

## STUDENT CONDUCT CODE

### I. INTRODUCTION

The purpose of the University of Hawaii is to pursue knowledge through teaching, learning, and research in an atmosphere of physical and intellectual freedom. In order to fulfill this purpose, members of the academic community on all campuses engage in teaching, learning, research, and service and assist one another in the creation and maintenance of an environment that supports these activities.

Members of the academic community may not violate the rights of one another nor disrupt the basic activities of the University. Students who are disruptive are subject to a variety of academically related penalties that may include reprimand and probation, restitution, suspension for a specified period of time, or expulsion.

Members of the academic community have the same privileges and responsibilities with respect to the law, as do members of our society. In addition, they must also adhere to the University's special interests that are reflected in its policies and regulations and are addressed herein. These special interests are embodied in the unique purpose of the University and are essential for its institutional well-being and day-to-day functioning.

Therefore, in accordance with the "Statement on Rights and Responsibilities of the University of Hawaii Community" adopted by the \*Board of Regents on June 4, 1971, as Administrative Rule Chapter 21-2, the following student conduct code and hearing procedures are adopted by Kauai Community College.

### II. CATEGORIES OF IMPERMISSIBLE BEHAVIOR

The following categories and specific examples of impermissible behavior are subject to disciplinary sanctions because they conflict with the fundamental purposes and special interests of the University and its constituent campuses. While these impermissible behaviors are described as clearly as possible, it should be recognized that any determination as to whether a given act constitutes a violation of the University's special interests will necessarily involve the institution applying some degree of judgment to the facts and circumstances as they are presented.

Category 1 -- Interference with the Rights of Others

A student may not behave towards another member of the University community even in the name of conviction or under a claim of academic freedom, in a manner that denies or interferes with another member's expression of conviction, academic freedom, or performance of legitimate duties or functions.

A. Interference with Freedom of Speech and the Right to Peaceful Assembly

Freedom of speech and the right to peaceful assembly are possible only in an orderly environment in which individuals are not endangered by force or violence and are free from coercion and interference. Consequently, behavioral restrictions are considered necessary to preserve both the orderly functioning of the campus and the right of freedom of speech.

1. Demonstrations

Demonstrations, which coerce individuals, present a hazard to the safety of any person, or threaten the destruction of property, are not permitted. Similarly, authorized speakers and approved public demonstrations may not be disrupted by hostile audiences or speakers.

2. Interference with campus operations

Conduct which disrupts the holding of classes, the carrying out of university business, the holding of campus events, or any other normal functioning of the University including the discharge of responsibility by a university officer, employee, or student is not permitted. Demonstrators may not physically obstruct access to University facilities nor may they engage in obstructive noise.

3. Non-compliance with campus behavioral restrictions on demonstrations

Persons engaging in disruptive behavior or in demonstrations, which coerce individuals or advocate the use of force will be requested to cease by University authorities. In the event the alleged disruptive behavior or demonstration does not end within a reasonable length of time, temporary sanctions, as described in this code, may be imposed by the Provost or Provost's designee. If the use of discussion methods of temporary sanctions is not effective in ending the disruption or demonstration, or when alleged violators are not members of the University community, or when the gravity of the situation requires it, the Provost or Provost's designee may resort to calling in law-enforcement authorities.

Category 2 - Interference with University Processes

Impermissible behavior, as described in this category, includes that which directly or indirectly interferes with or disrupts the processes of teaching, learning, research, and administration or those processes or conditions furthering or facilitating these activities.

A. False or Fraudulent Information

1. Furnishing false information or academic credentials with the intent to deceive or mislead when applying for admission to any campus of the University or for any of its programs and services.
2. Forging, altering, misrepresenting, or misusing any University or campus document, record, or instrument of identification.
3. Failing to provide required and legally appropriate information to University officials.
4. Misrepresenting facts in connection with any request for any University programs or services or for an exception to any official campus policy or regulation.
5. Assisting anyone in the commission of any acts in this section.

B. Personal Misconduct

1. Intentionally, recklessly or negligently causing physical harm to any person on university premises or at university sponsored activities. This includes engaging in any form of fighting.
2. Placing any person under mental duress or causing any person to be in fear of physical danger through verbal abuse, harassment (including repeated phone calls), sexual harassment, hazing, intimidation, threats or other conduct which threatens or endangers that person's emotional, mental, or physical well-being.

Reports of sexual harassment will be investigated and addressed under complaint procedures that are separately established by each unit of the University.

3. Criminal sexual behavior, including but not limited to the implied use or threatened use of force to engage in sexual activity against a person's will and/or engaging in such behavior with a person.
4. Theft of or willful damage to any property of the University or of any person on the campus.
5. The unauthorized use of, or entry into any University facility, including both indoor and outdoor facilities.
6. Possessing, producing, manufacturing, or having manufactured any key or unlocking device for use on University facilities or locks, without proper authorization.
7. Use or possession of weapons on University premises or at University sponsored events, unless expressly authorized by the University. "Weapon" includes, but is not limited to, all firearms, ammunition, dangerous knives, explosive fuels, dangerous chemicals, and billy clubs.
8. Use or possession on campus or at campus events of bombs, explosives, incendiary devices, or fireworks.
9. Activating a fire alarm without cause; damaging or misusing fire safety equipment or initiating a false report, warning or threat of fire, explosion, or other emergency on University premises; or setting any fire on University property.
10. Intentionally obstructing or delaying a police officer, fire fighter, security officer, or University official in the performance of his or her duty.

11. Failure to comply with the directions of university officials including, but not limited to campus security, residence hall staff, faculty, or administrators acting in the performance of their duties; failure to present identification upon request to university personnel in the performance of their duties.
12. Being contemptuous or disorderly at any hearing of a campus judicial or review board.

C. Theft or Mutilation of University Property

1. Possessing or having under one's control any materials or property belonging to the University without proper authorization.
2. Mutilating or vandalizing University property.
3. Unauthorized or fraudulent use of the University facilities, telephone system, mail system, or computer system or use of any of the above for any illegal act or any act prohibited by this Student Conduct Code or other regulations established by the University or campus related to student use of specific facilities or equipment, e.g., computers, dormitory rooms.

D. Disruption

1. Creating noise or other disturbances on campus or in student life areas including but not limited to Campus Center Buildings sufficient to disrupt the normal functioning of campus activities including classroom instruction or University sponsored activities.
2. Violation of published University policies, rules, or regulations including, but not limited to, smoking, solicitation, distribution of literature, sexual harassment, residence hall agreement, and amplification and loudspeaker use.

E. Abuse of Controlled Substances

1. Intoxicants: The purchase, distribution, possession, or consumption of alcoholic beverages is regulated by state law. Students are expected to know and abide by state law and by University rules and regulations governing the use and consumption of alcoholic beverages on campus. Students are referred to Board or Regents policy and campus guidelines regulating the use and consumption of alcoholic beverages on campus.

2. Drugs: Students are not permitted to be under the influence of, possess, manufacture, distribute, or sell illicit drugs, as prohibited by state law, at University sponsored or approved events, on University property or in buildings used by the University for its educational or recreational programs. University knowledge of possession or use of illegal drugs on campus may subject the students involved to investigation.

F. Off-Campus Behavior

A student's off-campus behavior must comply with applicable federal and state laws. Off-campus behavior shall not be subject to the University's disciplinary procedures unless such behavior indicates that the student represents a danger to the health or safety of members of the University community. In addition, off-campus behavior that violates professional standards of conduct which are an integral part of a professional discipline may be subject to formal hearing procedures and sanctions. Academic or professional programs that require students to abide by such professional standards shall secure the endorsement of the appropriate Chancellor and shall clearly set forth this requirement to all affected students. Off-campus behavior charged as violative of such standards shall be adjudged pursuant to hearing procedures to be established by the program and approved by the appropriate Chancellor. The hearing process afforded any student so charged must be consistent with the procedural requirements provided herein.

G. Academic Dishonesty

Because the University is an academic community with high professional standards, its teaching, research, and service purposes are seriously disrupted and subverted by academic dishonesty. Such dishonesty includes cheating and plagiarism as defined below. Ignorance of these definitions will not provide an excuse for acts of academic dishonesty.

1. Cheating includes but is not limited to giving or receiving unauthorized assistance during an examination; obtaining or distributing unauthorized information about an examination before it is given; using inappropriate or unallowable sources of information during an examination; falsifying data in experiments and other research; altering the record of any grade; altering answers after an examination has been submitted; falsifying any official University record; or misrepresenting the facts in order to obtain exemptions from course requirements.

2. Plagiarism includes but is not limited to submitting, in fulfillment of an academic requirement, any document that has been copied in whole or in part from another individual's work without attributing that borrowed portion to the individual; neglecting to identify as a quotation another's idea and particular phrasing that was not assimilated into the student's language and style or paraphrasing a passage so that the reader is misled as to the source; submitting the same written or oral material in more than one course without obtaining authorization from the instructors involved; or dry labbing, which includes obtaining and using experimental data and laboratory write-ups from other sections of the course or from previous terms, or fabricating data to fit the desired or expected results.
3. In cases of suspected or admitted academic dishonesty, the instructor shall attempt to discuss the matter with the student. If appropriate, the instructor may bring it to the attention of the departmental chairperson and the student's advisor. Additionally, an instructor may refer such case of academic dishonesty to the Dean of Student Services for action under this code. In cases where the student admits that an act of academic dishonesty was committed, the instructor may, within the context of the course, require the student to re-do the assignment, give the student a failing or reduced grade for the assignment, or give a failing or reduced grade for the course. If the student contests his or her liability, the instructor may not take action against the student but must refer the case to the Dean of Student Services for hearing and disposition under this code. The Dean of Student Services may pursue such matters as disciplinary actions under this code if, after a preliminary investigation, it is his or her determination that probable cause exists to establish that acts of academic dishonesty took place.

#### H. Violation of Other Existing University Regulations

Violations of other existing University regulations or policies may subject the affected student to disciplinary actions under this code. The decision as to whether such action will be initiated will be made by the Dean of Student Services after a preliminary investigation and after a determination as to whether probable cause exists to establish that there was a repeated or serious violation of University regulations or policies.

### III. SANCTIONS

One or more of the following sanctions may be imposed as hereinafter provided whenever a student is found to have violated any of the rules contained in this code:

A. Warning

Written or verbal notice to the student that continuation or repetition of specified conduct may be cause for other disciplinary action. This sanction may be imposed by the Provost after a Conduct Committee hearing or it may be imposed by the Dean of Student Services as part of the administrative disposition of any case. If a student, after being warned, is found guilty of further violating this code, the student will usually be subject to more severe disciplinary action.

B. Probation

A written notice placing the student on disciplinary probation for a specified period of time. The terms of the probation will be decided in each case. This sanction may be imposed by the Provost after a Conduct Committee hearing or it may be imposed by the Dean of Student Services as part of the administrative disposition of any case. If a student, while on disciplinary probation and after a hearing, is found guilty of further violating this code, the student will usually be subject to more severe disciplinary action.

C. Restitution

Reimbursement for damage to or misappropriation of property which may take the form of direct financial compensation, of service, or other forms of indirect compensation. This sanction may be imposed by the Provost after a Conduct Committee hearing or it may be imposed by the Dean of Student Services as part of the administrative disposition of any case provided that the student admits that he or she was responsible for the damages or loss. Any student who does not make restitution as required will be deemed to have a financial obligation, and will be subject to the provisions of the University's policy regarding delinquent financial obligation.

D. Temporary Suspension

In an emergency, the Provost or designee is authorized to alter or suspend the rights of a student to be present on campus or to attend classes for an interim period prior to a hearing; provided that a hearing pursuant to these rules is conducted within a reasonable period thereafter. An emergency will include such situations as when the student poses a danger of inflicting bodily harm on himself or others, or of inflicting serious emotional distress on others, or creating a substantial disruption of normal campus activities including classroom instruction.

E. Suspension

Exclusion from classes and from other privileges or activities or from the campus itself, for a specified period of time. This sanction may only be imposed by the Provost after a Conduct Committee hearing.

F. Expulsion

Termination of student status for an indefinite period. This sanction may only be imposed by the Provost after a Conduct Committee hearing. Conditions for readmission, if any, shall be stated in the notice of expulsion. The Dean of Student Services will determine if the conditions for readmission have been met.

G. Rescission of Grades or Degree

The cancellation of grades or the revocation of an awarded degree as the result of academic dishonesty or the discovery of a material misrepresentation relating to the completion of course or degree requirements. This sanction may only be imposed by the Provost after a Conduct Committee hearing.

IV. DISCIPLINARY PROCEDURES

The following procedures are designed to afford certain procedural protections to any student alleged to have committed an infraction of the student conduct code warranting disciplinary action. The procedures described herein shall not affect other non-disciplinary student matters.

For the purposes of these procedures, the term Dean of Student Services shall mean the Dean or the Dean's designated representative.

A. Temporary Suspension in Emergency Situations

In an emergency, the Provost is authorized to suspend a student prior to a hearing provided that a hearing pursuant to these rules is conducted within a reasonable period thereafter. An emergency will include such situations as when the student poses a danger of inflicting bodily harm on himself or others, of inflicting serious emotional distress on others, or creating a substantial disruption of normal campus activities including classroom instruction. If, after a Conduct Committee hearing, it is determined that the student did not violate this Conduct Code, consideration will be granted so that the student may be allowed to make up any missed academic work.

B. Pre-Disciplinary Hearing Stage

1. Reporting of infractions

Infractions of this Student Conduct Code should be reported to the Dean of Student Services. Reports of infractions must be submitted in writing and signed by the complainant. No matter except temporary suspensions in emergency situations will proceed without such written reports. The reports must state information including the specific name(s) (if known), date, and description of the alleged misconduct in sufficient detail to allow the Dean of Student Services to determine whether further fact-finding is necessary and if sufficient evidence exists for acting on the allegation(s).

2. Preliminary investigation

Upon receiving a written report that a student has allegedly committed a violation of the Student Conduct Code, the Dean of Student Services shall promptly initiate an investigation. Within ten school days of receiving a written report, the Dean of Student Services shall contact the student or group named in the complaint, and request that they appear before the Dean to discuss the alleged misconduct and possible charges. Failure to respond to a written allegation of charges will result in a hold being placed on the student's registration for subsequent terms. The student should be informed that he or she is under no obligation at any time to admit that the complaint is true or to make any other statement to any member of the University community, including the Dean of Student Services, relevant to the complaint. The Dean should not promise that any statement made by the student will be held in confidence.

C. Initiation of Charges and Their Disposition

If the Dean of Student Services determines that there is reasonable cause to believe that the student or students committed the violation and in his or her judgment the initiation of formal disciplinary procedures is appropriate, the accused student or group will be notified by the Dean of Student Services that they have been accused of violating this Student Conduct Code. Charges may be disposed of in the following ways:

1. Administrative disposition

The Dean of Student Services, after investigating the charges, shall have the authority, when accepted by the student in writing, to settle matters in lieu of proceeding with a formal disciplinary hearing. In this instance, the Dean of Student Services may impose the sanctions of warning, probation, or restitution.

Additional appropriate recommendations of behavioral contracts, administrative referrals, community service hours, attendance at drug and alcohol education classes may be made by the Dean. A student shall have five school days within which to accept or reject in writing any proposed administrative disposition. Where the settlement proposed by the Dean of Student Services is rejected by the student in writing, the Dean may request a hearing before the Committee. If a student fails to make any response in writing to a proposed administrative disposition with five school days, it will be assumed that the student has rejected the proposed administrative disposition and the Dean of Student Services may refer the case to the Student Conduct Committee.

2. Student conduct committee disposition

Failing to secure an administrative disposition of any alleged violation of this Code, the Dean of Student Services may refer the case to the Student Conduct Committee for a hearing. The Dean of Student Services may also refer cases to the Student Conduct Committee without first offering an administrative disposition. Moreover, any violation of this code that may result in the imposition of the sanction of suspension, expulsion, or rescission of grades or degree, must be heard by the Student Conduct Committee.

- a. Usually, Student Conduct Committee hearings will not be available the last two weeks of each semester (study period and finals week) or during the summer. During these periods, a hearing before an administrator may be conducted for students accused of violating the conduct code, or special Committee hearings may be arranged.

D. Student Conduct Committee

There shall be a Student Conduct Committee. It shall have jurisdiction and authority to determine cause and recommend sanctions for all cases referred to it by the Dean of Student Services involving behavior which is alleged to be in violation of this Student Conduct Code.

1. The Student Conduct Committee shall consist of seven voting member and shall be constituted as follows:
  - a. Three students selected by the Associated Students of Kauai Community College.
  - b. Three faculty members selected by the Faculty Senate.
  - c. A chairperson selected by the Provost.

2. A tape recorder shall be made available to the committee by the Dean of Student Services.
3. Four members of the Student Conduct Committee shall constitute a quorum.
4. If any member of the Committee feels that his or her relationship with either the case or the individuals involved would affect his or her ability to render an impartial judgment, the committee member shall disqualify himself or herself. This does not relieve the Student Conduct Committee of maintaining a quorum; thus, it may be necessary to supplement the membership of the committee.

E. Disciplinary Hearing Stage

1. Notice

A student shall be given written notice of a hearing by registered or certified mail with return receipt requested, at least fifteen calendar days prior to the date of the hearing. If service by registered or certified mail is not made because of the refusal to accept service or if the Dean of Student Services has been unable to ascertain the address of the student after reasonable and diligent efforts, a hearing notice may be given to the student by publication at least once in each of two successive weeks in a newspaper of general circulation. Published notices shall include the date, time, place, and nature of the hearing and shall invite the student to contact the Dean of Student Services regarding the charges and other relevant issues and facts. The last such published notice shall appear at least fifteen calendar days prior to the date of the hearing.

- a. Except in the case of published notices, the notice of a hearing shall include a statement of the following:
  - 1) The date, time, place and nature of the hearing.
  - 2) The committee before which the hearing is to be held.
  - 3) The particular sections of this Student Conduct Code involved
  - 4) An explicit statement in plain language of the issues involved and the facts alleged in support of the charges; however, if the Committee is unable to present such issues and facts in detail at the time the notice is served, initial notice may be limited to a statement of the issues involved with more detailed statements to be provided at a later date but prior to the hearing.
  - 5) The fact that the student is entitled to retain counsel or an advisor, at his or her expense, or that the student may appear on his or her own behalf, at any meeting or hearing relevant to the complaint.

- 6) That the student has the right to inspect, before any hearing, any affidavits or exhibits to be introduced at the hearing.

2. Hearing procedures

Hearings held pursuant to this code shall be conducted in such a manner as to assure equity for all parties. Having determined through a preliminary investigation that there is reasonable cause to believe that the student has committed a violation of this Student Conduct Code, the Dean of Student Services or Dean's representative shall present the case against the student.

- a. The student and his or her counsel and the Dean of Student Services or Dean's representative shall be afforded the opportunity to present evidence and argument on all issues involved.
- b. Any procedure in a disciplinary hearing may be modified or waived by mutual agreement between the student and the Dean or Dean's representative subject to the approval of the committee.
- c. The following process shall apply in all hearings before the Student Conduct Committee:
  - 1) Unless otherwise determined by the Student Conduct Committee, testimony shall be submitted in the following order: testimony submitted in support of the charges, testimony submitted by the accused, rebuttal testimony in support of the charges, rebuttal testimony submitted by the accused, and closing arguments.
  - 2) Any oral or documentary evidence may be presented, but the committee shall exclude irrelevant, immaterial or repetitious evidence. The committee shall honor the rules of privilege recognized by law.
  - 3) Documentary evidence may be presented in the form of copies or excerpts, if the original is not readily available, provided that the student and the Dean or Dean's representative may compare the copy with the original.
  - 4) No testimony shall be received by the Committee when the opposing party has not been afforded the right of confrontation and a reasonable opportunity for cross-examination.
  - 5) Members of the Committee are entitled to ask questions of any participant in the hearing. The student or the student's counsel, and the Dean or Dean's representative are entitled to ask questions of the Committee.

- 6) The University shall have the burden of proof, including the burden of producing evidence as well as the burden of argument. Proof that a violation has been committed shall be established when confirmed by a preponderance of the evidence.
- d. Both the student and the Dean or Dean's representative are expected to be present at the hearing. If the student is not present at the hearing, the committee will proceed to conduct the hearing if its members are satisfied that the student has been given notice of the hearing as provided for in this code. In the absence of the student, the committee will hear the evidence, consider the facts, and render a judgment.
- e. All hearings will be closed unless the student requests that the hearing be open.
- f. In cases involving more than one student, separate hearings shall be allowed upon request.
- g. The committee may adopt any further rules or make any further regulations necessary for a fair and impartial hearing that are not inconsistent with the provisions of this code.

### 3. Records

For the purpose of determining committee findings and recommendations, a record of all hearings shall be maintained.

- a. The record shall include the following:
  - 1) All pleadings, motions, and intermediate rulings
  - 2) All evidence received or considered, including oral testimony, exhibits, and a statement of all matters officially noticed
  - 3) Offers of proof and rulings thereon
  - 4) Proposed findings, exceptions, and recommendations
  - 5) The report of the Committee chairperson.
- b. The Committee may preserve a record of its hearings through taped recordings. This record shall be retained by the Office of the Dean of Student Services for a minimum of five years from the date of last attendance by the student.
- c. It shall not be necessary to transcribe any taped record unless requested for purposes of rehearing or judicial review. The cost of such transcription shall be paid by the party requesting or appealing to a court.

4. Committee findings and recommendations

After hearing a case, the Committee will decide if the University has reasonable cause to take disciplinary action against the student. No matters outside the record shall be considered by the Committee in making its determination. Accordingly, the Committee may decide as follows:

- a. No cause for disciplinary action: No violation of this conduct code has been proven. In this case no sanction may be taken against the student.
- b. Cause for disciplinary action: A violation of the conduct code has been proven. In this case the conduct committee may recommend one or more of the sanctions provided for in this code including: warning, probation, restitution, suspension, expulsion, and rescission of grades or degree.

Within ten school days after the hearing, the Committee shall transmit their findings, decision as to the cause, and recommendations in writing to the Provost. Simultaneously, a certified copy of the Committee's findings, and decision as to cause and recommendations shall be delivered or posted by registered or certified mail with return receipt requested to the student's last known address.

- a. The Committee's decision as to cause shall be in writing and shall be accompanied by separate findings of fact.
- b. If the student has filed proposed findings of fact, the Committee shall rule on each proposed finding in its final decision as to cause.

F. Review by the Provost

No Committee determination adverse to a student shall be finalized by the Provost until the student has been afforded an opportunity to request that the Provost review the Committee's findings, decision as to cause, and recommendations.

1. This review does not entitle the student to a full rehearing of his or her case. Such review shall be requested in writing.
2. The student shall have five school days after the receipt of the Committee's findings, decision as to cause, and recommendations to request in writing a review by the Provost. The request should be sent by registered mail to the Office of the Provost.
3. The review by the Provost upon request, except in cases of newly discovered evidence, shall be confined to the record.

4. Upon request, the Provost shall limit the review of the Committee's findings, decision as to cause, and recommendations to the following four issues:
  - a. Did the Committee follow the procedures contained in this code?
  - b. Was the Committee hearing conducted in such a way as to provide the student an adequate opportunity to present his or her defense?
  - c. Did the evidence presented at the hearing satisfy the requisite burden of proof?
  - d. Is the sanction reasonable in relation to the gravity of the violation?

G. Final Decision and Orders by the Provost

Within thirty calendar days from the receipt of the Committee's findings, decision as to cause, and recommendations, the Provost shall notify, by certified mail with return receipt requested, the student or the student's attorney of record of his or her decision regarding the sanction to be taken and any accompanying orders. A copy of this notification shall be included in the record of proceedings and retained by the Dean of Student Services for a minimum period of five years after the date of last attendance by the student.

In cases of an alleged sex offense or other "crime of violence" the victim and the accused shall be informed of the outcome of any institutional disciplinary proceeding.

The decision of the Provost shall be final within the University.

V. AUTHORITY OF THE PROVOST

The Provost may take appropriate action with respect to situations and developments not specifically covered by the Student Conduct Code in order that the intent of the Code may be properly administered.

VI. JUDICIAL REVIEW

Any student who feels that his or her rights have been infringed upon by any final decision issued in accordance with this conduct code may seek judicial review as provided for by law.

VII. SEVERABILITY

If any of these procedures is held to be illegal or unconstitutional, the remaining rules shall remain valid.

APPROVED:

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David Iha  
Provost

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Date