Appendix 1 and the range of credit hours to be assigned to each may be modified by the Chancellor.

E. PROCEDURES:

In implementing reductions to the standard teaching assignment, the following will occur:

1. In those instances where the reduction is made as a consequence of appointment to department or division chair or other to quasi-administrative positions, selection as committee chair, or other assignments described in the categories indicated above, appropriate Community College Policies and Procedures will be invoked to accomplish the reduction. Appendix 2 details the roles, responsibilities and teaching assignment procedures for department/division chairs and discipline coordinators.
2. In those instances where the reduction is to be made at the request of the Faculty member:
  - a. Prior to the semester in which a teaching assignment reduction is to occur, the Faculty member will submit a request for a reduction in the BOR standard assignment for the coming semester through their division chair to the Dean of Instruction or the Dean of Student Services (depending upon the locus of their assignment). Each campus shall establish internal deadlines for the submission of those requests. The form for submitting the request is contained in Appendix 3.
  - b. Written department/division standards of performance for Faculty activity, and the above listed equivalencies, as may be modified, will be consulted to determine the teaching assignment.
  - c. At the end of the year, each Faculty member who has received a reduction of teaching assignment will submit a report via the department/division chair to the Dean of Instruction or the Dean of Student Services (depending upon the locus of their assignment) in which the contributions in the prior year, as they relate to the time assigned, are described. The form for submitting that report is contained in Appendix 4.
  - d. The Chancellor, or designee, will oversee the assignment reduction policies and procedures which are used in their respective college. Appeals for review of an individual Faculty member's teaching assignment may be made to the Chancellor.
3. At the end of each year, the Chancellor shall send to the Chancellor a listing of all Faculty who have received assigned time using the form in Appendix 5.

F. RECISIONS

CCCM 2250 Teaching Assignment Policy, July, 1991  
CCCM 2500 Department/Division Chairs, January, 1999

Joyce S. Tsunoda  
Chancellor for Community Colleges

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**APPENDIX I  
STANDARD TEACHING ASSIGNMENT REDUCTIONS**

The following list shall serve as a general guide to the normal range of credit hour equivalencies on a per year basis which may be assigned to Faculty members for selected activities.

I. Division or Department Chair (6-24 SCH\*)

The division or department chair is an official position providing mid-level management as designated on the various campus organizational charts. The amount of teaching load reduction provided to the department chair is based on a number of factors, including: the number of personnel in the department, the number of programs administered, and the size of the departmental budget.

II. Program Coordinator (2-6 SCH)

A program coordinator has responsibility for managing various aspects of a program or its equivalent. Programs include all A.S. degree programs (unless managed by the department chair) and those special areas of emphasis within the non-A.S. programs as designated by the campus. Programs may also include major support activities or program initiatives such as service learning or freshman year experience which are not assigned as regular duties to a Faculty member.

The duties of the program coordinator may include development and maintenance of relationships with business and industry, liaison with program accreditation or other external certification organizations, maintenance of laboratory facilities, shops and equipment, and overall coordination of the students, curriculum, and personnel associated with the program. For all designated campus programs, the amount of teaching load reduction provided to the program coordinator is based on the specific duties assigned to the coordinator and the size and scope of the program.

III. Discipline Coordinator (1-6 SCH)

A discipline coordinator has responsibility for overall coordination of courses within the discipline, e.g., selection of textbooks, updating and developing course curriculum, maintenance of laboratory facilities, shops and equipment, and overall coordination of the students, and personnel associated with the discipline. The amount of teaching load reduction provided to the discipline coordinator is based on the specific duties assigned to the coordinator.

IV. Faculty Governance Leadership (1-6 SCH)

Faculty governance positions include those leadership positions within the campus Faculty Senate. Not all members of the Faculty governance organization shall necessarily receive teaching load reductions. The following positions shall be granted a teaching load reduction:

Faculty Senate Chair (3-6 SCH)  
Curriculum Committee Chair (2-6 SCH)

Other governance positions as designated by the campus may receive a teaching load reduction of 1-3 SCH.

V. Other Teaching Load Reductions

A Faculty Member who teaches 15 or more SCH\* in the Fall 2003 semester and any semester thereafter shall be granted a minimum three SCH teaching assignment reduction in the following semester for activities such as, but not limited to, the following:

1. curriculum development
2. curriculum revisions
3. program development
4. program revisions
5. research and development in teaching pedagogy
6. development of grant or contract proposals
7. institutional service
8. providing expert technical assistance to federal, state, county, and other agencies that serve the public and benefit the college or UH system
9. community service
10. student mentoring
11. professional development
12. mentoring junior Faculty members

In the semester immediately preceding that in which the course reduction will take place, the eligible Faculty Members shall consult with their department or division chair about the nature of the activity they intend to pursue. The purpose of this consultation is to seek alignment between the proposed activity and college or system needs. Following the meeting, a brief form shall be filed with the department or division chair documenting the agreed-upon activities.

The amount of teaching assignment reductions may result in less than a full class reduction. The excess credits may be banked for future teaching assignment reductions. The total of banked teaching assignment reductions may not exceed six SCH (Semester Credit Hours\*) during any semester.

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\*SCH = Semester Credit Hours or equivalent contact hours. Equivalent contact hours are used for Faculty whose teaching assignments are calculated by student contact hours or a combination of both credit and contact hours, e.g., food service, nursing, laboratory, and other vocational programs.

R-5

[Duplicated text of Board of Regents Policy Chapter 9, Section 5]

**SECTION 9-5, POLITICAL ACTIVITY**

Section 9-5 Political Activity. The Regents believe that it is the right of employees as citizens to engage in politics so long as these activities do not interfere with their University duties or violate established rules of the University. Furthermore, the Regents have expressed the belief that political activities by employees, in accordance with the following statement, should result in no embarrassment to the University nor detrimentally affect these policies.

It is expected that University employees will use appropriate discretion in the exercise of the political rights which they share in common with other citizens; that they will be careful always to emphasize that their utterances and actions in political matters are theirs as individuals and in no manner represent the University; that they will always recognize that their first obligation is to the University; that they will accord the University administration the courtesy of prior notice of any political commitment which is likely to bring them into prominence.

Because of a conflict in interest and/or an appearance of impropriety in campaigning for and holding a partisan public elective office and being employed at the University, the Board of Regents has established the following policy in regard to campaigning for and holding such an office.

All employees under the jurisdiction of the Board of Regents seeking a partisan public elective office shall, without exception:

1. Request, or in absence of such request be placed on a leave of absence without pay in accordance with University policy upon actively seeking political office, but in no event later than the filing of nomination papers or the announcement of candidacy for such office;
2. Be subject to the general University policies governing appearances and activities of political candidates on campus;
3. Insure that they do not give the appearance that their views, utterances and/or actions are representative of the University; and
4. Be separated from University service through either resignation, or termination upon assumption of the elective office. (Aug. 30, 1966; Feb. 19, 1982)

R-6

[Duplicated text of UH Systemwide Administrative Procedures, A9.350 LEAVES]

**A9.470 LEAVE SHARING**

February 1996

This replaces Administrative Procedure No. A9.470 dated March 1995.

**A9.470 LEAVE SHARING**

1. Purpose

To administer the Leave Sharing Program for University employees under the authority of Title 14, Subtitle 1, Chapter 8.1, Hawai'i Administrative Rules.

The Leave Sharing Program is intended to allow employees to help ease the burdens of fellow employees who would otherwise need to take time off from work without pay to recover from a serious injury or illness. Such a program shall ensure:

- a. fair treatment and freedom from coercion of employees,
- b. that there will be no undue hardship on the department's operations, and
- c. that an employee shall not directly or indirectly intimidate, threaten or coerce any other employee for the purpose of interfering with any right such employee may have with respect to donating, receiving or using shared leave under this program.

This Leave Sharing Program shall remain in effect until June 30, 1996.

2. Definitions

- a. Direct Share Option: A Leave Sharing Program option whereby an eligible employee specifies the eligible co-worker to whom they wish to donate shared leave.
- b. Donation: Vacation or sick leave credits donated by eligible employees. Donations must be made in increments of no less than one (1) hour.
- c. Leave Bank Option: A Leave Sharing Program option under which eligible employees donate shared leave credits to the University's Central Leave Bank without designating a specific eligible co-worker.
- d. Serious personal injury or illness: An acute, traumatic, or life threatening illness, injury or impairment, such as cancer, heart attack or disabling accident:
  - 1) which may be a physical or mental condition;
  - 2) which is certified by a physician, as defined under Chapter 386-1, H.R.S., Hawai'i Workers' Compensation Law, as being totally incapacitating and the cause of the employee's inability to work for at least thirty (30) consecutive calendar days, and
  - 3) which is not covered under Chapter 386, Hawai'i Workers' Compensation Law.

3. Objective

- a. To allow eligible employees the opportunity to apply for or donate to the Leave Sharing Program.
- b. To prescribe the procedures to be followed in applying for or donating to the Leave Sharing Program.

4. Applicability

- a. These procedures shall apply to all University employees who are entitled to earn sick and/or vacation leave.
- b. Employees who are federally funded may donate vacation leave credits, but may not receive shared leave credits under this program due to federal work certification requirements.
- c. Employees of the University of Hawai'i shall not donate or receive leave credits with employees of other state departments.

5. References

ACT 157, S.L.H. 1993, Relating to public officers and employees.

Section 14-8.1-1 through Section 14.8.1-11, Title 14, Chapter 8.1, Hawai'i Administrative Rules.

Article III (H), Leave Sharing, Unit 07 Collective Bargaining Agreement.

6. Responsibilities

- a. The Director of Human and Material Resources or designee shall appoint a Leave Sharing Review Committee to administer the Central Leave Bank. The committee shall be comprised of at least three members, one of which shall be a representative from the Personnel Management Office, who shall chair the committee.
- b. The Leave Sharing Review Committee shall be responsible for overall management of the Leave Sharing Program, and shall:
  - 1) Define the general framework for promoting, understanding, and knowledge of the Leave Sharing Program.
  - 2) Respond to questions related to leave sharing as they affect employees and this program.
  - 3) Review all matters relating to appeals under Section 8(e) of this procedure.
  - 4) Assist the departments/units in conducting periodic publicity campaigns informing employees of the Leave Sharing Program.
  - 5) Monitor all donations into the Central Leave Bank and determine the distribution of leave credits from the Central Leave Bank.
  - 6) Consult with the Department of Human Resource Development concerning unusual situations and/or circumstances.
- c. The Employee Benefits and Training Section within the Personnel Management Office shall coordinate, as necessary, the activities of the Leave Sharing Review Committee.
- d. Personnel/Administrative Officers within their respective units shall implement this procedure. The Personnel/Administrative Officer shall:
  - 1) Inform their employees that they may donate vacation leave credits or request leave credits under this program. For employees who do not earn vacation leave, but earn sick leave credits, inform such employees that they may donate sick leave credits or request leave credits under this program.
  - 2) Assure that a leave bank option and a direct share option shall both be available to employees to encourage maximum participation in the program.
  - 3) Ensure that an employee is not directly or indirectly intimidated, threatened or coerced with respect to donating or receiving shared leave under this program.

- 4) Review for eligibility and correctness all donations and requests for shared leave.
- 5) Ensure that all official leave and attendance records are properly maintained with respect to donated leave and shared leave received by recipients.
- 6) Monitor leave sharing recipient's medical condition on a monthly basis to ensure that their condition continues to be due to a serious injury or illness.
- 7) Forward appeal requests to the Leave Sharing Review Committee for review and action.

7. Guidelines

a. Conditions for Donating Shared Leave

- 1) An employee must meet all of the following conditions to be eligible to donate shared leave credits:
  - a) Employees who earn and use sick and vacation leave shall only donate vacation leave credits, provided that the employee's vacation leave balance is not less than ten (10) days of vacation after the donation is made. Employees who do not earn vacation leave shall donate their sick leave credits, provided that the employee's sick leave balance is not less than thirty (30) days after the donation is made.
  - b) An employee must not have asked for nor accepted anything of value in exchange for the donation of leave credits.
- 2) All donated vacation or sick leave credits are irrevocable.
  - a) A vacation leave or sick leave donation shall not be refunded to the donor once it is transferred to the leave recipient or to the Central Leave Bank.
  - b) Any donated leave credits that are transferred to but not used by the eligible leave recipient shall revert to the Central Leave Bank to be available for use by other eligible recipients.
- 3) Leave shall be donated in increments of no less than one (1) hour.

b. Conditions for Receiving Shared Leave

- 1) An employee must meet all of the following conditions to be eligible to receive shared leave credits:
  - a) Has been employed at the University in a Board of Regents or Civil Service position for at least six (6) continuous months at a minimum of 0.5 (one-half) FTE.
  - b) Has exhausted or is about to exhaust all vacation leave, sick leave and compensatory time credits.
  - c) Is suffering from an acute, traumatic or life threatening personal injury or illness which caused the employee to be absent from work for at least thirty (30) consecutive calendar days within the past twelve (12) months.
  - d) Has a personal injury or illness not covered under Chapter 386, H.R.S., Hawai'i Workers' Compensation Law, or if covered, has exhausted all benefits.
  - e) Is determined to be ineligible for temporary disability benefits or, if eligible, has exhausted all benefits.
  - f) Has no disciplinary record of sick leave abuse within the past two (2) years.

- 2) An eligible employee can receive no more than a combined cumulative total of 240 days of shared leave credits for the duration that the employee is employed with the University. Nine-month employees can receive no more than 180 days of shared leave credits.
- 3) An employee need not have donated leave to be eligible to receive shared leave.
- 4) If an employee is incapable of applying for shared leave credits, an authorized representative may apply on the recipient's behalf.
- 5) While using shared leave credits, an eligible recipient shall continue to earn sick and/or vacation leave credits, consistent with applicable leave provisions. Such earned sick and/or vacation leave credits shall be used prior to receiving shared leave credits in accordance with current leave accounting practices.
- 6) In the event that a leave recipient is found to be entitled to benefits under Chapter 386, H.R.S., after shared leave has been granted, all approved shared leave credits transferred to the leave recipient shall be rescinded. The employee shall reimburse any salary amount previously paid under this Leave Sharing Program.

8. Procedures

a. Donating Shared Leave Credits

- 1) An employee may donate leave directly to another employee via the direct share option. The steps in the donation process are as follows:
  - a) The employee shall complete and submit a UH Form 68 (PERS), Leave Sharing Donation Form (Attachment 1).
  - b) The supervisor shall review the UH Form 68 (PERS), Leave Sharing Donation Form (Attachment 1) for correctness and forward to their respective Personnel/Administrative Officer within their unit.
  - c) The Personnel/Administrative Officer shall review the donation request in accordance with the eligibility guidelines set forth in Section 7(a) of this procedure.
  - d) If approved, the Personnel/Administrative Officer shall follow the appropriate instructions on Attachment 4 in processing the donation request. A copy of the UH Form 68 (PERS), Leave Sharing Donation Form (Attachment 1) shall be provided to the employee, the employee's supervisor and the Leave Sharing Review Committee once the donation request has been processed.
  - e) If the donation is to an employee of another department/college, the Personnel/Administrative Officer shall contact the employee's Personnel/Administrative Officer to verify whether or not the employee has been deemed eligible to receive shared leave credits under the Leave Sharing Program. If approved, the donating employee's Personnel/Administrative Officer shall process the donation request as indicated in the instructions in Attachment 4. A copy of the UH Form 68 (PERS), Leave Sharing Donation Form (Attachment 1) shall be forwarded to the donor employee, donor employee's supervisor, recipient's Personnel/Administrative Officer and the Leave Sharing Review Committee.
  - f) If the leave donation request is disapproved, the Personnel/Administrative Officer shall return the original UH Form 68 (PERS), Leave Sharing Donation Form (Attachment 1) to the employee's immediate supervisor along with a reason for the denial. The immediate supervisor shall return the leave donation request to the employee.
- 2) An employee may donate leave to the Central Leave Bank. The steps in the donation process are as follows:

- a) The employee shall complete and submit a UH Form 68 (PERS), Leave Sharing Donation Form (Attachment 1), to their immediate supervisor.
  - b) The supervisor shall review the form for correctness and forward to their Personnel/Administrative Officer within their respective unit.
  - c) The Personnel/Administrative Officer shall review the donation request in accordance with the eligibility guidelines set forth in Section 7 a. of this procedure.
  - d) If approved, the Personnel/Administrative Officer shall process the donation request in accordance with the instructions on Attachment 5. A copy of the approved UH Form 68 (PERS), Leave Sharing Donation Form (Attachment 1) shall be submitted to the Leave Sharing Review Committee and the donor once the leave donation is processed.
  - e) If the leave donation request is disapproved, the Personnel/Administrative Officer shall return the original UH Form 68 (PERS), Leave Sharing Donation Form (Attachment 1) to the respective donor's immediate supervisor along with a reason for the denial. The immediate supervisor shall return the leave donation request to the employee.
- b. Receiving Shared Leave Credits
- 1) An employee requesting shared leave may receive shared leave directly via the Direct Share Option and/or the Central Leave Bank Option. The steps which involve receiving shared leave are as follows:
    - a) The employee shall complete and submit a UH Form 69 (PERS), Leave Sharing Request Form (Attachment 2), along with a UH Form 49 (PERS), Certificate of Physician or Practitioner (Attachment 3) to their immediate supervisor.
    - b) The immediate supervisor shall review the forms for correctness and forward the request to their respective Personnel/Administrative Officer within their unit.
    - c) The Personnel/Administrative Officer shall review the forms in accordance with eligibility guidelines set forth under Section 7 b. of this procedure.
    - d) If the employee is eligible to receive shared leave, the Personnel/Administrative Officer shall follow the appropriate instructions on Attachment 6 in processing the shared leave request. A copy of the UH Form 69 (PERS), Leave Sharing Request Form (Attachment 2), along with the UH Form 49 (PERS), Certificate of Physician or Practitioner (Attachment 3), shall be sent to the employee, the employee's immediate supervisor and the Leave Sharing Review Committee within ten (10) working days after the receipt of request.
    - e) The Personnel/Administrative Officer shall monitor the number of shared leave credits used by the employee along with the number of shared leave credits available. The employee receiving shared leave credits shall continue to receive his or her current salary.
    - f) If the employee was on leave without pay status at the time the shared leave request was filed and has since been found eligible to receive shared leave credits, the Personnel/Administrative Officer shall generate a Payroll Notification Form to return the employee on paid leave status. For civil service employees, the Personnel/Administrative Officer shall notify the Personnel Management Office, Civil Service Section, in writing, to generate the State Form 5, Notification of Personnel Action, to return the employee on paid leave status. The period that the employee remains on paid status shall be dependent on the number of shared leave credits that were donated to the employee.
    - g) The number of shared leave credits received by the employee shall be dependent on the availability of leave donated and shall not be approved and processed for more than a month at a time. The recipient's sick or vacation leave balance shall not be affected as a result of receiving shared leave.

- h) The Personnel/Administrative Officer shall retain the original of all approved UH Form 69 (PERS), Leave Sharing Request Form (Attachment 2), along with the UH Form 49 (PERS), Certificate of Physician or Practitioner (Attachment 3), submitted under the Direct Share Option. Copies of the forms shall be submitted to the Leave Sharing Review Committee for monitoring purposes.
    - i) If the employee is not eligible to receive shared leave, the Personnel/Administrative Officer shall return the original UH Form 69 (PERS), Leave Sharing Request Form (Attachment 2), along with the UH Form 49 (PERS), Certificate of Physician or Practitioner (Attachment 3), to the employee along with a reason for the denial.
- c. The Leave Sharing Review Committee shall have overall responsibility of the Central Leave Bank, which shall include, but not limited to:
  - 1) Recording all donations into the Central Leave Bank.
  - 2) Processing leave credits from the Central Leave Bank in accordance with the procedures set forth in Attachment 7. If there are more than one (1) recipient approved to receive shared leave, the available leave credits shall be equally distributed to the leave recipients.
  - 3) Maintaining records of all copies of UH Form 68 (PERS), Leave Sharing Donation Form (Attachment 1), UH Form 69 (PERS), Leave Sharing Request Form (Attachment 2), and UH Form 49 (PERS), Certificate of Physician or Practitioner (Attachment 3).
  - 4) Reviewing all appeals under Section 10 of this procedure.
  - 5) Monitoring all leave sharing activities within the University.
- d. Termination of Shared Leave
  - 1) Approved shared leave shall be discontinued under the following situations:
    - a) The leave recipient separates or is separated from service.
    - b) The leave recipient no longer suffers from the illness or injury for which the shared leave was approved.
    - c) The leave recipient is found to be entitled to benefits under Chapter 386, H.R.S., or temporary disability benefits,
    - d) The leave recipient did not meet all of the conditions for eligibility under Section 7 b. of this procedure.
  - 2) The Personnel/Administrative Officer shall notify the recipient in writing whenever the approved shared leave shall be or has been terminated or rescinded.
  - 3) Adjustments shall be made to the recipient's compensation and leave records, as appropriate, for any period during which the shared leave has been terminated or rescinded.
  - 4) All unused shared leave credits by the recipient shall be returned to the Central Leave Bank.
- e. Appeal Procedures
  - 1) Any employee or the duly authorized representative of such employee whose application for shared leave is denied, in whole or in part, may appeal for a review of the decision by submitting a UH Form 76 (PERS), Appeal and/or Complaint Form (Attachment 8) within ten (10) days after receiving written notice of the denial or a notice of termination of shared leave benefits. The written request shall be addressed to the Leave Sharing Review Committee, Personnel Management Office, Employee Benefits and Training Section, and shall include the following information:

- a) A request to review the application for shared leave and the specific reasons for the reconsideration of the application,
  - b) The facts in support of the reconsideration; and
  - c) The remedy which the employee is seeking.
- 2) The Leave Sharing Review Committee shall convene within fifteen (15) days after receipt of the employee's request for review. A meeting with the employee or duly authorized representative at which time any materials, additional facts, documents or other evidence may be presented by the employee or their duly authorized representative.
  - 3) After considering the additional information, the Leave Sharing Review Committee shall render a decision. The Leave Sharing Review Committee shall be final and conclusive. Written notice of the decision to the employee shall be given within ten (10) working days from the date of the appeal meeting or at a mutually agreed later date based upon receipt of additional documentation, whichever is later.
- f. Termination of Leave Sharing Program
- 1) The Leave Sharing Program shall terminate on June 30, 1996 unless extended by the State Director of Personnel Services or repealed by law.
  - 2) If the Leave Sharing Program terminates before the end of the recipient's serious personal illness or injury, any shared leave granted to the recipient before the program's end shall remain available for use by the recipient until the termination of the serious personal illness or injury.
  - 3) Upon termination of the Leave Sharing Program, any shared leave remaining in the Central Leave Bank shall be considered forfeited and the leave bank dissolved.

[Duplicated text of Appendix S of the 1977 Faculty Handbook]

**COMMUNITY COLLEGE SICK LEAVE POLICY & PROCEDURES**

October 10, 1978

1. When Sick Leave Granted

Sick leave is granted when an employee is ill and unable to discharge his duties, or his presence at work is a health hazard to students or employees. (BOR 10/21/71)

2. Sick Leave Entitlement for Academic Year Faculty

- a. Personnel classified as "C" in the Community Colleges who are nine-month personnel for the full academic year shall be entitled to 18 days of sick leave. (BOR 10/21/71)
- b. Faculty members appointed after August 31 shall have entitlement prorated as follows: (BOR 10/21/71, Revised by UH BMI No. 2073)

First Semester

August.....	18 days
September.....	17 days
October.....	15 days
November.....	13 days
December to end of Semester.....	11 days

Second Semester

Start of 2nd Semester through January.....	9 days
February.....	7 days
March.....	5 days
April.....	3 days
May.....	1 day

3. Sick Leave Entitlement for Faculty on Calendar-Year Appointment

- a. Eleven-month personnel earn sick leave entitlement at the rate of 1-3/4 days per month (14 hours). Employees working less than 19 days in a calendar month shall receive less than 1-3/4 days as provided for in the following schedule: (BOR 10/21/71)

For	1	to	3	cal. days of service	0	working day of leave	
	4	to	7	cal. days of service	1/4	working day of leave	(2 hours)
	8	to	11	cal. days of service	1/2	working day of leave	(4 hours)
	12	to	15	cal. days of service	3/4	working day of leave	(6 hours)
	16	to	19	cal. days of service	1	working day of leave	(8 hours)
	20	to	23	cal. days of service	1-1/4	working days of leave	(10 hours)
	24	to	27	cal. days of service	1-1/2	working days of leave	(12 hours)
	28	or	more	cal. days of service	1-3/4	working days of leave	(14 hours)

- b. Such leave allowance shall be recorded and administered on a calendar-year basis, the allowance accruing during each calendar year being credited to the employee as of December 31 of each year. (BOR 10/21/71)
- c. For nine-month "C" employees, refer to page 9 on Sick Leave entitlement.

4. Accumulation of Sick Leave Days

- a. Sick leave available is equal to the number of days of cumulative sick leave which has been earned by the Faculty member plus the number of days of current annual sick leave to which he is entitled. Current annual sick leave entitlement will start the month an employee begins work. (BOR 10/21/71)
- b. Sick leave which is not used during the year for which it accrues shall accumulate and be available for succeeding years. (BOR 10/21/71)
- c. Accumulation of sick leave days shall have no limitation. (BOR 10/21/71)
- d. Personnel on the nine-month salary schedule receive their annual sick leave entitlement at the beginning of the year, or a prorated amount if appointed late. Under the present academic calendar, the entitlement should be recorded during the month of August, or later if a late appointment in accordance with the prorated schedule in item #1 herein. (BMI No. 2073)
- e. Should a nine-month Faculty member terminate prior to completion of an academic year, the entitlement must be reduced by 16 hours for each month of service not completed. (BMI No. 2073)
- f. A Faculty member leaving the community college shall retain his accumulated sick leave for a period of five years, after which time, should he return to service, his sick leave status will be that of a new employee. (BOR 10/21/71)
- g. Faculty members who were transferred or were recruited from the State Department of Education retain their accumulated sick leave when they join the community colleges. (BOR 10/21/71)
- h. Faculty members who were entitled to earn and accumulate sick leave on the Manoa and Hilo campuses of the University of Hawaii retain their accumulation when they transfer to the community colleges. (BOR 10/21/71)
- i. Instructional personnel at the Manoa and Hilo campuses of the University of Hawaii do not earn formal sick leave and consequently bring no accumulation when they transfer to the community colleges. (BOR 10/21/71)
- j. When a Faculty member is granted leave of absence without pay, the sick leave accumulation up to the time of leave will be registered and credited to him/her upon return to service. (BOR 10/21/71)

5. Illness at the Opening of the Academic Year

- a. A Faculty member who is ill and under the care of a licensed physician at the opening of the academic year will be allowed full pay sick leave from the beginning of the academic year up to the limit of his full pay accumulated sick leave available. (BOR 10/21/71)
- b. Upon return to work, Faculty member will be granted annual sick leave to which he/she is entitled for the balance of the year which may be applied retroactively to cover illness during the first days of the academic year. (BOR 10/21/71)

6. Leave for Physical Check-Up. Sick leave shall not be granted for a physical check-up unless it is illness-connected and required by a licensed physician in connection with treatment. (BOR 10/21/71)

7. Working Days Only to be Charged. In all cases of sick leave with pay, only actual school days will be charged against the amount of sick leave available. (BOR 10/21/71)

8. Absence During Part of the School Day. A Faculty member who leaves the campus because of illness may be considered present for the day after being on regular duty for three hours. (BOR 10/21/71)

9. Employees absent from work on account of sickness shall have charged against their sick leave allowance all working days which occur during the absence.

- a. For "C" personnel on 11-month appointments, this means any regular University work day exclusive of non-duty time during the summer period.
  - b. For "C" personnel on 9-month appointments, this means any regular University work day during the period beginning one week before registration for the first semester and ending with the second semester's commencement, including periods when classes are not scheduled.
  - c. "Regular University work day" is synonymous with regular State of Hawaii work day and does not include holidays and weekends.
10. When a Faculty member has been on sick leave for one month, a Leave of Absence form should be submitted even though he/she has not returned to work. Thereafter, to avoid exceeding the member's sick leave credit, a Leave of Absence form should be submitted on a monthly basis if the Faculty member continues to be on sick leave. (BMI No. 2071)
  11. Any sick leave taken in excess of the earned allowance which has not been approved by special exception will be considered as leave without pay. In this regard, the policies, rules or contracts governing the type of sick leave concerned must be followed. (BMI No. 2071)
  12. Faculty filling Executive and Administrative/Managerial positions on an acting basis are entitled to the sick leave rules for their regular classification. Should an acting appointment for a non-accumulating Faculty be confirmed as a regular appointment without a break, retroactive credit will be given for the acting period. (BMI No. 2071)
  13. There is no lump sum payment allowed for unused sick leave when a Faculty member terminates from his/her position; however, such sick leave credit will be transferred to the Employees' Retirement System. (BMI No. 2071)
  14. Sick Leave for Persons on Research Grant/Contract. In accordance with BOR policy adopted October 10, 1966, sick leave will not be granted for any period extending beyond the expiration date of the grant or contract providing the funds from which the employee is paid. The practical effect of this policy is that any sick leave which is not used by BOR appointees on the contract or grant is subject to forfeiture except as provided under collective bargaining contracts. Refer to paragraph 4, BMI No. 2071, for a summary of the forfeiture rules. In such cases, the administrator or manager of the grant or contract must notify the employee and the University Personnel Office of the forfeiture using the UH Form 3 (PERS), Attachment C. (BOR 10/10/61 and BMI No. 2071)
  15. When to Prepare G2. The Department of Accounting and General Services will not audit the G2 more than five working days in advance of termination date. Therefore, the G2 and the DPS 7 should be prepared by the University of Hawaii Personnel Office as appropriate and/or certified and returned to the University Personnel Office approximately ten days before the termination date. (BMI No. 2073)
  16. Preparing G2 and DPS 7 Forms. The UH Personnel Office will prepare the Form G2, Rev. 7/74, Application for Transfer of Sick Leave Credit in those cases where the sick leave record is maintained on the computerized system.
    - a. The G2 together with the current year detail record on the DPS Form 7 will be sent to the employee's organization for verification and signatures. (BMI No. 2073)
    - b. Organizational personnel should check the balance on the G2 as well as the DPS Form 7 entries to ensure that all sick leaves are indicated. When preparing the DPS Form 7, the 1-3/4 days per month (14 hours) must be recorded for each month. Special attention should be given to the period immediately prior to the termination date to be sure that recent or planned absences are recorded. If a discrepancy is noted, call the Employee Benefits Section of the University Personnel Office, ext. 8643, to effect the necessary correction. After review and/or correction, the employee and the organizational administrative representative must sign the G2 in the spaces provided. The organizational representative must sign in the space identified for signature of Department Head. Return the G2 and the DPS Form 7 to the University Personnel Office. (BMI No. 2073)
  17. Procedures in Taking Sick Leave. Sick leaves taken by Faculty on the accrual system are to be reported in accordance with procedures outlined in BMI No. 2071.
    - a. A Faculty member requesting sick leave must submit one set of the multi-carbon leave form, Application for Leave of Absence, UH Form 1 (PERS), 3/70 (See Attachment B), to his/her departmental chairperson or a designated college official for approval. The form must be completed within five (5) working days after

return from sick leave. (BMI No. 2071) For absence of more than five consecutive working days, the form must be accompanied by a statement from a licensed physician or accredited Christian Science practitioner. For absence of five consecutive days or less, the signature of a physician is not required. (BOR 10/21/71)

- b. Departmental Office or Designated College Official: After approval by the Departmental Chairperson or Designated College Official, the multi-carbon leave form should be distributed as follows: original to the UH Personnel Office, Employee Benefits Section, 1st copy to employee and 2nd copy to be maintained by the department or designated college office. The departmental/or designated college official's copy of the Leave of Absence form should be checked against the monthly machine roster, which is provided by the UH Personnel Office, to insure that the original Leave of Absence form has been processed and entered into the leave accounting system. (BMI No. 2071)
- c. UH Personnel Office: The UH Personnel Office will process all Application for Leave of Absence forms for all employees in the sick leave accrual system. The UH Personnel Office will also provide each department with a monthly machine roster reflecting all sick leave taken plus current credit balances for each Faculty member. (BMI No. 2071)

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SICK LEAVE ENTITLEMENT FOR FACULTY ON 9-MONTH ACADEMIC YEAR APPOINTMENT

*(Page 9 of original text of the Community College Sick Leave Policy & Procedures)*

Nine-month "C" employees earn sick leave entitlement at the rate of two (2) days per month (16 hours). Employees working less than a full month shall receive the following prorated sick leave credits:

				<u>Hours</u>
1	to	2	calendar days.....	0
3	to	6	calendar days.....	2
7	to	9	calendar days.....	4
10	to	13	calendar days.....	6
14	to	16	calendar days.....	8
17	to	20	calendar days.....	10
21	to	23	calendar days.....	12
24	to	27	calendar days.....	14
28	or	more	calendar days.....	16

(Schedule was prepared by UH Personnel Office)

SPECIAL INSTRUCTIONS IN HANDLING COMPUTERIZED SICK LEAVE RECORDKEEPING FOR COMMUNITY COLLEGE "C" EMPLOYEES

1. A 9-month "C" employee who terminates his/her job (for reasons other than death or a transfer) before the end of a calendar month is not to be credited with any sick leave earned for that month.
2. A "C" employee who transfers or changes to an 11-month contract or to a 9-month contract will have his/her sick leave credit earned prorated as of the date of the transfer according to the 9-month or 11-month pro rata schedule.
3. The 9-month "C" employee who terminates by reason of death during a given month will receive a prorated sick leave credit earned for that month up to the date of his/her death.
4. The 9-month "C" employee who starts the new year's employment in the month of July will not receive his/her 18 days of sick leave credits for the coming year until the month of August, when all other regular 9-month "C" personnel will have their 18 days for the year recorded into the computer files.
5. "C" employees going on Leave Without Pay status during the academic year will stop earning sick leave credits as of the date of the LWOP. Upon return to duty from LWOP, sick leave credits for the remainder of the year will be recalculated according to the 9-month or 11-month pro rata schedule.

6. A first year "C" employee who cannot report to work on the first duty day due to illness will be required to take a Leave Without Pay for the period of the illness. An SF-5B must be initiated to place the person on LWOP status. When the employee returns to duty, an adjustment of the remaining year's sick leave credit will be made into the computer files using the 9-month pro rata schedule.
7. "School Days" for "C" employees are defined by BOR policy as "9 months of continuous service within the period beginning one week before registration for the first semester and ending with the second semester's Commencement exercise." Therefore, a "C" employee who teaches a regularly scheduled weekend class and who is absent from it due to illness is to charge such absence to sick leave.
8. Due to the different sick leave credit schedules per year between 9-month and 11-month "C" personnel, it is conceivable and possible for a "C" person to earn more than 21 sick leave days per year if such person transfers or changes from a contract to another during the year.
9. No sick leave credits are earned during the period that "C" employees are on sabbatical leave or study leave.
10. Changes in FTE during the academic year should be reflected by appropriate adjustments to the employee's sick leave accumulation total in the computer files.
11. A "C" employee who is terminated from the job, grieves, and then is reinstated will be credited with sick leave earned during the period of the termination.
12. "C" employees hired under a G-3 position control (State, Federal or other funds) will have sick leave accumulation rights.
13. "C" personnel hired on extramural Research Grant/Contract cannot accumulate sick leave credits beyond the grant/contract period. (Refer to paragraph 4, BMI No. 2071—for summary of the forfeiture rules.)

KINDS OF NATURE OF ACTIONS ON SF-5B THAT WILL AFFECT SICK LEAVE PROGRAM FOR COMMUNITY COLLEGE INSTRUCTIONAL PERSONNEL

New Appointments

Exempt appointments of Instructors

Change in Appointments

Exempt appointment to different position  
Change in FTE  
Change in Title

Leave With Pay

Sabbatical Leave—less than 1 year  
Sabbatical Leave—a year  
Change(s) during Sabbatical Leave  
Sabbatical Leave—less than a year--following LWOP  
Sabbatical Leave—a year—following LWOP

Study Leave  
Change(s) during Study Leave  
Study Leave—following LWOP

Return from Leave With Pay

Return to duty from Sabbatical Leave—less than a year  
Return to duty from Sabbatical Leave—a year

Return to duty from Study Leave

Leave Without Pay - Going and Returning

- General Improvement
- Illness
- Death in the Family
- Industrial Injury
- Extended Annual Vacation for Travel
- Military Services
- Seek Political Office
- Personal Business of Emergency Nature
- Temporary Cessation of Normal Operations
- Render Services at State Legislature
- Serving on Constitutional Convention
- Professional Improvement
- Authorized Leave without Compensation
- Unauthorized Absence without Compensation
- No Prorated Summer Pay
- Changes during LWOP - (type of LWOP)
- LWOP - (type of LWOP) following Sabbatical Leave
- LWOP - (type of LWOP) following Study Leave
- Depletion of Funds

Separations

- Resignation
- Death
- Termination
- Retirement (age 64 and under)
- Retirement (age 65 and over)
- Dismissal
- Layoff

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COMMUNITY COLLEGE FACULTY (9-MONTH) SICK LEAVE SCHEDULE  
(Corrected copy as of 12/12/78)

	<u>Amount to be Credited or Subtracted</u>			
August (08)	18	days	144	hours
September (09)	17	days	136	hours
October (10)	15	days	120	hours
November (11)	13	days	104	hours
December (12)	11	days	88	hours
January (01)	9	days	72	hours
February (02)	7	days	56	hours
March (03)	5	days	40	hours
April (04)	3	days	24	hours
May (05)	1	day	8	hours
June (06)	--		--	
July (07)	--		--	

MONTHLY SCHEDULE

A. 11-Month Faculty

1	to	3	cal. days	0	days	
4	to	7	cal. days	$\frac{1}{4}$	day (2 hrs.)	
8	to	11	cal. days	$\frac{1}{2}$	day (4 hrs.)	
12	to	15	cal. days	$\frac{3}{4}$	day (6 hrs.)	
16	to	19	cal. days	1	day (8 hrs.)	
20	to	23	cal. days	1-1/4	day (10 hrs.)	
24	to	27	cal. days	1-1/2	day (12 hrs.)	
28	or	more	cal. days	1-3/4	day (14 hrs.)	

B. 9-Month Faculty Prorated by Days

1	to	2	cal. days	0	days	
3	to	6	cal. days	$\frac{1}{4}$	day (2 hrs.)	
7	to	9	cal. days	$\frac{1}{2}$	day (4 hrs.)	
10	to	13	cal. days	$\frac{3}{4}$	day (6 hrs.)	
14	to	16	cal. days	1	day (8 hrs.)	
17	to	20	cal. days	1-1/4	day (10 hrs.)	
21	to	23	cal. days	1-1/2	day (12 hrs.)	
24	to	27	cal. days	1-3/4	day (14 hrs.)	
28	or	more	cal. days	2	days (16 hrs.)	

**R-8**

[Duplicated text of UH Systemwide Administrative Procedures, A9.350 LEAVES]

**A9.350 APPLICATION FOR TRANSFER OF VACATION AND SICK LEAVE CREDIT OR PAYMENT IN LIEU OF VACATION**

September 1990

This replaces Administrative Procedure A9.350 dated July 1982.

1. Purpose.

To comply with Section 79-5 HRS, Transfer of Vacation Credits and also Title 14, Administrative Rules, Department of Personnel Services Section 8-11(d) concerning "General provisions affecting vacation and sick leaves" and other appropriate collective bargaining agreements.

2. References.

- a. Administrative Procedure A9.380, Vacation and Sick Leave System.
- b. Administrative Procedure A9.390, Vacation Credit Fund Transfer.
- c. Section 88-63 HRS, Credit for Unused Sick Leave.

3. Objective.

To prescribe the procedure to be followed in preparing and certifying the application for transfer of vacation and sick leave credit or payment in lieu of vacation.

4. Applicability/Responsibility.

- a. This procedure is applicable to all University personnel who are on the accrual system.
- b. Vice Presidents, Chancellors, Manoa Deans and Directors or their designees are responsible for processing the necessary documentation for transfer of vacation and sick leave credits or payment in lieu of vacation.

5. Transfer, Lump-Sum Payments and Separations

- a. The employee transfers to another state or county agency and vacation and/or sick leave credits are to be transferred to the gaining organization, or
- b. The employee is eligible for and requests lump sum payment for unused vacation, or
- c. The employee transfers to a position within the University which is paid from a different fund and vacation credits (including dollar amounts) are to be transferred, or
- d. The employee terminates and has some unused sick leave credit.

6. Procedures

- a. Employees on the Vacation and Sick Leave Accrual System.
  - 1) Employees on the vacation and sick leave accrual system include civil service personnel and BOR appointees in the R, S, B, A, APT and E/M classifications.
  - 2) Transfers of vacation and sick leave and payment for accumulated vacation upon termination require the designee to prepare the Application for Transfer of Vacation and Sick Leave Credit of Payment in Lieu of Vacation, Form G-2 and Instructions (Attachment A and B), which must be signed by the employee and the Administrative Officer or fiscal officers and the Attendance and

Leave Record, DPS Form 7 and Instruction (Attachments C and D) for the current calendar year and attach original copies of the Vacation and Sick Leave Annual Leave Status Report in the following manner:

- a) Original Leave Status Reports are needed for the four (4) calendar years immediately preceding the year of transfer or termination.

(Note: Special attention should be given to the period immediately prior to the termination date to be sure that recent or planned absences before such date are recorded.)

- b) Faculty (except Community Colleges)

- (1) Effective December 1, 1989, 9-month and 11-month Faculty in the instructional classifications at UH at Manoa, UH at Hilo and UH at West Oahu shall be granted sick leave benefits as provided in the Employer's policy.

- (2) Effective December 1, 1989, Faculty Members in the instructional classifications at UH at Manoa, UH at Hilo and UH at West Oahu who were employed prior to July 1, 1989 and not eligible to earn and accumulate sick leave credits shall, beginning with their most recent date of hire, be credited with ten (10) days for sick leave for each full academic year of service prior to July 1, 1989. Time spent on sabbatical leave, study leave or leaves of absence without pay shall not be creditable towards prior sick leave credit.

- (3) Faculty Members in R, S, B and A classification shall retain their sick leave benefits in accordance with existing practices, except that effective January 1, 1990, sick leave benefits for such Faculty Members shall be in accordance with the Employer's policy applicable to the instructional Faculty at UH at Manoa, UH at Hilo and UH at West Oahu.

- b. Executive/Managerial Appointee Returning to Instructional Faculty Position.

When an Executive/Managerial appointee returns to an instructional Faculty position, lump-sum vacation payment shall be made.

- c. Community Colleges

- 1) Faculty Members in the Community Colleges shall retain their sick leave benefits as set forth in Appendix S of the 1977 Faculty Handbook.

Personnel classified as "C" in the Community Colleges have their sick leave record maintained at each campus. The Director of Administrative Services is responsible for preparing the Form G2 and the DPS 7's as provided in Attachments A, B, C and D.

- 2) The DPS Form 7 should be prepared using the following guidelines for "C" personnel:

- a) Personnel on the nine-month salary schedule receive their annual sick leave entitlement at the beginning of the academic year, or a prorated amount if appointed late. Under the present academic calendar, the entitlement should be recorded during the month of August, or later if a late appointment in accordance with paragraph b below. Should a Faculty member terminate prior to completion of an academic year, the entitlement must be reduced by 16 hours for each month of service not completed. Eleven-month personnel earn sick leave entitlement at the rate of 1 ¾ days per month (14 hours). When preparing the DPS Form 7, this must be recorded for each month.

- b) Nine-month personnel in service for the full academic year are entitled to 18 days of sick leave. Those appointed after August 31 shall have entitlement prorated as follows:

<u>First Semester</u>	<u>Days Earned</u>	<u>Second Semester</u>	<u>Days Earned</u>
August	18	Start of 2nd semester through January	9
September	17	February	7
October	15	March	5
November	13	April	3
December to end of semester	11	May	1

Note: The months have been changed from those shown in Appendix S of the Manoa/Hilo Handbook to conform to the present academic year.

- c) Employees absent from work on account of sickness shall have charged against their sick leave allowance all working days which occur during the absence. For "C" personnel on 11-month appointments, this means any regular University work day exclusive of non-duty time during the summer period. For "C" personnel on 9-month appointments, this means any regular University work day during the period beginning one week before registration for the first semester ending with the second semester's commencement, including periods when classes are not scheduled. As used in this paragraph "regular University work day" is synonymous with regular State of Hawaii work day and does not include holidays and weekends.

- d) Form G2, Application for Transfer of Vacation and Sick Leave Credit or Payment in Lieu of Vacation.

- 1) The G2 and the supporting documents should be prepared, audited and certified by the respective division as appropriate.
- 2) Prior to distribution of G2 copies, a final check to insure for accuracy shall be made. In event of an error, prepare an amended G2 and attach the incorrect copies to the amended G2 and distribute accordingly.
- 3) The respective division is to distribute documents in the following manner:

For Lump Sum Payment

- 1st copy to Payroll Office
- 2nd copy to ERS
- 3rd copy retained by division level (if civil service to the Civil Service Section, if E/M to the Personnel Management Office, Director's Office)
- 4th copy to employee
- 5th copy (extra)

For Sick Leave Only

- 1st retained by Division
- 2nd copy to ERS
- 3rd copy retained by division level (if civil service to the Civil Service Section, if E/M to the Personnel Management Office, Director's Office)
- 4th copy to employee
- 5th copy extra

For Transfer to Another State or County Agency

—1st\*, 2nd, 4th and 5th copy to the department gaining the employee

—3rd copy retained by division level (if civil service to the Civil Service Section, if E/M to the Personnel Management Office, Director's Office)

\*1st copy attached to Authorization for Payment only if monies need to be transferred.

*[appended forms not included]*

R-9

[Duplicated text of UH Form 1 & enlarged]

APPLICATION FOR LEAVE OF ABSENCE

DOC. NO. Item 00: Enter unique 6 digit UNIVERSITY OF HAWAII - APPLICATION FOR LEAVE OF ABSENCE

PLEASE PRINT OR TYPE

01. SOCIAL SECURITY ____		NO. 02. NAME (LAST, FIRST, MI) ____ ↑ START WITH FIRST THREE LETTERS OF LAST NAME		
03. LEAVE CODE	04. TYPE OF LEAVE	01 Vacation	05 Bereavement (See Note 2)	09 LWOP-Prof Imp Leave
		02 Sick (See Note 1)	06 Military	10 LWOP-Other (See Note 3)
		03 Sick-Industrial Injury	07 LWOP-Maternity	11 Compensatory Time Off
		04 Sabbatical/Prof Imp Leave with Pay	08 LWOP-Health	12 Jury/Witness Duty
05. INCLUSIVE DATES OF LEAVE		06. USE FOR CORRECTION ONLY		
FROM ____/____/____	THRU ____/____/____	THIS	REPLACES	DOC. NO.
MONTH DAY YEAR	MONTH DAY YEAR	REMARKS:		
07. WORKING HOURS TAKEN		08. EMPLOYEE'S SIGNATURE	09. REQ DATE	
____/____/____ MM DD YY				
10. DEPARTMENT		11. SUPERVISOR'S SIGNATURE	12. DATE	

Instructions for Completing the UH Form 1 (PERS), Application for Leave of Absence. Complete the following items:

Item 1.....Enter social security number of recipient.

Item 2.....Enter full name of recipient (start with first three letters of last name).

Item 3.....Enter 02 for "Sick Leave."

Item 4.....Enter "Sick Leave."

Item 5.....Enter appropriate dates to reflect the number of hours of sick leave received.

Item 7.....Enter the number of sick leave hours to be charged.

Item 8-11 .....Self-explanatory.

[Duplicated text of Hawaii Revised Statutes, Chapter 398, Volume 107, FAMILY LEAVE]

## FAMILY LEAVE LAW

### PART I. GENERAL PROVISIONS

#### §398-1 Definitions.

As used in this chapter, unless the context clearly requires otherwise:

"Child" means an individual who is a biological, adopted, or foster son or daughter; a stepchild; or a legal ward of an employee.

"Department" means the department of labor and industrial relations.

"Director" means the director of labor and industrial relations.

"Employee" means a person who performs services for hire for not fewer than six consecutive months for the employer from whom benefits are sought under this chapter.

"Employer" means any individual or organization, including the State, any of its political subdivisions, any instrumentality of the State or its political subdivisions, any partnership, association, trust, estate, joint stock company, insurance company, or corporation, whether domestic or foreign, or receiver or trustee in bankruptcy, or the legal representative of a deceased person, who employs one hundred or more employees for each working day during each of twenty or more calendar weeks in the current or preceding calendar year.

"Employment" or "employed" means service, including service in interstate commerce, performed for wages under any contract of hire, written or oral, express or implied, with an employer.

"Employment benefits" means all benefits (other than salary or wages) provided or made available to employees by an employer, and includes group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether the benefits are provided by a policy or practice of an employer or by an employee benefit plan as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

"Health care provider" means a physician as defined under section 386-1.

"Parent" means a biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, a grandparent, or a grandparent-in-law.

"Serious health condition" means a physical or mental condition that warrants the participation of the employee to provide care during the period of treatment or supervision by a health care provider, and:

- (1) Involves inpatient care in a hospital, hospice, or residential health care facility; or
- (2) Requires continuing treatment or continuing supervision by a health care provider.

[L 1991, c 328, pt of §1; am L 1995, c 154, §4]

#### [§398-2] Inapplicability.

The rights provided under this chapter shall not apply to employees of an employer with fewer than one hundred employees.

[L 1991, c 328, pt of §1]

**§398-3 Family leave requirement.**

- (a) An employee shall be entitled to a total of four weeks of family leave during any calendar year upon the birth of a child of the employee or the adoption of a child, or to care for the employee's child, spouse or reciprocal beneficiary, or parent with a serious health condition.
- (b) During each calendar year, the leave may be taken intermittently.
- (c) Leave shall not be cumulative.
- (d) If unpaid leave under this chapter conflicts with the unreduced compensation requirement for exempt employees under the federal Fair Labor Standards Act, an employer may require the employee to make up the leave within the same pay period.
- (e) Nothing in this chapter shall entitle an employee to more than a total of four weeks of leave in any twelve-month period.

[L 1991, c 328, pt of §1; am L 1992, c 87, §6; am L 1997, c 383, §57]

**§398-4 Unpaid leave permitted; relationship to paid leave.**

- (a) Pursuant to section 398-3, an employee shall be entitled to four weeks of family leave. The family leave shall consist of unpaid leave, paid leave, or a combination of paid and unpaid leave. If an employer provides paid family leave for fewer than four weeks, the additional period of leave added to attain the four-week total may be unpaid.
- (b) An employee or employer may elect to substitute any of the employee's accrued paid leaves such as sick, vacation, personal, or family leave for any part of the four-week period in subsection (a); provided that an employer or employee may not substitute an employee's accrued sick leave in any situation under this chapter unless:
  - (1) Sick leave is normally granted for such purposes by an employer's policy or practice; or
  - (2) Upon mutual agreement by the employer and the employee.

[L 1991, c 328, pt of §1; am L 1995, c 154, §5]

**[§398-5] Notice.**

In any case in which the necessity for family leave is foreseeable, the employee shall provide the employer with prior notice of the expected birth or adoption or serious health condition in a manner that is reasonable and practicable.

[L 1991, c 328, pt of §1]

**§398-6 Certification.**

- (a) An employer may require that a claim for family leave be supported by written certification.
- (b) For the birth of a child, certification shall be issued by a health care provider or the family court. For the placement of a child for adoption with the employee, certification shall be issued by a recognized adoption agency, the attorney handling the adoption, or by the individual officially designated by the birth parent to select and approve the adoptive family.
- (c) When leave is to care for a child, spouse, or parent who has a serious health condition, certification shall be issued by the health care provider of the individual requiring care. Certification shall be considered sufficient if it provides information as required by the director.

[L 1991, c 328, pt of §1; am L 1995, c 154, §6]

**[§398-7] Employment and benefits protection.**

- (a) Upon return from family leave, the employee shall be entitled to be restored by the employer to the position of employment held by the employee when the leave commenced, or restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. If, however, during a leave, the employer experiences a layoff or workforce reduction and the employee would have lost a position had the employee not been on family leave, the employee is not entitled to reinstatement in the former or equivalent position. In such circumstances, the employee retains all rights, including seniority rights, pursuant to the good faith operation of a bona fide layoff and recall system.
- (b) The taking of family leave shall not result in the loss of any employment benefit accrued before the date on which the leave commenced, except for any paid leave that may have been expended in conjunction with the family leave.
- (c) Nothing in this chapter shall be construed to entitle or deny any employee to the accrual of any seniority or employment benefits during any period of leave, or any right, employment benefit, or position to which the employee would have been entitled had the employee not taken the leave.

[L 1991, c 328, pt of §1]

**[§398-8] Prohibited acts.**

- (a) It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this chapter.
- (b) It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this chapter.
- (c) It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because the individual has:
  - (1) Filed any charge, or instituted or caused to be instituted any proceeding, under or related to this chapter;
  - (2) Given or is about to give any information in connection with any inquiry or proceeding relating to any right provided under this chapter; or
  - (3) Testified or is about to testify in any inquiry or proceeding relating to any right provided under this chapter.

[L 1991, c 328, pt of §1]

**§398-9 Administration.**

- (a) The director shall have jurisdiction over those prohibited acts made unlawful by this chapter.
- (b) The department shall assist employers in the placement of temporary help to perform the work of those employees on family leave.
- (c) The director also may hire, subject to chapters 76 and 77, investigators, hearings officers, clerical, stenographic, and other staff as may be necessary to administer and enforce this chapter.

[L 1991, c 328, pt of §1; am L 1995, c 154, §7]

**[§398-10] Applicability.**

- (a) Section 398-3 shall set a minimum standard that is not intended to replace family leave policies that exist as of the effective date of this Act and that provide for equal or greater employment benefits than those benefits afforded under this chapter.
- (b) Nothing in this chapter shall be construed to modify, eliminate, or otherwise abrogate any existing family leave policies, employment benefits, or protections that employees may have pursuant to any employment contracts or

collective bargaining agreements, to the extent that the contracts and agreements provide greater protections than those afforded under this chapter.

- (c) To the extent the provisions of this chapter contradict or otherwise conflict with any contract rights or collective bargaining agreements in existence as of the date of this Act, the provisions that provide greater benefits to the employees shall control.

[L 1991, c 328, pt of §1]

**[§398-11] Rules.**

Subject to chapter 91, the director may adopt rules necessary for the enforcement and administration of this chapter. The rules shall have the force and effect of law.

[L 1993, c 152, §1]

**[PART II.] ENFORCEMENT**

**[§398-21] Filing of complaint.**

- (a) Any individual claiming to be aggrieved by an alleged unlawful act may file with the department a verified complaint in writing.
- (b) The attorney general or the department, in like manner, may file a complaint on behalf of an individual.
- (c) A complaint may be filed on behalf of a class by the attorney general or the department.
- (d) No complaint shall be filed after the expiration of ninety days after the:
  - (1) Date of the alleged unlawful act; or
  - (2) Date of discovery by the employee of the alleged unlawful act; however, in no event shall such a complaint be filed after the expiration of one hundred eighty days of the alleged unlawful act.
- (e) After the filing of any complaint, the attorney general or the department, as applicable, shall serve a copy of the complaint upon the employer.

[L 1995, c 154, pt of §3]

**[§398-22] Predetermination settlement.**

At any time after the filing of a complaint, but prior to a determination by the department that this chapter has been violated, the parties may agree to resolve the complaint through a predetermination settlement.

[L 1995, c 154, pt of §3]

**[§398-23] Investigation and conciliation.**

- (a) The department may investigate and conciliate any complaint filed under this chapter.
- (b) Every employer shall furnish or provide to the department access to records, documents, and other material to determine compliance with this chapter. The department shall have the right to examine, photograph, or copy the material and interview witnesses at the place of employment or business during regular working hours with respect to any matter under this chapter.
- (c) The department may require by subpoena the attendance and testimony of witnesses and the production of all records, payrolls, correspondence, documents, and other material relative to any matter under investigation.

- (d) If the department determines after investigation that this chapter has been violated, the department shall inform the employer and endeavor to remedy the violation by informal methods, such as conference or conciliation.
- (e) If the department finds that methods in subsection (d) will not resolve the complaint, the department shall issue an order and a demand for compliance.
- (f) If the department issues an order that finds that an employer has violated the requirements of this chapter, the department may prescribe relief as provided under this chapter.

[L 1995, c 154, pt of §3]

**[§398-24] Appeal and hearing.**

- (a) Upon appeal by the employer, the order issued by the department shall be subject to a de novo review by a hearings officer appointed by the director.
- (b) The hearings officer shall schedule a contested case hearing that shall be heard in accordance with chapter 91.
- (c) At any time after the filing of an appeal under subsection (a), but prior to the hearing, the hearings officer may hold a prehearing conference with the parties or their representatives.
- (d) If a hearing is held as provided under subsection (b), the hearings officer shall issue a decision and grant relief as provided under this chapter.
- (e) Any person aggrieved by the decision of the hearings officer shall be entitled to judicial review as provided by section 91-14.
- (f) The hearings officer may administer oaths, take or cause to be taken depositions of witnesses, and may issue subpoenas to compel the attendance and testimony of witnesses or the production of records, payrolls, correspondence, documents, or other material relating to any matter to be heard.

[L 1995, c 154, pt of §3]

**[§398-25] Civil action.**

- (a) If an employer fails or neglects to comply with the:
  - (1) Final order of the department from which no appeal has been taken as provided by this chapter; or
  - (2) Final decision of the hearings officer, the department or the affected employee may apply to any court of competent jurisdiction to enforce the provisions of the final order or decision and for any other appropriate relief. In any proceeding to enforce the provisions of the final order or decision, the department or the affected employee need only file with the court proof that a certified copy of the final order or decision was served. In the case of the final decision, proof that the notice of hearing was given also must be filed with the court.
- (b) Any action to enforce this chapter, or to recover damages or equitable relief prescribed by this chapter, may be maintained in any court of competent jurisdiction by any one or more employees for and on behalf of the employee or employees, or the employee or employees may designate an agent or representative to maintain the action.
- (c) In any action brought under this chapter, the court shall allow, in addition to any judgment awarded to the plaintiff, costs of action, including fees of any nature, and reasonable attorney's fees to be paid by the defendant.

[L 1995, c 154, pt of §3]

**[§398-26] Remedies.**

- (a) In addition to all employment terms and benefits provided under section 398-7, remedies prescribed and ordered by the department or the court under this chapter may include any legal, equitable, and other relief the department or court deems appropriate.

- (b) Relief under this section may include:
  - (1) The amount of any wages, salary, employment benefits, or other compensation denied or lost to the employee by reason of the violation; or
  - (2) In a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to four weeks of wages or salary for the employee.
- (c) An employer may be liable for an additional amount as liquidated damages equal to the sum of the applicable amount in subsection (b)(1) and (2); provided that if an employer who has violated this chapter proves to the satisfaction of the department or the court that the act or omission that violated this chapter was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this chapter, the department or the court may reduce the amount of the liability to the applicable amount determined under subsection (b)(1) or (2).

[L 1995, c 154, pt of §3]

**[§398-27] Notice of right to sue and employee remedies.**

- (a) The department may issue a notice of right to sue. Within ninety days after the receipt of a notice of right to sue, the complainant may bring a civil action under this chapter. The department may intervene in a civil action brought pursuant to this chapter if the case is of general importance.
- (b) An action by an employee to enforce the provisions of this chapter may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of oneself or themselves, or the employee or employees may designate an agent or representative to maintain the action.
- (c) The court in any action brought under this section, in addition to any judgment awarded to the plaintiff or plaintiffs, shall allow costs of action, including costs of fees of any nature, and reasonable attorney's fees, to be paid by the defendant.
- (d) The court also may provide injunctive relief in appropriate circumstances.

[L 1995, c 154, pt of §3]

**[§398-28] Compliance review.**

The department may investigate whether the terms of an agreement, settlement, order, or decision are being complied with by the employer. If the employer is not in compliance, the department shall take appropriate action as provided under this chapter.

[L 1995, c 154, pt of §3]

**[§398-29] Penalty.**

Any employer who intentionally resists, prevents, impedes, or interferes with the department in the performance of duties pursuant to this chapter, or who in any manner intentionally violates this chapter, shall be guilty of a petty misdemeanor.

[L 1995, c 154, pt of §3]

[Duplicated text from Appendix 9-14 of the UH Board of Regents By-Laws & Policies]

**UNIVERSITY OF HAWAII PATENT AND COPYRIGHT POLICY**

TITLE 20, UNIVERSITY OF HAWAI'I

CHAPTER 3, UNIVERSITY OF HAWAI'I PATENT AND COPYRIGHT POLICY

Historical Note: This chapter is based substantially upon "University of Hawai'i Patent & Copyright Policy" of the University of Hawai'i Board of Regents' Rules and Regulations.

[Eff. 1/22/68; R JUN 22 1981]

§20-3-1 Equities.

The principle is hereby recognized that there are usually three interests involved in connection with research work and invention performed in the University by or under the direction of the research and teaching staffs of the University. These three interests are represented by the research worker or inventor; the University; and the general public whose taxes and gifts support the University. If the research is financed wholly or in part by an outside agency there exists an additional interest.

In general these interests are best served by immediate publication and dissemination of the results of the research. In some cases, however, the interests of all are best protected and furthered by patenting the discoveries and inventions resulting from the research. In still others, specific agreements with a federal or other agency sponsoring or funding the research prescribe certain procedures and inhibitions.

[Eff. JUN 22 1981] (Auth: HRS §304-4) (Imp: HRS §304-4)

§20-3-2 Procedures and Timing of Action.

- (a) All persons employed by the University shall submit their ideas for patentable inventions through their immediate supervisor to a University President. In submitting a patentable invention to a superior, the originator shall attach thereto a written statement or justification stating whether the patentable invention was the result of personal or private research, or research supported by State funds, or research supported by an outside agency. Such statement shall be reviewed by the immediate supervisor, who shall attach thereto a written opinion stating:
  - (1) Whether the patentable invention was the result of personal or private research, or research supported by state funds, or research supported by an outside agency; and
  - (2) The reasons for his judgment.

Such statements by the supervisor, together with the statement of the inventor, shall be submitted within thirty days after receipt by the supervisor to the President. The committee, within ninety days after such submission, shall notify the President, the person submitting the invention and the immediate supervisor of its decision as to whether such patentable invention was the result of personal or private research, or research supported by State funds, or research supported by an outside agency. The President may overrule, in writing, the decision of the President shall be binding on all parties, unless appealed.

- (b) Within one hundred and fifty days after the submission of the invention by the inventor to the immediate supervisor, the University shall notify the inventor of its final decision on whether it deems the invention to be the result of personal or private research, or of research supported by State funds or of research supported by outside agencies.
- (c) The University shall relinquish all of its rights to the inventor in the following cases:
  - (1) If the invention is judged by the President to be the result of personal or private research; or

- (2) If the University decides not to secure a patent for an invention which is a result of personal or private research but has been submitted to the President voluntarily by the inventor for possible development and patent under University auspices as hereafter noted.
- (d) In all cases of waiver of rights, the University shall relinquish its rights to the inventor by written waiver signed by the President of the University or by a designated agent. If the final unappealed decision of the committee is that such invention was the result of personal or private research, such decision may be used by the inventor as evidence in establishing the priority of the invention. Any person aggrieved by the decision of the President, may appeal to the President of the University. The decision by the President shall be final within the University administrative framework.

[Eff. JUN 22 1981] (Auth: HRS §304-4) (Imp. HRS §304-4)

§20-3-3 Inventions Resulting from Personal or Private Research.

The University shall have no vested interest in inventions clearly resulting from personal or private research and developed by an inventor on personal time, without cost or expense to the University. Such inventions may be voluntarily offered by the Faculty member to the President for the possible securing of a patent and for subsequent developing, processing and exploitation under University aegis. If such offer is accepted by the President, the inventor shall assign his rights to the University of Hawai'i Research Corporation and shall thereafter receive seventy-five percent of the net profits if any (amount received by the corporation, less costs) derived from any exploitation of the patent.

[Eff. JUN 22 1981] (Auth: HRS §304-4) (Imp: HRS §304-4)

§20-3-4 Inventions Resulting from Research Supported by State Funds.

Inventions resulting from research wholly supported by State funds shall become the property of the University of Hawai'i. Staff members shall assign their rights to the University of Hawai'i Research Corporation and shall be entitled to receive fifty percent of the net profits (amount received by the corporation, less costs) derived from any exploitation of the patent.

[Eff. JUN 22 1981] (Auth: HRS §304-4) (Imp: HRS §304-4)

§20-3-5 Inventions Resulting from Research Supported by an Outside Agency.

Inventions resulting from research supported by an outside agency, either wholly or in part, shall be governed by the provisions of the agreement covering the work. In the absence of such provisions, the invention shall be regarded as deriving from the category of State or University supported research.

[Eff. JUN 22 1981] (Auth: HRS §304-4) (Imp: HRS §304-4)

§20-3-6 Copyrights.

This policy is designed to cover copyright of books or other similar materials, and of materials in all forms copyrightable under the laws of the United States or international copyright agreements.

Except for works produced or written for hire, any publishable material produced by a member of the Faculty or staff of the University shall be the exclusive literary property of the author. The author may obtain copyright or dedicate his work to the public as he chooses, subject to any restrictions imposed by sponsoring or funding agencies not under University control.

Works produced or written "for hire" are defined as manuscripts or materials produced by persons who are engaged by the University specifically to produce such manuscripts or works, or released from other work to produce such materials. The University shall be the sole proprietor of any work done "for hire," and may make such disposition of resultant manuscripts as it may choose. Borderline determinations should be documented, when desired, in accordance with the foregoing patent policy. Should any controversy concerning this policy committee of the University which will make a recommendation for action to the President.

[Eff. JUN 22 1981] (Auth: HRS §304-4) (Imp: HRS §304-4)

§20-3-7 Financial Agreements.

The President, after consulting with the President, may enter into such financial agreements as the President deems equitable whenever a staff member at personal expense desires to patent an invention or copyright written works which resulted from research supported by State funds or works produced or written "for hire" by the University, only in instances when the committee disclaims interest in patenting or copyrighting the work produced by the staff member.

[Eff. JUN 22 1981] (Auth: HRS §304-4) (Imp: HRS §304-4)

[Duplicated text from UH Systemwide Executive Policies, Executive Policy – Administration]

**E5.500 ADMINISTRATION OF THE PATENT AND COPYRIGHT POLICY**

March 1985

A. INTRODUCTION

Section 5-3(f) of the University of Hawai'i Board of Regents Bylaws and Policies establishes the University Patent and Copyright Policy.

Because it is desirable and expedient for the University of Hawai'i to provide uniform rules and procedures for the regulation and administration of intellectual property rights generated by the activities of its Faculty, employees and others associated with the University, the following objectives, policies and procedures are established for the University's administration of the Patent and Copyright Policy.

B. OBJECTIVES

1. To define, clarify and protect the rights and equities of inventors and authors, the University, the Research Corporation of the University of Hawai'i, any governmental or private sponsor of research, and the public, with respect to inventions and original works, by providing for just and equitable recognition of the legitimate interests of each of the above in such inventions and works.
2. To encourage broad utilization of the results of University research and to provide a vehicle for the transfer of new technology and ideas from the University to the community at large, by permitting exploitation (both commercial and otherwise) in the public interest and for the public benefit, in a manner consistent with the integrity and objectives of the academic process, including the goal of public dissemination of the results of research.
3. To stimulate innovative and creative scholarship, research and writing and its recognition, by facilitating where appropriate the receipt of fair economic rewards there for in the form of royalty payments to inventors and authors from licensees (in the case of inventions) and publishers (in the case of written or similar works).
4. To protect and benefit scholars and researchers in the University by promoting recourse to the patenting and copyright process and by providing information, support and liaison concerning the procedures and problems involved therein.
5. To encourage and assist scholars and researchers in identifying potentially patentable discoveries, to require prompt and early reporting thereof to the President and to promote scholarly publication concerning such discoveries in a manner that does not prejudice the obtaining of a patent.
6. To devise and promulgate clear and practicable regulations, procedures and forms for the reporting and disclosure of original works that may be copyrightable, discoveries that may prove patentable and the timely prosecution of patent applications in appropriate cases.
7. To provide for the patenting or licensing or both of any invention or the copyrighting and licensing or both of any work, where appropriate, through the President or a patent management organization or publishing entity designated by that Committee.
8. To protect the rights, as agreed, of any government or private sponsor of research in any invention or work that may be generated by such research, and to ensure compliance with the other terms of any such research grant.
9. To protect the rights of the University in inventions or other original works which result from the use of University funds or facilities by Faculty, employees, students or trainees.

C. ADMINISTRATION OF PATENT AND COPYRIGHT POLICY

1. The University's President (PCC) shall be vested with authority to administer this Policy throughout the University system and all matters appertaining to patents and copyrights which may emanate from any of the University's constituent campuses shall be referred to the PCC for disposition in accordance with such policy.
2. Membership of PCC: The PCC shall consist of the following ten persons:
  - 2.1 The incumbent Director of Research of the University of Hawai'i or his or her designated representative, who shall serve as the Chairman and Convener of the PCC.
  - 2.2 Two representatives of the Research Corporation of the University of Hawai'i (RCUH) may be appointed by the Executive Director of the RCUH for three-year terms.
  - 2.3 Director of Procurement and Property Management.
  - 2.4 The Legal Consultant to the PCC, who shall be an ex officio non-voting member.
  - 2.5 Five persons selected from among the faculties and administration of the University and appointed by the President of the University or his designee for a period of three years.
3. Meetings of PCC:

The PCC shall meet as often as the Chairman and Convener deems necessary, save that there shall be at least one meeting per academic semester.
4. Powers and Duties of PCC:

The PCC shall have the following powers and duties:

  - 4.1 To interpret and apply the Patent and Copyright Policy.
  - 4.2 To evaluate inventions for patentability, scientific merit and economic feasibility, and where desirable to seek expert advice to assist it in making such determinations.
  - 4.3 To decide on the category into which an invention or original work falls for the purposes of determining who has or shares the equity therein.
  - 4.4 To determine the patent or related rights or equities of the University and other interested parties in an invention and to decide on the appropriate division of royalties.
  - 4.5 To assign inventions to the RCUH for the evaluation, patenting and licensing of inventions, and to procure the receipt of royalties or other benefits by the University, provided that, notwithstanding the above, any royalty agreement may in the discretion of the PCC provides for payment of royalties into a special fund maintained by RCUH and administered in accordance with the wishes of the University of Hawai'i solely for research, development and other educational purposes.
  - 4.6 To release patent rights to the inventor in the absence of overriding obligations to outside sponsors of research, in cases where it is deemed equitable or appropriate to do so, subject to the written approval of the President or a person designated by the President.
  - 4.7 To submit its decisions on patent and copyright matters to the President of the University, or to a person designated by the President for such purposes.
  - 4.8 To provide assistance and advice to Faculty and other research personnel concerning all aspects related to the patenting of inventions and the copyright in original works.
  - 4.9 To ensure an effective system of patent and copyright administration by means of an ongoing review of applicable policies and procedures and to make reports and recommendations to the President thereon.

4.10 To do all things necessary to achieve the objects of the Patent and Copyright Policy, without being limited by the specific powers and duties enumerated above.

5. Appeals from Decisions of PCC:

Any person aggrieved by any decision of the PCC may appeal to the President of the University or his designated representative. Such appeal shall be in writing, shall state the grounds of appeal and shall be submitted to the President or such representative within THIRTY (30) days after notification of the ruling of the Committee. The decision of the President or his designee shall be final and binding.

D. PATENTS

1. When University has Exclusive Patent Rights:

Subject to the provisions of the Policy with respect to relinquishment of rights and royalty sharing, the University shall have exclusive patent rights and title in and to any invention or discovery which emerges from any research, development or other program funded by the University, or is conceived or developed wholly or partially at the expense of the University or with the aid of its equipment, facilities or personnel.

2. When Inventor has Exclusive Patent Rights:

The University shall relinquish all rights to the inventor in the following cases:

- 2.1 If the invention or discovery is adjudged by the PCC to have been made by the inventor independently of any contractual obligations to the University and without using University equipment, facilities or funds provided by the University or an outside sponsor.
- 2.2 If the invention or discovery is a result of permissible consulting activities without any use of University facilities or of funds derived from the University or an outside research sponsor.
- 2.3 If the invention or discovery was made with the aid of University facilities or funds, but the PCC, with the written approval of the President or his designated agent decides to waive the University's rights or equity therein.

3. Procedure for Reporting Inventions:

All employees of the University, nonemployees who use University research facilities and those who receive grant or contract funds through the University shall promptly report and fully disclose any ideas for and/or reduction to practice of a potentially patentable invention or discovery to the PCC. The following procedure shall apply to such report and disclosure:

- 3.1 The report and disclosure shall be submitted in writing at the earliest opportunity to the departmental head or immediate supervisor and shall include a written statement certifying whether the potentially patentable invention or discovery was the result of private research done independently of any contractual obligations to the University and without using University equipment, facilities or funds, or whether it was the product of research done with the benefit of such assistance or with the aid of any outside research sponsor.
- 3.2 The departmental head or immediate supervisor to whom the report and disclosure are submitted shall review them and shall forward them to the PCC within THIRTY (30) days after receipt, together with a written opinion regarding the accuracy of the originator's statement submitted pursuant to Paragraph 3.1 and the reasons for such opinion.
- 3.3 The Chairman of the PCC may in his discretion authorize an originator to submit the report, disclosure and required statement directly to the PCC without referring it to the departmental head or supervisor, if he is satisfied that good grounds exist for dispensing with such reference.
- 3.4 The Chairman and members of the PCC shall take adequate steps to assure and preserve the confidentiality of all invention disclosure documents.

- 3.5 The originator shall be notified of meetings of the PCC and may attend the meetings at which his report and disclosure will be considered.
- 3.6 The PCC shall within NINETY (90) days of the submission of the report, disclosure and required statement notify the President of the University, or his designated agent, the originator and the departmental head or immediate supervisor of its decision with respect to the disposition of the matter and the respective rights or equities of any interested parties.
- 3.7 The President or his designated agent may overrule in writing the decision of the PCC, but failing such action within THIRTY (30) days of submission of the decision to the President or such agent the decision of the PCC shall be binding on all parties, unless appealed within that time.
- 3.8 The originator shall be notified in writing of the final decision of the University.

4. Duty of Inventor to Execute All Necessary Documents:

In cases where the University or an outside sponsor has an interest or equity in an invention or discovery, the inventor shall execute all such declarations, assignments or other documents as may be necessary in the course of invention evaluation, patent prosecution, or protection of patent rights in order to assure the title of the University or the RCUH or the University's ability to meet its overriding patent obligations arising from grants, contracts or other agreements of any kind with outside organizations, as the case may be.

5. Inventor's Share of Royalties:

Except as otherwise agreed and subject to any contrary obligations arising from grants, contracts or other agreements with outside sponsoring organizations, the inventor's share of royalties derived from the exploitation of any patent shall be as follows:

- 5.1 The inventor shall be entitled to receive FIFTY PERCENT (50%) of the net royalties received, "net royalties" being defined as gross royalty receipts less all costs incurred in connection with the patent.
- 5.2 If there are two or more inventors, each inventor shall share equally in the said FIFTY PERCENT (50%) share, unless all inventors have previously agreed in writing to a different distribution and have notified the University in writing thereof.
- 5.3 Distribution of the inventor's share shall be made annually in February from the amount of net royalties if any, received during the previous calendar year.
- 5.4 In the event of any litigation, actual or imminent, or any other action to protect patent rights, distribution of royalties may be withheld until resolution of the dispute.

6. Voluntary Transfer of Private Invention to University and Royalty Sharing:

A purely private invention, developed by a University employee independently of any contractual obligations and without any cost to the University or an outside sponsoring organization, may be voluntarily offered to the PCC for the purposes of patenting, development and exploitation as if it were an invention in which the University had an interest. If such offer is accepted by the PCC, the inventor shall assign his rights to the University or the RCUH and shall receive SEVENTY-FIVE PERCENT (75%) of the net royalties (being gross receipts less costs), if any, derived from the exploitation of the patent.

7. Procedure with Respect to Outside Employment and Avoiding Conflict of Interest:

Subject to any other approval that may be required pursuant to University or departmental regulations, Collective Bargaining Agreement, or Faculty Handbook and in order to avoid any conflict of interest, before any member of the University's Faculty or research personnel enters into an agreement with an outside employer which provides for or contemplates the grant or any patent rights to the outside employer arising from the outside employment, the following procedure must be adopted:

- 7.1 Such members shall notify his Dean or Director in writing of the nature of the outside employment and the extent of the patent rights to be granted to the outside employer.
- 7.2 The Dean shall forthwith submit the notification to the Chairman of the PCC, together with his written recommendation thereon.
- 7.3 Unless the Chairman of the PCC notifies the member to the contrary in writing within THIRTY (30) days of the submission of the request, the University shall be deemed to have waived its rights to any invention or discovery made during the outside employment described in the request to the extent necessary to give effect to the grant of the patent rights therein described.
- 7.4 If the Chairman of the PCC objects in writing within the aforementioned period of THIRTY (30) days, the member shall not enter into the proposed employment agreement insofar as it provides for or contemplates the grant of patent rights to the outside employer with respect to any invention or discovery made by the member while in the employ of the University and in which the University has any rights under this Policy.

8. Criteria Governing Outside Commercial Sponsorship of Research:

Contracts and other arrangements between the University and outside commercial sponsors of research must comply with the following criteria:

- 8.1 Research investigators and the University shall be free to disseminate and publish the results of sponsored research, provided that in order not to jeopardize applications for patents the University may agree that any proposed publication will be submitted to the sponsor with notice of intent to submit for publication and that unless the sponsor in writing requests a delay within TWO (2) months from the date of such notice, the investigators or the University shall be free to proceed with immediate publication. However, if the sponsor requests a delay, the submission of the manuscript will be withheld for the period requested, but in no event for longer than SIX (6) months from the date of the notice of intent to submit for publication and only in order to permit the sponsor to prepare and file the necessary application.
- 8.2 The University shall retain the right to take title to any patentable inventions or discoveries arising from the undertaking of sponsored research, except that the University may grant an exclusive license to the sponsor for a period not exceeding EIGHT (8) years and bearing a royalty to be agreed upon, or may grant a royalty-free license if the University has incurred no substantial expense and such a license is deemed appropriate.
- 8.3 Any agreement or arrangement with the commercial sponsor shall not impose any restrictions upon the University in conflict with its established policies and practices, but shall permit performance of the research or other investigation in the same manner and subject to the same administrative requirements applicable to research financed with the University's own funds.

E. COPYRIGHTS

1. Scope:

The Policy covers books or other written materials, as well as other original works of authorship in the various forms copyrightable under the copyright laws of the United States and international copyright conventions.

2. Rights of Faculty and Staff:

Except in the case of works written or produced for hire, and subject to any restrictions imposed by outside sponsoring or funding organizations, a member of the Faculty or staff of the University who writes or produces any work shall have exclusive rights thereto, including the ownership of copyright therein.

3. Rights to Classroom, Educational and Professional Materials:

Faculty and staff members shall own all rights to materials prepared on their own initiative for classroom, educational or professional purposes, and shall be exclusively entitled to the benefit of any royalties derived therefrom.

4. Works for Hire:

A work written or produced for hire is defined as:

4.1 A work commissioned by the University and prepared by an employee who is hired or assigned by the University specifically to produce such work.

4.2 A work prepared by a person who is not a regular employee of the University but who is specifically commissioned by the University to produce it pursuant to a signed written agreement which provides that the work shall be considered a work for hire.

5. Rights in Works for Hire:

With respect to works for hire, the University shall have exclusive rights, including the copyright, but subject to any contrary terms of the employee's employment agreement and any restrictions contained in any contract with or grant from an outside sponsor, the Faculty or staff member who prepared or produced the work shall be entitled to receive such proportions, as the PCC in its discretion may determine, of the net royalties (gross receipts less all costs), if any, which may be derived from the sale or licensing of such work. However, such sale or licensing shall be within the sole discretion of the University, which shall be under no obligation to develop royalties therefrom.

6. Notification to PCC of Intent to Publish Works:

A Faculty or staff member who writes or produces a work which he or she intends to publish or exploit commercially shall notify the PCC in writing through the departmental head or immediate supervisor of such intention, providing appropriate details of the work and the circumstances of its preparation and seeking a determination from the PCC as to whether the work is or is not a work for hire.

[Duplicated text of the UH Systemwide Administrative Procedures, A5.500, ACADEMIC AFFAIRS]

**A5.500 PROCEDURES FOR INVENTION IDENTIFICATION, DISCLOSURE, AND REPORTS UNDER STATE FUNDING**

March 1985

1. Purpose.

The University Patent and Copyright Policy contains clauses relating to the respective rights of the University with respect to inventions developed under research projects funded by the State. It is essential that the Principal Investigator be thoroughly familiar therewith, and comply promptly with the procedural requirements relating to invention identification, timely disclosure and reporting.

2. Objective.

The general procedures outlined below should be followed to assure uniformity and responsiveness in the handling of such inventions.

3. Applicability.

These procedures apply to all inventions conceived and/or developed under State funding.

4. Procedure.

The Principal Investigator (P.I.) shall maintain laboratory notebooks or equipment records as are reasonably necessary to document the conception and/or the first actual reduction to practice of inventions, and to show that the procedures for identifying and disclosing inventions are followed. These records shall be available upon request of the University and its duly appointed representatives.

- a. The P. I. shall furnish the Office of Research Administration with an invention disclosure. The disclosure shall be submitted in writing at the earliest opportunity to the departmental head or immediate supervisor and shall include a written statement certifying whether the potentially patentable invention or discovery was the result of private research done independently of any contractual obligations to the University and without using University equipment, facilities or funds, or whether it was the product of research done with the benefit of such assistance or with the aid of any outside research sponsor.
- b. The departmental head or immediate supervisor to whom the disclosure is submitted shall review it and shall forward it to the PCC within THIRTY (30) days after receipt, together with a written opinion regarding the accuracy of the originator's statement submitted pursuant to Paragraph (1) and the reasons for such opinion.
- c. The Chairman of the PCC may at his discretion authorize the originator to submit the disclosure and required statement directly to the PCC without referring it to the departmental head or supervisor if he is satisfied that good grounds exist for dispensing with such reference.
- d. The Chairman and members of the PCC shall take adequate steps to assure and preserve the confidentiality of all invention disclosure documents.
- e. The originator shall be notified of meetings of the PCC and may attend the meetings at which his disclosure will be considered.
- f. The PCC shall within NINETY (90) days of the submission of the disclosure and required statement notify the President of the University, or his designated agent, the originator and the departmental head or immediate supervisor of its decision with respect to the disposition of the matter and the respective rights or equities of any interested parties.

- g. The President or his designated agent may overrule in writing the decision of the PCC, but failing such action within THIRTY (30) days of submission of the decision to the President or such agent the decision of the PCC shall be binding on all parties, unless appealed within that time.
  - h. The originator shall be notified in writing of the final decision of the University.
  - i. In cases where the University or an outside sponsor has an interest or equity in an invention or discovery, the inventor shall execute all such declarations, assignments or other documents as may be necessary in the course of invention evaluation, patent prosecution, or protection of patent rights in order to assure the title of the University or the RCUH or the University's ability to meet its overriding patent obligations arising from grants, contracts or other agreements of any kind with outside organizations, as the case may be.
5. A guide to Faculty on Inventions and Patents is available in the Office of Research Administration.

[Duplicated text of UH Systemwide Administrative Procedures, A5.500, ACADEMIC AFFAIRS]

**A5.501 PROCEDURES FOR COPYRIGHTS OF WORK PRODUCED FOR HIRE**

March 1985

1. Purpose.

The University Patent and Copyright Policy contains provisions in respect to the ownership of any copyright on materials produced as a result of work for hire. It is essential that all employees of the University and non-employees who have been specifically commissioned by with and comply promptly with the procedural requirements described below.

2. Objective.

The general procedure outlined below should be followed to assure uniformity and responsiveness in the handling of such material.

3. Applicability.

The Policy covers books or other written materials, as well as other original works of authorship in the various forms copyrightable under the copyright laws of the United States and international copyright conventions.

4. Definition.

A work written or produced for hire is defined as:

- a. A work commissioned by the University and prepared by an employee who is hired or assigned by the University specifically to produce such work.
- b. A work prepared by a person who is not a regular employee of the University but who is specifically commissioned by the University to produce it pursuant to a signed written agreement which provides that the work shall be considered a work for hire.

5. Rights in Works for Hire.

With respect to works for hire, the University shall have exclusive rights, including the copyright, but subject to any contrary terms of the employee's employment agreement and any restrictions contained in any contract with or grant from an outside sponsor, the Faculty or staff member who prepared or produced the work shall be entitled to receive such proportions, as the PCC in its discretion may determine, of the net royalties (gross receipts less all costs), if any, which may be derived from the sale or licensing of such work. However, such sale or licensing shall be within the sole discretion of the University, which shall be under no obligation to develop royalties therefrom.

6. Procedure.

- a. A Faculty or staff member who writes or produces a work which he or she intends to publish or exploit commercially shall notify the PCC in writing through the departmental head or immediate supervisor of such intention, providing appropriate details of the work and the circumstances of its preparation and seeking a determination from the PCC as to whether the work is or is not a work for hire.
- b. The departmental head or immediate supervisor to whom the report is submitted shall review it and shall forward it to the PCC within THIRTY (30) days after receipt, together with a written opinion regarding the accuracy of the originator's statement submitted pursuant to Paragraph (1) and the reasons for such opinion.
- c. The originator shall be notified of meetings of the PCC and may attend the meetings at which his report will be considered.

- d. The PCC shall within NINETY (90) days of the submission of the report and required statement notify the President of the University, or his designated agent, the originator and the departmental head or immediate supervisor of its decision with respect to the disposition of the matter and the respective rights or equities of any interested parties.
  - e. The President or his designated agent may overrule in writing the decision of the PCC, but failing such action within THIRTY (30) days of submission of the decision to the President or such agent the decision of the PCC shall be binding on all parties, unless appealed within that time.
  - f. The originator shall be notified in writing of the final decision of the University.
  - g. In cases where the University or an outside sponsor has an interest or equity in the work, the author shall execute all such declarations, assignments or other documents as may be necessary in order to assure the title of the University.
7. A guide to Faculty on Inventions and Patents is available in the Office of Research Administration.

[Duplicated text of UH Systemwide Administrative Procedures, A5.500, ACADEMIC AFFAIRS]

**A5.502 PROCEDURES FOR INVENTION IDENTIFICATION, DISCLOSURE AND REPORTS UNDER EXTRAMURAL CONTRACT PATENT CLAUSES**

March 1985

1. Purpose.

Extramural contracts and grants usually contain patent clauses relating to the respective rights or options available to the parties in respect to inventions developed thereunder. If a contract or grant contains such a clause, it is essential that the Principal Investigator be thoroughly familiar therewith, and comply promptly with the procedural requirements relating to invention identification, timely disclosure and reporting; otherwise the patent rights available to the University, and the continuing contract or grant relationship between the contracting agency and the University may be placed in jeopardy.

2. Objective.

The general procedures outlined below should be followed to assure uniformity and responsiveness in the handling of such inventions. As used herein the words "contract" also refers to "grant".

3. Applicability.

These procedures apply to all inventions conceived and/or developed under extramural funding.

4. Procedure.

The Principal Investigator (P.I.) shall maintain laboratory notebooks or equipment records as are reasonably necessary to document the conception and/or the first actual reduction to practice of inventions, and to show that the procedures for identifying and disclosing inventions are followed. These records shall be available upon request of the funding agency, or the University and their duly appointed representatives.

a. The P. I. shall furnish the funding agency through the Office of Research Administration:

- (1) A complete technical disclosure for such invention within the period specified in the contract, usually within six (6) months after conception or first actual reduction to practice, whichever occurs first in the course of the contract but in any event prior to any sale, public use, or publication of such invention. The disclosure shall identify the contract and inventor(s), and be sufficiently complete in technical detail, and appropriately illustrated by diagram to convey a clear understanding of the purpose, and physical, chemical, biological, or electrical characteristics of the invention.
- (2) Interim reports, as required in the contract [usually at least every twelve (12) months from date of contract]; a form similar to the attached Exhibit A, or the appropriate form specified by the funding agency, may be used for this purpose. It should list inventions during that period and certify that all inventions have been disclosed, or that there are no inventions.
- (3) A final report, as required in the contract [usually within three (3) months after completion of the work]; Exhibit A, or the appropriate agency form, may be used for this purpose.
- (4) As required by OMB-Circular A-124, the Office of Research Administration will disclose each subject invention to the Federal agency (when the project is federally funded) within two months after the inventor discloses it in writing to the President.
- (5) The President will recommend to the Chancellor who will elect in writing whether or not to retain title to any such invention by notifying the Federal agency funding the project within twelve (12) months of disclosure to the Committee.

- (6) The University will file its initial patent application within the time limits specified in OMB-Circular A-124.
- b. In every subcontract initiated by the P. I. under a prime contract containing a patent rights clause, the University shall include the prime contract patent clause in order to notify the subcontractor of the rights retained by the prime contracting agency in inventions resulting from the conduct of experimental, developmental, or research work by the subcontractor, and that the subcontractor is bound thereby. (The University Procurement and Property Management Office has appropriate general conditions for this purpose, and routinely attaches them to all subcontracts under extramurally funded contracts.)
- (1) The University is required under most prime contracts containing a patent rights clause to notify the prime contractor promptly in writing of the award of each subcontract. The P. I. shall identify the subcontractor, the prime contract and the applicable patent rights clause, the nature of the work to be performed, date of award, and estimated completion and submit the same via the Office of Research Administration to the prime contractor on Exhibit A, or the appropriate agency form. Upon completion of the subcontract, a report thereof shall be submitted on the final report required by a.(3), supra.
- (2) All invention disclosures, reports, and other information required of subcontractor under the patent rights clause may be submitted to the University for transmission by the P. I. through the Office of Research Administration to the prime contractor.
- (3) In the event of a refusal by a subcontractor to accept such clause, the University and the P. I. shall promptly notify the prime contracting agency setting forth the reasons for subcontractor's refusal and shall await written authorization before proceeding with the subcontract.
- (4) The funding agency is a third party beneficiary of any subcontract clause granting rights to the funding agency in inventions; the University under such clause usually automatically assigns to the agency all rights University would have to enforce the subcontractor's obligations for the benefit of the agency with respect to such inventions. Therefore, University would not normally be obligated to enforce the subcontractor's agreement relating to its obligations to the funding agency.
- c. All books (including laboratory notebooks), records, documents, and other supporting data relating to the invention(s) shall be retained for the period specified in the contract [usually three (3) years following final payment], to permit the funding agency to examine such records, and to determine compliance with the requirements of the contract.
- d. All rights in an invention may be forfeited to the funding agency if the above requirements are not complied with; however, such forfeiture shall not apply if it can be established that the failure to disclose did not result from the fault or negligence of the University.
- e. Final payment under a contract may be withheld for failure of the University to maintain appropriate records, and deliver to the funding agency all of the required disclosures and final reports.
- f. Each Faculty and staff member engaged in research is subject to and bound by the above reporting requirements, as well as conditions relating to determination of the rights of the funding agency, and the University in inventions or publishable materials vis-à-vis the Inventor or Author which are specified in Board of Regents Bylaws and Policies, Section 5-3(f), which also appear in Appendix H of the Faculty Handbook.
- g. A guide to Faculty on Inventions and Patents is available in the Office of Research Administration.

**R-16**

[Duplicated text of UH Systemwide Administrative Procedures, A.9000, GENERAL]

**A9.075 PERSONNEL RECORDS**

July 1998

This replaces Administrative Procedure No. A9.075 dated June 1990.

GENERAL

**A9.075 PERSONNEL RECORDS - BOR APPOINTEES**

1. Purpose

To implement a uniform system for the maintenance of the official personnel records for BOR appointees. In accordance with the 1986 delegation of authority to approve certain personnel actions, the official personnel files of BOR appointees, with the exception of BOR appointees in undelegated organizational units and Executive and Managerial BOR appointees, were transferred from the Office of Human and Material Resources (formerly known as Personnel Management Office) to the respective administrative units.

2. Objectives

To establish procedures for the maintenance of official personnel files and to identify the documents to be included therein.

3. Applicability/Responsibility

This instruction applies to personal records of all BOR employees appointed pursuant to Chapter 304, H.R.S., which includes but is not limited to Faculty, lecturers, casual hires, Administrative, Professional and Technical (APT), Executive and Managerial employees. This instruction does not apply to personal records of student employees or civil service employees.

4. Procedures

a. The Chief Executive Campus Officer or official designee shall designate custodians of the official personnel records who shall be responsible for keeping these files accurate, complete, up-to-date, and in accordance with applicable provisions of the appropriate collective bargaining agreements.

b. The personnel files shall contain the following documents:

- 1) Letter of hire/offer and acceptance of employment.
- 2) Curriculum vitae, APT application (UH Form 64), and letters of recommendations.
- 3) Personnel action documents (i.e., PNF, UH Form 6).
- 4) Approval documents of appointments, changes in appointments, approval of tenure (e.g., notice of renewal, approval of appointment/reappointment).
- 5) Documents relating to benefits:
  - a) Tax Deferred Annuity (optional) Considerations

■If placed in the personnel file, access to personnel file is governed by Chapter 92-F, HRS (e.g., do not provide TDA agents with access to the folders; separate TDA agreements for disclosure to TDA agent).

▪If placed in the personnel file and employee transfers to another State department, remove all TDA materials from the file before transferring file. The University retains fiduciary liability and responsibility for the employee's TDA participation in the University program.

▪Separate maintenance provides for ease of program administration and audit.

- b) Health Fund
  - c) State Deferred Compensation
  - d) State Part-time, Casual & Seasonal (PTCS) Deferred Compensation
  - e) Annual Leave Status Reports
  - f) Employees' Retirement System
  - g) G-2, Application For Transfer of Vacation and Sick Leave Credit or Payment in Lieu of Vacation
- 6) Credit for Prior Service (UH Form 12)
  - 7) Self-Identified Ethnic Background (UH Form 27)
  - 8) Salary Assignment Forms (e.g., U.S. Savings Bond)
  - 9) Performance Evaluation Reports, including Notice of Renewal, Promotion and Tenure or APT Performance Evaluation - UH Form 70
  - 10) Notice of Disciplinary Actions (e.g., Written Reprimand, Letter of Suspensions or Discharge)
  - 11) Letters of Commendation, Recognition
  - 12) Request for Position Action (UH Form SF-1) (optional)
- c. The following should be kept in separate secured files:
- 1) I-9, Employment Eligibility Certification
  - 2) Workers' Compensation Claims and related documents
  - 3) Temporary Disability Benefit Claims and related documents
  - 4) Leave Sharing Requests and related medical certification documents
  - 5) Family Leave Requests and related medical certification documents
  - 6) Other Medical Information such as pre-employment medical information or ADA medical information
  - 7) Immigration/Visa
  - 8) Investigative Reports and related documents (e.g., witnesses statements) involving alleged or proven employee misconduct and/or complaints against the employee and final disposition thereof
  - 9) Grievance Materials
  - 10) Recruitment Materials (e.g., Form 17, applications, resumes, interview notes)
  - 11) Promotion and Tenure Application and Dossiers

Ensure that any of the above records are transferred to an employee's new administrative unit if necessary (e.g., leave share records as the maximum amount of leave share received is monitored for the duration of employment with the University).

- d. The personnel documents described in subsection b should be contained in the folder in reverse chronological order (i.e., most current on top).
- e. Personnel files should be maintained in locked filing cabinets in areas/rooms which are accessible to only authorized individuals. All employees should be instructed on the confidentiality of personnel files by their respective Chief Executive Campus Officer or official designee.
- f. The following shall be implemented where applicable in the usage and maintenance of personnel files:
  - 1) Applicable provisions in the various collective bargaining agreements relating to access to and maintenance of personnel files.
  - 2) Chapter 92-F, H.R.S., relating to confidentiality, access and disclosure of personal records. Refer also to the Uniform Information Practices Act (UIPA) Reference Manual and to the Office of Information Practices' (OIP) Guidelines on the Disclosure of Personnel Records.
  - 3) The process of responding to a subpoena of personnel records.
  - 4) Records retention rules and policies specified by EEO/AA guidelines, the University Records Manager, and collective bargaining agreements.
  - 5) The State's Procedures for Transfer of Records to the State Records Center and University Administrative Procedure A8.555, "Records Management."
- g. Transfer within UH System. When an employee moves to another administrative unit, the official custodian of personnel records of the former unit will send the employee's personnel file to the new unit. The file will be transferred as follows:
  - 1) Letter of transmittal and acknowledgment of receipt (Attachment A).
  - 2) File will be enclosed in sealed envelope labeled "CONFIDENTIAL" and addressed to the official custodian of personnel records in the receiving unit, and sent via U.S. mail or personal delivery.
- h. Resignation/Retirement/Termination. Three years after an employee resigns, retires, or is terminated from employment, the official custodian of personnel records of the administrative unit will transfer the personnel file to the State Records Center for storage in accordance with the State's Procedures for Transfer of Records to the State Records Center and University's Administrative Procedure A8.555, "Records Management."
- i. Return to UH Employment. When a former employee returns to employment, the employee's personnel records shall be recalled from the State Records Center pursuant to the State's Procedures for Recall or Request for Records and the University's Administrative Procedure A8.555, "Records Management."

**MEMORANDUM OF UNDERSTANDING**

**Regarding “Future Need”**

DEFINITIONS:

1. The Parties recognize that there should be a “future need” for a position each time an applicant is renewed.
2. The Parties recognize that there should be a “future need” for a position before an applicant may be tenured in it.
3. “Future need” in a particular Faculty Member’s case is a need for services, consistent with the position description, the Faculty Member’s academic qualifications, and academic programs approved by the Board of Regents.

Application of “future need” in the evaluation of tenure applications:

1. “Future need” shall be established as follows:
  - a. Where a Faculty Member has been renewed during the probationary process and hence accorded either the presumption or the explicit determination of future need, that the Faculty Member’s application for tenure may not be rejected on the basis of lack of future need absent a clear and convincing demonstration by the Employer that there is no future need for the position, and that the Employer’s needs have materially changed since the last renewal.
  - b. The Employer’s determination of future need shall be in good faith and neither arbitrary nor capricious.
  - c. It shall be improper for the Employer to non-renew a probationer for lack of future need and immediately thereafter hire another Faculty Member to provide substantially the same services.
  - d. Nothing herein shall restrict or alter the Employer’s right to retrench under the collective bargaining agreement.

**MEMORANDUM OF UNDERSTANDING**

**on the Procedures for Special Salary Adjustments and Bonus Payments**

**Special Salary Adjustments**

The parties recognize that a rational salary system includes many elements, particularly where the appointment of academic professionals draws applicants from local, national, and international employment pools. The parties have agreed to the following principles when making special salary adjustments:

- A. The salaries paid at the University of Hawai'i should be competitive with those paid at peer institutions.
- B. Members of the faculty need, and accept, the opportunity to be recognized for outstanding achievement in the profession. Special salary adjustments can provide a system that recognizes meritorious performance in teaching, research, and/or service.
- C. The existence of salary differentials among faculty in a given discipline must be clearly attributable to academic credentials, rank, experience, years of service, and/or the individual's academic and service accomplishments. Inequitable differentials caused by other factors should be eliminated.
- D. Although there is no one field of study or academic discipline intrinsically more valuable than another, there is a need to address differentials in salaries required to retain faculty in specific fields or disciplines
- E. Salary determination and placement must be free from biases, in accordance with Article II, Non- Discrimination.

Internal reallocation of budgeted resources to fund special salary adjustments shall not undermine the ability of the Departments or Divisions to carry out their educational missions.

Special salary adjustments will be made during the term of this Agreement only to prevent the erosion of the academic program or mission of the University. Even when otherwise justified, special salary adjustments to individuals will not be made when the cumulative impact of funding such adjustments, on students, faculty workload, and departmental/division resources, is deleterious to the University.

**Bonus Payments**

The parties further recognize that certain faculty achievements deserve to be recognized and rewarded through one-time bonus payments. Bonus payments are a means of recognizing outstanding achievement in the areas of teaching, research, and/or service. As with special salary adjustments, bonus payments shall be subject to the availability of funds and will not be made if there will be a resulting deleterious effect to the University. Requests and nominations for bonus payments shall be made in accordance with the procedures below.

**Procedures**

- A. Faculty may apply for a special salary adjustment or bonus payment by submitting a completed Special Salary Adjustment or Bonus Payment request form with supporting attachments to the appropriate Dean or Director. Faculty may also be nominated for special salary adjustments and bonus payments .
- B. All requests and nominations shall be brought before the Faculty Member's department/division. All bargaining unit members in the department/division shall be given the opportunity to review the request and support or not support the request. The department/division position and comments shall be provided to the Dean or Director.
- C. After consultation with the department, the Dean or Director shall review the request and submit a recommendation to the appropriate Chancellor. The recommendation shall include a proposed method of funding the request and a general statement concerning the impact the funding of the request will have upon the programs, faculty workload, and department/division resources.

- D. The Chancellor shall review the request and submit a recommendation to the President. All requests shall be forwarded to the President, including those not supported for lack of funding or based on the evaluative review.
- E. The President shall approve or deny all requests and nominations after consultation with the University of Hawai'i Professional Assembly. The President will secure the written concurrence of the University of Hawai'i Professional Assembly on the request form before any adjustment or bonus is awarded. A copy of the completed request form will be transmitted by the President's office to the Dean or Director and the Faculty Member.