

# School Files

Hawaii Real Estate Commission

January 2017

[www.hawaii.gov/hirec](http://www.hawaii.gov/hirec)

## *What's in this Issue?*

- **New Rules are Finally in Effect as of 12/19/16**
- **Course Completion Certificates**
- **Scheduling and Offering CE Courses**
- **Recovery Fund**
- **List of CE Providers & Prelicense Schools**
- **2017 REC Meeting Schedule**



## **NEW RULES ARE FINALLY IN EFFECT AS OF 12/19/16**

At LOOONG last, the rule amendments to Hawaii Administrative Rules (“HAR”) Chapter 99, Real Estate Brokers and Salespersons, have been signed by Governor Ige!!! Over 11 years in the making (!), the original rule package was stymied by an 11<sup>th</sup> hour roadblock set up by some members of the Hawaii Association of REALTORS®, who took issue with the proposed advertising rule requiring inclusion of the real estate license number on all advertising materials. The advertising section of the proposed rule amendments was yanked from the package for further discussion. The remaining rules proceeded once again on the long journey back to the Governor.

On Monday, December 19, 2016, the rule package was finally approved. SO, what are the changes? In summary, here are some of the notable changes:

- 1) Real estate licensees may now REPEAT the SAME continuing education (“CE”) course (exact same title) EVERY OTHER BIENNIUM. The old rule stipulated that no CE course could ever be repeated. (See §16-99-95)
- 2) Prelicense instructors must pass the instructor’s exam upon initial certification, but no longer have to repeat the instructor’s exam every three years. This rule has been eliminated. (See §16-99-58(g), which is amended.)
- 3) §16-99-58(g)(1) is new. It now states that a prelicense instructor may NOT be certified if the individual has been disciplined by the commission or any state or by any licensing authority for fraud, misrepresentation, or deceit in connection with any real estate-related activity. Previously, this rule was only applicable to CE instructors. (See §16-99-104(d)(1))
- 4) The prelicense education equivalency (“EW”) application is changed significantly. There are now only two (2) categories a broker candidate may choose from to qualify for the EW which will waive the candidate from taking the Hawaii broker prelicense course. (See §16-99-37) The two qualifying categories are for those who hold an out-of-state broker’s license that was active within one year prior to the date of the application, and those who are graduates of an accredited law school in the U.S. (See §16-99-37(b))
- 5) Prelicense completions must be reported within ten days of the class completion date. Previously there was no stipulated reporting deadline. (See §16-99-62)

- 6) A CE course must be input into the commission's online system just three calendar days prior to the course offering date. Previously, there was a fourteen (14) day requirement.
- 7) Evaluations of CE instructors – see §16-99-104(d)(3). This is a new rule. The commission does not certify CE instructors. It is the responsibility of the CE Provider to see that the instructors used to teach courses offered by the provider meet the requirements in this entire section. The evaluation component will be established with input from the real estate education community.
- 8) Instructor's development workshop. Previously, the old rule stated the IDW should be completed "within the biennium." The new language in §16-99-104 (which applies to CE instructors) states the IDW must be completed "prior to teaching in each biennium. Instructors who completed an IDW in 2015-2016 are eligible to teach in the 2017-2018 biennium. The commission will be sponsoring an IDW in the 2017-2018 biennium. Prelicense instructors also have to complete an IDW prior to recertification. (See §16-99-58(c))
- 9) There is an emphasis added on student evaluations of CE instructors. See §§16-99-121(b)(5), 16-99-121.1 (new rule).

To view the complete rule changes, go to [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec). (**Note: underscored material is the new rule content. Material that is crossed through is deleted.**) Below are the approved new rules.

§16-99-3 Conduct.

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(k) The brokerage firm shall not compensate a licensee of another brokerage firm in connection with a real estate transaction without paying directly or causing the payment to be made directly to the other brokerage firm. This requirement shall not apply in cases where the licensee or the licensee's estate is receiving compensation from a former brokerage firm for commission earned while the licensee was affiliated with that former brokerage firm[.], regardless of whether the licensee is on inactive status or on forfeited status or deceased.

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(o) Prior to the time the principal broker or the ~~[broker in charge]~~ broker-in-charge is absent from the principal place of business for more than thirty calendar days, and no other ~~[broker in charge]~~ broker-in-charge is registered ~~[with]~~ for the principal place of business, the principal broker shall submit to the commission a signed, written notification of the absence designating a temporary principal broker or temporary ~~[broker in charge]~~ broker-in-charge, who shall acknowledge the temporary designation by signing the notification. In case of prolonged illness or death where the principal broker or ~~[broker in charge]~~ broker-in-charge is unable to act, another broker shall be designated as the temporary principal broker or ~~[broker in charge]~~ broker-in-charge within thirty days of the illness or death with appropriate notification ~~[to the commission.]~~ and statement of a licensed medical doctor certifying to the commission the inability of the broker to practice. [A temporary principal broker or broker in charge arrangement shall not exceed a period of six months, with the right to extend prior to expiration for another six months for good cause and with the approval of the commission.]

A temporary principal broker or broker-in-charge arrangement shall not exceed a period of six months unless, prior to expiration of the initial six-month period, the principal broker requests and obtains, upon a showing of good cause for such extension, approval of the commission to extend the temporary arrangement for up to an additional six months.

§16-99-4 Client's account; trust funds; properties other than funds.

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(d) Every brokerage firm shall deposit or place trust funds received into a neutral escrow depository or in a trust fund account with some bank or recognized depository, which is federally insured, by the next business day following their receipts. The neutral escrow depository shall be located in the same state where the property is located.

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§16-99-5.1 Involuntary inactive license status.  
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- (d) A brokerage firm's license, whether a corporation, limited liability company or partnership, shall be placed on an involuntary inactive status upon the occurrence of one or more of the following:
- (1) The principal broker's license is placed on an inactive, forfeited, suspended, revoked, or terminated status;
  - (2) The brokerage firm is no longer registered with the business registration division;
  - (3) The principal broker is unable to act in the case of prolonged illness or death and no temporary principal broker has been designated pursuant to section 16-993(o);
  - (4) The brokerage firm has no approved place of business; and
  - (5) The principal broker is absent from the place of business for more than thirty days, or moves out-of-state, and no commission approved temporary principal broker or broker-in-charge has been designated pursuant to section 16-99-3(o).
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§16-99-36 Education requirement. The education requirement for the salesperson license examination shall be satisfied by successful completion of a curriculum in real estate at an accredited institution, consisting of a minimum of [forty-five] sixty class hours and conforming to the approved curriculum for salesperson adopted by the commission or such equivalent education or experience as shall be determined by the commission. The education requirement for the broker license examination shall be satisfied by successful completion of a curriculum in real estate at an accredited institution, consisting of a minimum of [forty-six] eighty class hours and conforming to the approved curriculum for brokers adopted by the commission or equivalent education or experience as shall be determined by the commission. A “class hour” as used in this section means sixty minutes of classroom instruction.

§16-99-37 Education equivalency. (a) The commission may grant an equivalency to the respective education requirements for applicants for the salesperson [~~and broker~~] license examinations for:

- (1) Those who hold a current license that was active within one year immediately prior to the date of application as a salesperson or broker in another state with similar or superior education requirements as determined by the commission;
  - (2) Graduates of an accredited law school in the United States; [~~or~~] or
  - (3) Bachelor of Arts or Bachelor of Science degree graduates of accredited colleges and universities in the United States who have majored in real estate or business[;] .
  - [(4) Those who have successfully completed at least six semester credits in real estate, business, business law, real estate development, or finance courses at an accredited college or university; and
  - (5) Those who have received a professional designation and recognized certificates of completion as accepted by the commission including a GRI designation; certificate in advanced real estate from the University of Hawaii, small business management program.]
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(b) The commission may grant an equivalency to the respective education requirements for applicants for the broker license examinations for:

(1) Those who hold a current license that was active within one year immediately prior to the date of application as a broker in another state with similar or superior education requirements as determined by the commission; and

(2) Graduates of an accredited law school in the United States.

[(b)] (c) All requests for equivalency to the educational requirements shall be submitted in writing, together with all supporting documents of an official nature to the commission for its review, prior to filing the application for examination.

[(c)] (d) An approved education equivalency shall be valid for two years from the date of issuance.

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§16-99-52.1 Independent study courses. . . .

(b) An independent study course for satisfaction of the salesperson education requirement shall reasonably require the student to expend [forty-five] a minimum of sixty hours in completing the course. An independent study course for satisfaction of the broker education requirement shall reasonably require the student to expend [forty-six] a minimum of eighty hours in completing the course.

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§16-99-53 Application for registration. . . .

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(c)(8)(C) No bond shall be required to cover real estate students only enrolled in an independent study course delivered electronically or as approved by the commission;

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§16-99-58 Faculty.

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(d) Each instructor shall initially take and pass an examination with a minimum passing score of eighty-five per cent or as prescribed by the commission and shall:

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(g) ~~[Every instructor, every three years, as a condition of recertification for each course the instructor chooses to teach, shall take and pass an instructor's exam, demonstrating the instructor's current command of the prelicense course.]~~ An instructor may not be certified if the individual has been:

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(1) Disciplined by the commission or any state or by any licensing regulatory body for fraud, misrepresentation, or deceit in connection with the sale, purchase, exchange, or property management of any interest in real estate or for any other conduct substantially related to the practice or profession of real estate; or

(2) Convicted of a crime which substantially relates to the profession of teaching or to the practice or profession of real estate.

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§16-99-61 Certificate of completion. . . . The certificate shall be valid for a period of two years from the date of issuance. The date of issuance shall be the class completion date.

§16-99-62 Records. (a) Each school shall maintain records on the following:

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- (3) The names of the students to whom it issued a certificate of completion, the course for which the certificate of completion was issued, and the date when the certificate of completion was issued[;], which shall be submitted to the commission within ten days of the class completion date;

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(b) Within ten days of issuance of a Hawaii school completion certificate, the school shall submit to the commission;

(1) A listing of students who have completed the course with their course completion certificate number, curriculum instructor names and date when the when the certificate of completion was issued; and

(2) Other information requested by the commission.

[b)] (c) These records shall be maintained for a three-year period, shall be kept current, and shall be available for inspection by the commission.

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§16-99-66 Advertising. (a) For purposes of this subchapter, “advertising” means an announcement by an accredited real estate school for the purpose of promoting the school or soliciting students and shall include, but not be limited to, all printed, [and] audio, and visual communications, such as newspaper advertisements, direct public mailings, books and periodicals, television and radio commercials, current and future technology, and others.

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§16-99-87 Definitions. As used in this subchapter:

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"Course and course offering" means a continuing education module of instruction certified by the commission, consisting of a minimum of three clock hours [.] and a maximum as the commission may determine.

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"Professional standards and practice courses" means course content relating to real estate professional development[.] that improves real estate competency of the licensee or for the benefit of the real estate consumer, or both.

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§16-99-03 Excess continuing education hours. Except as permitted by sections 16-99-91 and 16-99-92, continuing education clock hours obtained in excess of [ten hours] the continuing education hours required by section 467-11.5, HRS, cannot be carried forward to satisfy the continuing education requirements for any subsequent license renewal.

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§16-99-95 Duplicate continuing education hours. Except as provided by the commission or by this subchapter, a licensee shall not take a continuing education course [~~that is substantially similar to a course~~] for which the licensee has already received a certificate[.] within two consecutive biennia. [~~A continuing education provider shall not issue to a licensee a certificate for substantially the same course completed by the licensee.~~]

~~"Substantially similar" as used in this section means that at minimum, seventy five per cent of the course content of a course is repeated in another course offering.]~~

§16-99-96 An instructor who is a licensee. In satisfying the continuing education hours of a license period, an instructor who is a real estate licensee, may use once in any two consecutive biennium, the clock hours for each course taught~~[.]~~ except the core course which may be recognized for clock hours each biennium. The one time use applies even when the instructor has taught the course more than once.

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§16-99-99 Application for registration as a continuing education provider. . . .

(a) A continuing education provider shall be responsible for the administration of the course offering. An application for registration as a continuing education provider shall be made to the commission on a form prescribed by the commission. . . . and include at least the following: . . .

(7) A surety bond conditioned for the protection of all contractual rights of real estate students in an amount not less than \$2,000 issued by a surety authorized to do business in the State; provided that no bond shall be required if [the provider submits a statement certifying that no moneys shall be collected from real estate students in advance of the class date;] the course is delivered electronically or as approved by the commission; . . .

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§16-99-101 Courses not acceptable for continuing education course certification. The commission may not certify a continuing education course, or any portion thereof, which:

- (1) Does not directly related to real estate law or real estate practice;
- (2) Is related to passing a prelicense real estate salesperson or broker exam;
- (3) Teaches general office ~~[and business]~~ skills, such as ~~[typing,]~~ word processing, basic internet skills, computer software or other technology, [speed reading, memory improvement, report writing,] personal motivation, ~~[salesmanship, sales psychology,]~~ and time management;
- (4) Includes sales or promotions of a product or service or other meetings held in conjunction with general real estate brokerage activity;
- (5) Is devoted to meals or refreshments;
- (6) Is less than three clock hours in duration; and
- (7) Does not meet the definition of continuing education as determined by the commission.

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§16-99-104 Criteria for certification of a continuing education instructor.

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(d) Any individual meeting the criteria for approval as a continuing education instructor, may not be certified by the provider if the individual has been:

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(3) Determined to have scored below the minimum requirements as established by \the commission, which may include a standardized student evaluation rating.

(e) The commission may require that each instructor complete an instructor's workshop as approved by the commission [or complete viewing a commission approved audio videotape of such workshop within the biennium.] prior to teaching in each biennium.

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§16-99-112 Record keeping information and retention period. (a) A real estate continuing education provider shall maintain for a period of at least four years records of course offerings (including names of instructors, dates of and locations of course offerings), student attendance, student registration, course completions, student evaluations, and personal information and resumes of its instructors and administrators. . . .

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§16-99-121 Faculty

(b) The administrator shall be responsible for:

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(5) Administering and maintaining the student evaluations; and ~~minimum rating standards of instructors~~

(6) Ensuring that instructors do not fall below minimum rating standards.

§16-99-121.1 Instructor evaluation. (a) Course providers shall implement a standardized student evaluation process as determined by the commission.

(b) Course providers shall ensure that student evaluations of instructors do not fall below the minimum rating standards as determined by the commission.

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§16-99-147.1 Condominium hotel operations. The condominium hotel operator shall operate only in areas specifically authorized by county zoning codes. The condominium project declaration and bylaws shall specifically permit transient lodging of less than thirty days

§16-99-147.2 Who may register as a condominium hotel operator. (a) Only those persons who do not hold a real estate license, either salesperson or broker, may register as a condominium hotel operator.

(b) Where an entity includes the following persons holding a real estate salesperson or broker's license, that entity may not register as a condominium hotel operator:

(1) General partner or employee of a partnership condominium hotel operator;

(2) An officer or employee of a corporation condominium hotel operator;

(3) A member of a member-managed limited liability company condominium hotel operator; or

(4) A principal having direct management and responsibility over condominium hotel operations, including performing or facilitating the delivery of customary hotel services.

§16-99-148 Fidelity Bond

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(g) The fidelity bond shall not be required of an individual owner providing apartments or units for transient lodging; provided that ownership of the apartment or unit is in the individual owner's name and not in an entity's name; and provided further that the owner has no employees. Where the individual owner has an employee, the individual owner shall obtain and maintain a fidelity bond.

§16-99-149 Client's trust funds, accounting, and records. (a) Condominium hotel operators, including condominium hotel operators who are [excluded or exempt from obtaining a real estate broker's license pursuant to section 467-30(f), HRS] precluded from holding a license as a real estate broker or real estate salesperson pursuant to 467-30(g)(2), HRS shall comply with section 16-99-4. For purposes of compliance, when the condominium hotel operator is not a real estate broker, references to broker or principal broker in section 16-99-4 shall also mean "condominium hotel operator."



## COURSE COMPLETION CERTIFICATES

“Houston, we have a problem.” Sound familiar? That statement from the film, “Apollo 13”, is applicable to a current situation, so please read on.

**CE Providers:** Please do not provide your own course completion certificates to Hawaii real estate licensees completing your CE courses. As we have become all too aware, many licensees do not read, or read accurately, what they receive. What has happened is that these “course completion certificates” which are NOT the Hawaii Real Estate Commission course completion certificates, are being submitted to the Real Estate Branch, in the mistaken belief that they are valid certificates that go towards their license renewal. **USE THE COURSE COMPLETION CERTIFICATES AVAILABLE VIA THE ONLINE REAL ESTATE EDUCATION WEBSITE, AND NO OTHER!**

**Prelicense Schools:** There is a similar issue with School Completion Certificates. Please do not provide your own completion certificate. Or, if you provide study courses or tutorials for candidates, do not issue them a “certificate” for completing these study courses. These candidates have erroneously submitted them as evidence of completion of the Hawaii prelicense course, either to the Commission or at the actual test site. It appears to create CONFUSION for the candidate, as well as the test site personnel, who have ACCEPTED these certificates in place of a legitimate School Completion Certificate issued by the Commission. **USE THE SCHOOL COMPLETION CERTIFICATES AVAILABLE VIA THE ONLINE REAL ESTATE EDUCATION WEBSITE, AND NO OTHER!**

Mahalo for your cooperation!



## SCHEDULING AND OFFERING CE COURSES

The new rule in §16-99-103 Offerings of a certified continuing education course states that a continuing education provider shall notify the commission at least three calendar days prior to the course offering date. Previously the requirement was at least fourteen days.

The online real estate education system is being updated to allow for this rule change. The system should be operational by the time you read this article.

Please note that while previously the Real Estate Branch accommodated date changes to offering dates because of the fourteen day requirement, these changes will not be accommodated in the future, as the three-day requirement is well within reasonable planning by the provider.





## RECOVERY FUND



What is the Real Estate Recover Fund?

In summary, the law on the real estate recovery fund states that any person aggrieved by an act, representation, transaction, or conduct of a duly licensed real estate broker or salesperson, upon the grounds of fraud, misrepresentation, or deceit, may recover upon the Commission’s settlement of a claim or by order of the circuit court or district court of the county where the violation occurred, an amount of not more than \$25,000 per transaction. No action for a judgment which subsequently results in a court order for collection from the real estate recovery fund shall be started later than **two years from the accrual of the cause of action thereon**.

After a judgment based on “fraud, misrepresentation, or deceit” is obtained and after the “aggrieved person has fully pursued and exhausted all remedies available to the person for recovering the amount awarded by the judgment of the court”, the court may issue an order “directed to the Commission requiring payment from the real estate recovery fund.”

The aggrieved person shall **notify** the commission in writing **simultaneously** upon filing a complaint in the court and commencing action for a judgment against a real estate licensee which may result in collection from the real estate recovery fund. The notification shall include the statutory notice and two copies of the complaint and any pleadings filed with the courts. The Commission has no forms for claims to the real estate recovery fund.

The Commission will be represented by contracted attorneys and may intervene in and defend any such action. The Commissions attorneys do **not** represent the plaintiffs (aggrieved persons) or the defendants (real estate licensees) but represent the Commission and the statutory interests of the real estate recovery fund.

In addition, the Commission encourages you to file a complaint with the Regulated Industries Complaints Office (RICO) for possible disciplinary action against the real estate licensee(s). They can be contacted at:

Regulated Industries Complaints Office  
Leiopapa A Kamehameha Building  
235 South Beretania Street, 9<sup>th</sup> Floor  
Honolulu, HI 96813  
Telephone: (808) 587-3222

Should you have any questions, please call (808) 586-2643.

NOTE: Please review Hawaii Administrative Rules (HAR) §16-99-79 Recovery fund settlement procedures, and Hawaii Revised Statutes (HRS) §467-16 Real estate recovery fund; use of fund; fees.



## CONTINUING EDUCATION PROVIDERS

Abe Lee Seminars  
All Islands Real Estate School  
American Dream Real Estate School, LLC  
At Your Pace Online, LLC  
The Berman Education Company, LLC  
Bly School of Real Estate (**pending**)  
Building Industries Association of Hawaii  
Carol Ball School of Real Estate  
Carol M. Egan, Attorney at Law  
The CE Shop, Inc.  
Coldwell Banker Pacific Properties Real Estate School  
Continuing Ed Express, LLC  
Hawaii Association of Realtors  
Hawaii Business Training  
Hawaii CCIM Chapter  
Hawaii Island Realtors  
Honolulu Board of Realtors  
International Association of Certified Home Inspectors (InterNACHI)  
Kauai Board of Realtors  
McKissock, LP  
OnCourse Learning Corporation  
dba Career WebSchool  
Preferred Systems, Inc.  
ProSchools, Inc.  
Ralph Foulger's School of Real Estate  
Realtors' Association of Maui, Inc.  
REMI School of Real Estate  
Russ Goode Seminars  
USA Homeownership Foundation, Inc.,  
dba Veterans Association of Real Estate Professionals (VAREP)  
Vitousek Real Estate Schools, Inc.  
West Hawaii Association of Realtors

## PRELICENSE SCHOOLS

Abe Lee Seminars  
Akahi Real Estate Network, LLC  
All Islands Real Estate School  
American Dream Real Estate School, LLC  
Bly School of Real Estate (**pending**)  
Carol Ball School of Real Estate  
Coldwell Banker Pacific Properties Real Estate School  
Continuing Ed Express, LLC  
Digital Learning Centers, LLC dba REMI School of Real Estate  
Inet Realty  
ProSchools, Inc.  
Ralph Foulger's School of Real Estate  
Seiler School of Real Estate  
Vitousek Real Estate Schools, Inc.



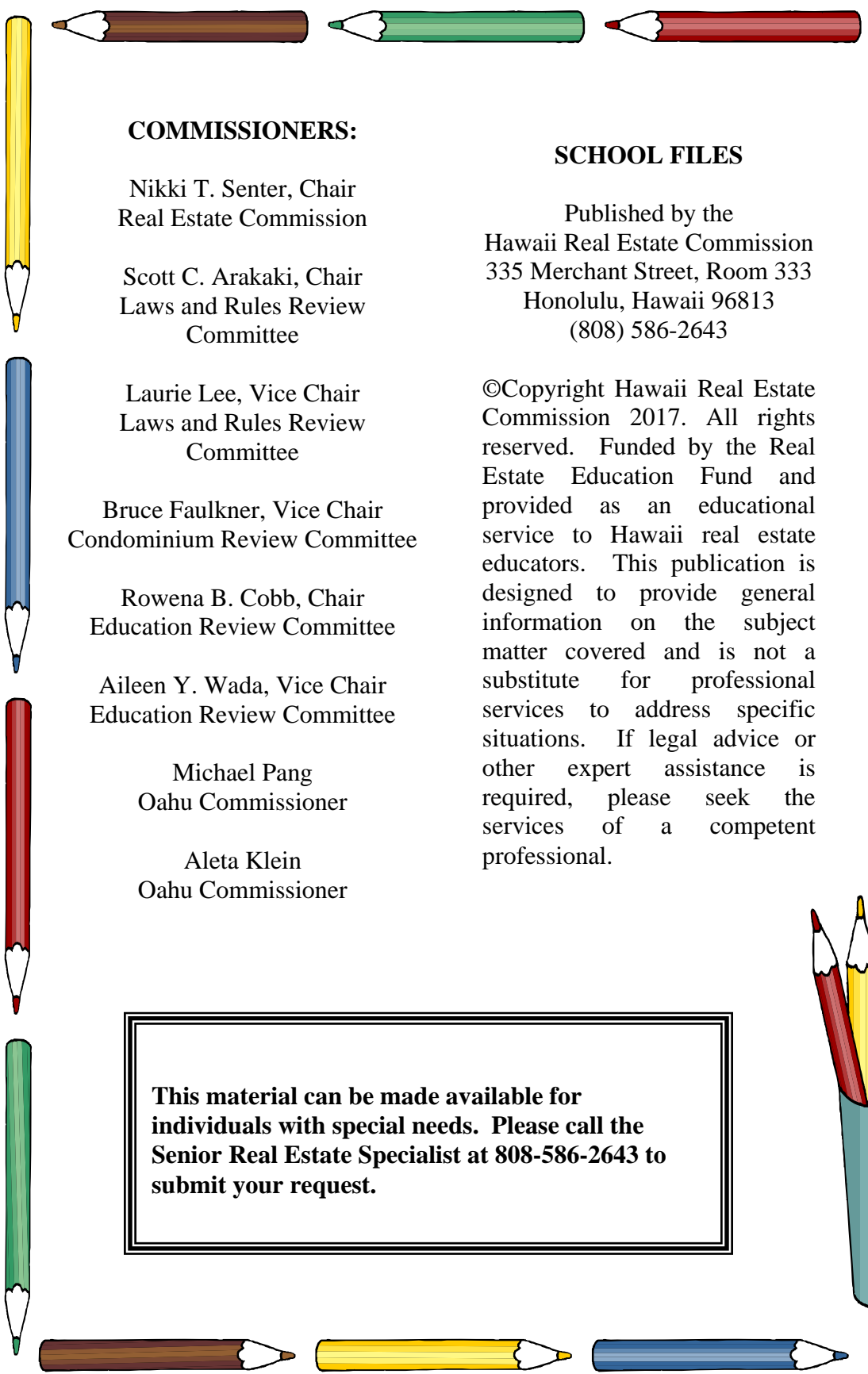
**2017 REAL ESTATE COMMISSION  
MEETING SCHEDULE**

<p><b>Laws &amp; Rules Review Committee - 9:00 a.m.</b></p> <p><b>Condominium Review Committee - Upon adjournment of the Laws &amp; Rules Review Committee Meeting</b></p> <p><b>Education Review Committee - Upon adjournment of the Condominium Review Committee Meeting</b></p>	<p align="center"><b>Real Estate Commission 9:00 a.m.</b></p>
<p align="center">Wednesday, January 11, 2017 *</p>	<p align="center">Friday, January 27, 2017</p>
<p align="center">Wednesday, February 08, 2017</p>	<p align="center">Friday, February 24, 2017</p>
<p align="center">Wednesday, March 08, 2017</p>	<p align="center">Friday, March 24, 2017</p>
<p align="center">Wednesday, April 12, 2017</p>	<p align="center">Friday, April 21, 2017</p>
<p align="center">Wednesday, May 10, 2017</p>	<p align="center">Friday, May 26, 2017</p>
<p align="center">Wednesday, June 14, 2017</p>	<p align="center">Friday, June 30, 2017</p>
<p align="center">Wednesday, July 12, 2017</p>	<p align="center">Friday, July 28, 2017</p>
<p align="center">Wednesday, August 09, 2017</p>	<p align="center">Friday, August 25, 2017</p>
<p align="center">Wednesday, September 13, 2017</p>	<p align="center">Friday, September 29, 2017</p>
<p align="center">Wednesday, October 11, 2017</p>	<p align="center">Friday, October 27, 2017</p>
<p align="center">Wednesday, November 08, 2017</p>	<p align="center">Wednesday, November 22, 2017</p>
<p align="center">Wednesday, December 06, 2017</p>	<p align="center">Friday, December 15, 2017</p>

\* The Meeting will be held at the REALTORS' Association of Maui, 441 Ala Makani Place, Kahului, HI at 9:30 a.m.

All meetings will be held in the Queen Liliuokalani Conference Room of the King Kalakaua Building, 335 Merchant Street, First Floor.

Meeting dates, locations and times are subject to change without notice. Please visit the Commission's website at [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec) or call the Real Estate Commission Office at 586-2643 to confirm the dates, times and locations of the meetings. This material can be made available to individuals with special needs. Please contact the Executive Officer at 586-2643 to submit your request.



**COMMISSIONERS:**

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Real Estate Commission

Scott C. Arakaki, Chair  
Laws and Rules Review  
Committee

Laurie Lee, Vice Chair  
Laws and Rules Review  
Committee

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Condominium Review Committee

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Michael Pang  
Oahu Commissioner

Aleta Klein  
Oahu Commissioner

**SCHOOL FILES**

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**This material can be made available for individuals with special needs. Please call the Senior Real Estate Specialist at 808-586-2643 to submit your request.**

