




UNIVERSITY OF HAWAI'I


OFFICE OF SENIOR VICE PRESIDENT FOR LEGAL AFFAIRS
AND UNIVERSITY GENERAL COUNSEL

MEMORANDUM

May 21, 2002

TO: University Executive Council

VIA: Walter S. Kirimitsu 
Senior Vice President for Legal Affairs and
University General Counsel

FROM: Robert A. Mash 
Associate General Counsel

SUBJECT: Guidelines for Requests to Write Off Uncollectible Accounts

The enclosed Guidelines for Uncollectible Accounts ("Guidelines") will provide you with guidance before a request is made to the Senior Vice President for Legal Affairs and University General Counsel ("UGC") to write off uncollectible accounts pursuant to Hawai'i Revised Statutes, § 40-82, . The questions within the Guidelines must be answered in the affirmative before a request is made to the UGC to write off an uncollectible account.

Please disseminate copies of the Guidelines to **ALL** of the appropriate personnel within your departments/units via the respective Deans/Directors. If you have any questions please feel free to call. Thank you for your cooperation in this matter.

Enclosure

UNIVERSITY OF HAWAI'I
OFFICE OF THE SENIOR VICE PRESIDENT FOR LEGAL AFFAIRS
AND UNIVERSITY GENERAL COUNSEL

GUIDELINES FOR UNCOLLECTIBLE ACCOUNTS

Purpose: The purpose of these guidelines is to provide guidance on the information that should be included when making a request that accounts receivables of the university be written off as uncollectible accounts.

Legal Authority: Section 40-82(d), Hawai'i Revised Statutes (HRS), authorizes the University General Counsel (UGC) to review uncollectible accounts, and if the UGC finds the account to be uncollectible, such accounts may be entered into a special record and may be deleted from the accounts receivable records of the university, whereupon, the university is relieved from any further accountability for its collection.

Uncollectible Account: Section 40-82(a), HRS, defines uncollectible account as an account which has been delinquent for at least two consecutive years and:

- (1) the debtor or party causing damages to property belonging to the State is no longer within the jurisdiction of the State;
- (2) the debtor or party causing damage to property belonging to the State cannot be located;
- (3) the party causing damage to property belonging to the State is unknown or cannot be identified;
- (4) the debtor has filed bankruptcy and has listed the State as a creditor; or
- (5) any other account as may be deemed by the general counsel to be uneconomical or impractical to collect.

Moreover, any account entered in the special records shall be transferred back to the current accounts receivable if the general counsel finds that the facts as alleged and presented were not true, or that the account has become collectible.

Guidelines: When making a request to the UGC to review accounts receivable records of the university for the purpose of writing off such accounts as uncollectible, please comply with the following guidelines and provide the following information:

1. Has the account been delinquent for at least two consecutive years?

The account must be delinquent for at least two consecutive years, i.e., two consecutive years from the date that the payment was rejected, i.e., the check was returned or the first letter indicating an unpaid indebtedness.

2. Is the delinquent account uncollectible?

The delinquent account must be an "uncollectible account," which means that one of the following has occurred:

a. The debtor cannot be located.

The requesting party must demonstrate to the OGC that all reasonable efforts to locate the debtor have been exhausted as follows: (1) At least three attempts have been made to locate the debtor by telephone at his/her last known telephone number; and (2) At least three letters have been mailed (at least one by certified mail) to the debtor at his/her last known address; however, in the event that the first or second letter indicates that the debtor no longer resides at the address, the requesting party may forego mailing the subsequent letter(s) and proceed with the next step in attempting to locate the debtor; and (3) an internet search (like Google or Westlaw) has been made to try to locate the debtor's current address.

b. The debtor is no longer within the jurisdiction of the State.

The requesting party must demonstrate to the OGC that the debtor has been located, but no longer resides within the State of Hawai'i. This may be shown by: (1) a returned receipt from a certified letter executed by the debtor indicating that the debtor no longer resides within the State of Hawai'i, or (2) a letter from the Post Master General indicating that the debtor no longer resides within the State of Hawai'i, or (3) a letter from the Department of Accounting and General Services' tax set off program indicating that the debtor is no longer within the jurisdiction of the State..

After the requesting party determines that the debtor no longer resides in the State of Hawai'i, and before a request is made to the OGC to write off the delinquent account, the requesting party must demonstrate to the OGC that at least three letters have been mailed (at least one by certified mail) to the debtor at his/her last known out of state address.

Once the requesting party demonstrates to the OGC that the debtor no longer resides within the State of Hawai'i and at least three letters were mailed (at least one by certified mail) to the debtor's out of state address, the OGC will determine whether to pursue a court action against debtor in the State of Hawai'i.

- c. The debtor is unknown or cannot be identified.

Generally, this category should not be applicable as a ground to seek to write off a uncollectible account because the debtor should always be known and identified. The debtor is either going to be an employee or a student whose identity should be known. If for some reason the debtor is unknown, the requesting party must provide the OGC with a detailed explanation as to why the debtor is unknown. Furthermore, the requesting party should evaluate and change its procedures to determine ways to eliminate the future recurrence of the need to use this category.

- d. The debtor has filed bankruptcy and has listed the University of Hawai'i ("University") as a creditor.

The requesting party must demonstrate to the OGC that the debtor has filed bankruptcy and the University has been listed as a creditor in the bankruptcy matter. This may be demonstrated by providing the OGC with a copy of the bankruptcy petition together with a list of creditors identifying the University as a creditor, or other pleading filed in the bankruptcy court that identifies the debtor and the University as a creditor.

- e. The delinquent account is deemed to be uneconomical or impractical to collect by the OGC.

The OGC reserves the right by statute to determine whether the account is uneconomical or impractical to collect. Before the OGC makes this determination, the delinquent account must be sent to a collection agency for collection. The OGC requires that the requesting party provide it with copies of the collection agency's records demonstrating its efforts to collect the debt. In the event that the collection agency deems the account "uncollectible," the OGC will then determine whether the account is uneconomical or impractical to collect.

The OGC will determine whether the account is uneconomical or impractical to collect on a case-by-case basis. In making this determination, the OGC will consider, among any other relevant factors, the following factors: (1) The likelihood of collecting the debt by court action; (2) The cost to pursue collection of the debt by court action; (3) The amount of the debt; and (4) The past and future resources expended by the University to try to collect the debt. None of the foregoing factors are dispositive in the OGC's determination.