

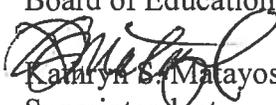


STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

February 7, 2012

TO: The Honorable James D. Williams, Chairperson  
Committee on Human Resources  
Board of Education

FROM:   
Kathryn S. Matayoshi  
Superintendent

SUBJECT: Discussion/Recommendation for Board Action Relating to Promulgation of a New  
Chapter 8-66, Hawaii Administrative Rules, Relating to Part-time Temporary Employees

1. RECOMMENDATION

It is recommended that the Board of Education Committee on Human Resources approve the proposed new Chapter 8-66, Hawaii Administrative Rules, Part-time Temporary Employees, as enclosed.

2. RECOMENDED EFFECTIVE DATE

It is recommended that Chapter 8-66 become effective when the rule adoption process, pursuant to Chapter 91, Hawaii Revised Statute, is completed.

3. RECOMMENDED COMPLIANCE DATE

It is recommended that compliance with Chapter 8-66 be effective upon adoption of the rules.

4. DISCUSSION

a. Conditions leading to the recommendation

Before 2005, School Code regulation 5203 provided that the hourly pay for part-time temporary teachers would be one sixth of the daily pay for substitute teachers. The

regulation provided that certain other part-time or casual employees were paid based on the part-time temporary teachers' pay.

On July 22, 2005, then Superintendent Patricia Hamamoto issued a directive decoupling part-time temporary teachers' pay from substitute teachers' pay. The directive stated that effective July 1, 2005, Class A part-time temporary teachers (those with a bachelor's degree from an accredited institution) would be paid \$22.43 per hour. The directive stated that Class B part-time temporary teachers (those without such a degree) would be paid \$20.67 per hour.

At its November 16, 2006, meeting the Board confirmed the Superintendent's action and confirmed the rates of pay stated above.

Those rates have in fact been paid since July 1, 2005.

In February 2006, a class action lawsuit entitled *Kawashima v. Department of Education et al.*, Civil No. 06-1-0244-2 ECN was filed on behalf of all part-time temporary teachers and other employees paid on the same basis. On August 29, 2011, the judge in that case issued a ruling stating that the previous action by the Superintendent and the Board was unlawful and ineffective and that part-time temporary teachers' pay can only be changed by way of Hawaii Revised Statute, Chapter 91, rule amendment.

b. Previous action of the Board on the same or similar matter

See above referenced date of November 16, 2006 concerning previous Board action.

c. Other policies affected

None.

d. Arguments in support of the recommendation

The proposed rules are necessary pursuant to the judge's order in civil case *Kawashima v. Department of Education et al.*, Civil No. 06-1-0244-2 ECN.

e. Arguments against the recommendation

As there are no changes being proposed to the classes and hourly rates of pay for part-time temporary employees, no arguments against the recommendation are foreseen.

However, it is anticipated part-time temporary employees may use this forum to advocate for an increase in their hourly rate of pay.

f. Findings and conclusions of the Board Committee

See b. above.

- g. Other agencies or departments of the State of Hawaii involved in the action

None.

- h. Possible reaction of the public, professional organizations, unions, Department staff and/or others to the recommendations

None foreseen.

- i. Educational implication

None foreseen.

- j. Personnel implications

None foreseen.

- k. Facilities implications

None foreseen.

- l. Financial implications

None foreseen.

5. OTHER SUPPLEMENTARY RECOMMENDATIONS

None.

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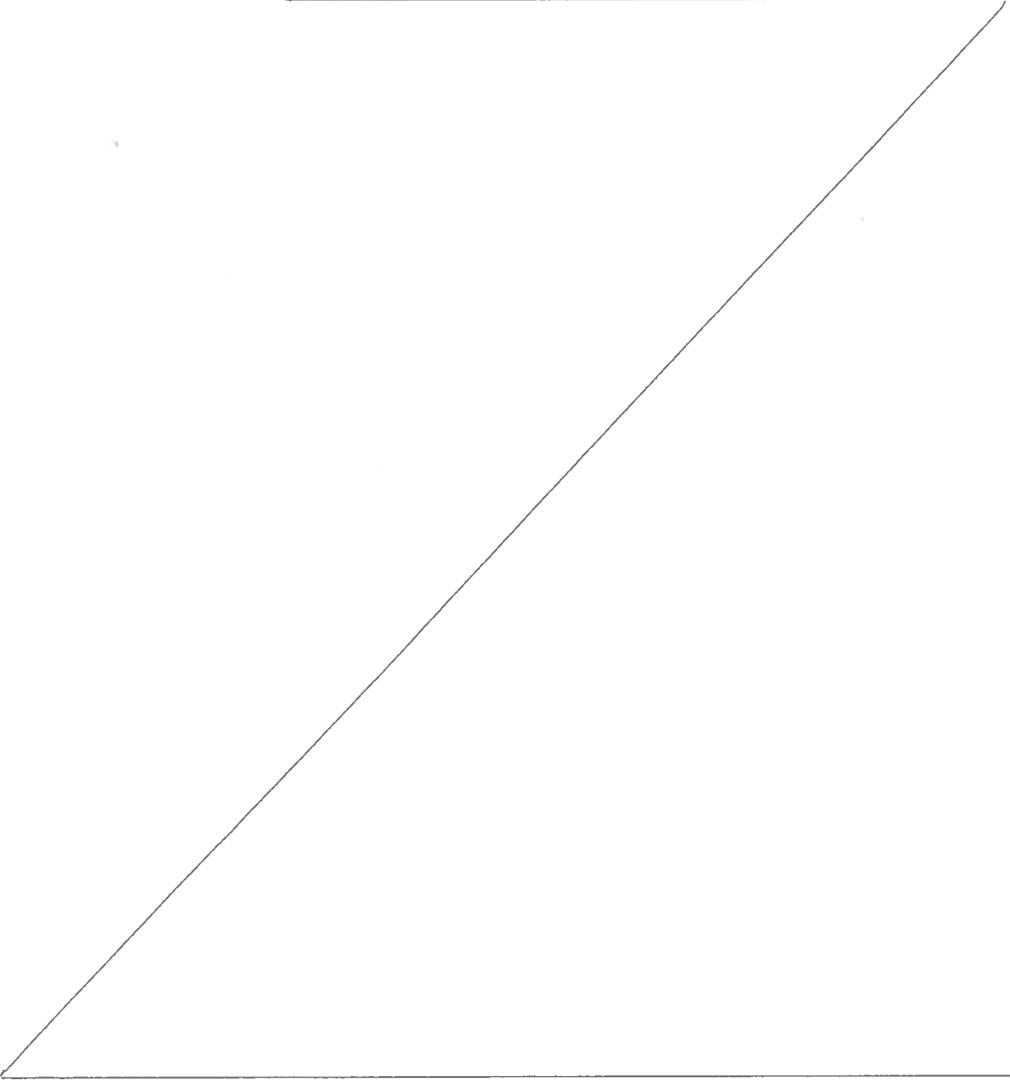
Enclosure: New Rules, Ramseyer Format, Chapter 8-66, HAR

c: Office of Human Resources

DEPARTMENT OF EDUCATION

Adoption of Chapter 8-66  
Hawaii Administrative Rules

1. Chapter 8-66, Hawaii Administrative Rules,  
entitled "Part-time Temporary Employees", is adopted to  
read as follows: \_\_\_\_\_



"HAWAII ADMINISTRATIVE RULES

TITLE 8

DEPARTMENT OF EDUCATION

SUBTITLE 2

PART 1

PUBLIC SCHOOLS

CHAPTER 66

PART-TIME TEMPORARY EMPLOYEES

Subchapter 1 General Provisions

- §8-66-1 Applicability
- §8-66-2 Purpose
- §8-66-3 Definitions
- §§8-66-4 to 8-66-6 (Reserved)

Subchapter 2 Part-time Temporary Teachers

- §8-66-7 Compensation classes
- §8-66-8 Compensation rates

Subchapter 3 Certain Other Part-time Temporary Employees

- §8-66-9 Summer School Teacher
- §8-66-10 Summer School Director
- §8-66-11 Summer School Assistant Director
- §8-66-12 Summer School Support Staff
- §8-66-13 Coordinator, Project Director, or Assistant Project Director
- §8-66-14 Specialty Instructor

SUBCHAPTER 1

GENERAL PROVISIONS

§8-66-1 Applicability. Notwithstanding any other rule, school code regulation, or board or department policy, the compensation for part-time temporary teachers and certain other part-time temporary employees employed by the department for service in any public school shall be as set forth in this chapter. [Eff \_\_\_\_\_ ] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-66-2 Purpose. The purpose of this chapter is to set forth by rule pursuant to section 302A-1112, HRS, the compensation for part-time temporary teachers and certain other part-time temporary employees. [Eff \_\_\_\_\_ ] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-66-3 Definitions. As used in this chapter, unless the context specifically requires otherwise:

"Board" means the board of education.

"Part-time temporary teachers" means and includes part-time temporary teachers (academic and non-academic) employed on an hourly basis and is intended to cover all persons covered by Regulation 5203 E of the Board of Education School Code, effective September 1, 1976.

"Department" means the Hawaii department of education.

"Hawaii public schools" shall have the same meaning as "public schools" as defined in section 302A-101, HRS. [Eff \_\_\_\_\_ ] (Auth: HRS §302A-1112) (Imp: HRS §§302A-101, 302A-1112)

§§8-66-4 to 8-66-6 (Reserved).

SUBCHAPTER 2

PART-TIME TEMPORARY TEACHER

§8-66-7 Compensation classes. A part-time temporary teacher shall be assigned to a compensation class based on the academic qualifications of the individual. The two classes of compensation are:

- (1) Class A for individuals with a minimum of a bachelor's degree from an accredited institution of higher learning; or
- (2) Class B for all persons not included in Class A. [Eff \_\_\_\_\_ ] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-66-8 Compensation rates. The hourly rate for the classes of part-time temporary teachers are as follows:

- (1) Class A: \$22.43 per hour; or
- (2) Class B: \$20.67 per hour.  
[Eff \_\_\_\_\_ ] (Auth: HRS §302A-1112)  
(Imp: HRS §302A-1112)

SUBCHAPTER 3

CERTAIN OTHER PART-TIME TEMPORARY EMPLOYEES

§8-66-9 Summer School Teacher. A summer school teacher's compensation shall be determined on:

- (1) The same basis as set forth in sections 8-66-7 and 8-66-8 relating to part-time temporary teachers; and
- (2) If the rates indicated do not permit a summer session to be self-supporting, summer school teachers' compensation may be adjusted downward, provided written approval is obtained from the complex area superintendent and from the summer school teachers before the session starts.

[Eff ] (Auth: HRS §302A-1112)  
(Imp: HRS §302A-1112)

§8-66-10 Summer School Director. A summer school director's compensation shall be:

(1) The hourly rate of \$22.43 multiplied by the number of compensable hours for the summer session plus an appropriate percentage differential in accordance with paragraph(2);

(2) The percentage differential shall be determined by multiplying the summer school director's compensation by percentages as follows:

Number of Teachers	Percentage Differential
1 - 5	25
6 - 10	30
11 - 15	35
16 - 25	40
26 and over	45;

(3) In schools of five or less teachers, the summer school director may serve as one of the regular teachers and be compensated as a summer school teacher plus receive a 25% differential in accordance with paragraph (2), or serve only as a summer school director and receive only the 25% differential; and

(4) In schools of six or more teachers, the summer school director shall serve on a non-teaching basis and compensation shall be determined in accordance with paragraphs (1) and (2).

[Eff ] (Auth: HRS §302A-1112)  
(Imp: HRS §302A-1112)

§8-66-11 Summer School Assistant Director. A summer school assistant director's compensation shall be the hourly rate of \$22.43 multiplied by the number of compensable hours for the summer session plus a percentage differential equal to one-half of the summer school

director's differential. [Eff \_\_\_\_\_ ] (Auth:  
HRS §302A-1112) (Imp: HRS §302A-1112)

§8-66-12 Summer School Support Staff. Summer school employees that provide services including, but not limited to, part-time or full-time library, instructional material, or data processing support, shall have their compensation determined on the same basis as set forth in sections 8-66-7 and 8-66-8 relating to part-time temporary teachers. [Eff \_\_\_\_\_ ] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-66-13 Coordinator, Project Director, or Assistant Project Director. A part-time temporary employee designated as a coordinator, project director, or assistant project director shall be compensated at an hourly rate of \$24.00 per hour. [Eff \_\_\_\_\_ ] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-66-14 Specialty Instructor. A specialty instructor shall be compensated at an hourly rate of \$25.00 per hour." [Eff \_\_\_\_\_ ] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

2. The adoption of chapter 8-66, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on \_\_\_\_\_, and filed with the Office of the Lieutenant Governor.

\_\_\_\_\_  
Chairperson, Board of  
Education

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Attorney General