

DEPARTMENT OF EDUCATION

Rules Amending Title 8
Hawaii Administrative Rules

(Date of Adoption)

1. Chapter 41 of Title 8, Hawaii Administrative Rules, entitled “Civil Rights Policy and Complaint Procedure for Department of Education Schools” is amended and compiled to read as follows:

“HAWAII ADMINISTRATIVE RULES

TITLE 8

DEPARTMENT OF EDUCATION

SUBTITLE 2

EDUCATION

PART 1

PUBLIC SCHOOL

CHAPTER 41

CIVIL RIGHTS POLICY AND COMPLAINT PROCEDURE **FOR**
DEPARTMENT OF EDUCATION SCHOOLS

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**assistant superintendents, deputy
superintendent, and superintendent**

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Historical Note: This chapter is based substantially upon Department of Education "Rule 52, Relating to Civil Rights Complaint Procedure for Students." [Eff. 12/9/78; am 7/21/80; R 4/21/86]

§8-41-1 Policy and Purpose. (a) It is the policy of the board of education that there shall be no discrimination **in the department by any employee against a student** in any program, activity, or service of the [public school system] **department** on the basis of race, color, religion, sex, age, national origin, ancestry or disability. **In addition to the above protected bases, the board of education strictly prohibits any form of harassment based on the following: gender identity and expression, socio-economic status, physical appearance and characteristic, and sexual orientation.** No disabled person who is otherwise qualified shall be denied the opportunity to participate in or receive benefits of, or be subjected to disparate treatment in any program, activity, or service of the [public school system.] **department.** The [public school system] **department** shall comply with all applicable state and federal nondiscrimination laws and regulations in administering this [policy.] **chapter.**

(b) This chapter establishes a **complaint** procedure in the [public school system] **department** for [filing and resolving] **students who are subjected to discrimination, with their parent(s)' or legal guardian(s)' knowledge, and for employees who witness such prohibited conduct within this chapter to file** complaints regarding alleged [violations] **violation(s)** of nondiscrimination rights protected by federal and state laws[.] **by an employee against a student. This chapter also establishes a procedure for resolving those complaints.**

[Eff. 4/21/86; am and comp OCT 28, 1995; am and comp

] (Auth: HRS §302A-1112) (Imp: Hawaii Const. Art.

X §1, HRS §§302A-1101, 302A-1112, 302A-1001, 302A-101, 368-1.5, 42 U.S.C. 2000d et seq., 34 C.F.R. 100, 5 U.S.C. 301, 34 C.F.R. 101, 794, 34 C.F.R. 104, 20 U.S.C. 1681, 34 C.F.R. 106, 45 C.F.R. 90, 42 U.S.C. 12101 et seq., 28 C.F.R. 35)

§8-41-2 Definitions. Whenever used in this chapter, unless the context otherwise requires:

“Civil rights compliance office” (“CRCO”) means the entity under the office of the superintendent responsible for conducting investigations described in this chapter.

~~“Complainant” means a [student or a group of students, or a parent or a group of parents, or a person who meets the essential eligibility requirements to receive the benefits of or to participate in, a program, activity, or service of the public school system, and]~~ **student(s), parent(s), legal guardian(s), employee(s), or anonymous person(s)** who submits a complaint alleging ~~[a violation of a right to nondiscrimination in education. The term “complainant” excludes employees and applicants for employment.]~~ **that a student was discriminated against by an employee.**

~~“Complaint” means a charge filed under this chapter, which alleges [a violation of a right to nondiscrimination in an educational program, activity, or service of the public school system under]~~ **that an employee, or a volunteer officially recognized by the department, discriminated against a student in violation of board of education policies, and federal and state regulations and laws, including, but not limited to,** the following ~~laws:~~

- (1) Title VI of the Civil Rights Act of 1964, Public Law 88-352, which prohibits discrimination on the grounds of race, color, or national origin;
- (2) Title IX of the Educational Amendments of 1972, Public Law 92-318, which prohibits discrimination on the basis of sex;
- (3) Section 504 of the Rehabilitation Act of 1973 Public Law 92-112, which prohibits discrimination against persons with disabilities;
- (4) Americans with Disabilities Act, Public Law 101-336, which prohibits discrimination against persons with disabilities in programs, activities, and services;
- (5) Section 368-1.5, Hawaii Revised Statutes which prohibits discrimination against persons with disabilities in any state program or activity;

- (6) Article X, Section 1, Hawaii State Constitution, which prohibits discrimination in public educational institutions because of race, religion, sex or ancestry;
- ~~[(7) Section 296-61, Hawaii Revised Statutes, which prohibits discrimination on the basis of sex;]~~

~~[(8)]~~**(7)** Age Discrimination Act of 1975, Public Law 94-135.

~~["Counsel" means any person or persons who, upon a request from the complainant or respondent, agrees to assist with the preparation, filing or presentation of any matter arising out of a complaint filed under this chapter.]~~

~~"Day" refers to a business day.~~

~~"Department" refers to the Hawaii state department of education.~~

"Decision-maker" means the administrator with decision-making authority and responsibility for supervising the respondent, which includes but is not limited to the principals, complex area superintendents, directors, assistant superintendents, deputy superintendent and the superintendent.

"Discrimination" means disparate treatment or consideration, or making a distinction in favor of or against, a student based upon the student's or students' protected basis covered by this chapter. Harassment is a form of discrimination.

"Employee" means a department employee.

"Gender Identity and expression" includes a person's actual or perceived gender, as well as a person's gender identity, gender-related self-image, gender-related appearance, or gender-related expression, regardless of whether that gender identity, gender-related self-image, gender-related appearance, or gender-related expression is different from that traditionally associated with the person's sex at birth.

~~"Harassment" means [verbal or non-verbal expressions based on race, color, national origin, ancestry, sex, age, religion, or disability which:~~

- ~~(1) create an intimidating, hostile or offensive school environment; or~~
- ~~(2) interfere with the education of a student; or~~
- ~~(3) otherwise adversely affect the educational opportunity of a student. Harassment based on sex includes unwelcome and unwanted sexual advances, sexual remarks, and sexual innuendoes.]~~ **unwelcome conduct based on a protected basis under this chapter, that is sufficiently severe, persistent or pervasive; that limits a student's ability to**

participate in or benefit from an educational program or activity, or creates a hostile or abusive educational environment.

“Legal Guardian” means a person who has the legal right and authority to make educational and other decisions for a child under the person’s guardianship.

“Officially recognized volunteer” means any person who has been recognized by a DOE administrator as someone who is authorized to perform work or services on their own free will and without compensation.

“Parent” means the natural or legal parent, guardian or custodian of a student[.] **whose rights have not been terminated by a court of competent jurisdiction. For students 18 years of age or older, all parental rights herein transfer to the student.**

“Persons with disabilities” means persons who have a physical or mental impairment that substantially limits one or more life activities, has a record of such an impairment, or are is regarded by the department as having an impairment.

“Physical appearance and characteristic” means the outward appearance with regard to hair style, beards, manner of dress, weight, height, facial features, or other aspects – or bodily characteristics of any person which is from birth, accident, medical condition, or from any natural physical development, including individual physical mannerisms. Physical appearance and characteristics shall not relate to the requirement of prescribed attire, if and when such requirement is uniformly applied and not discriminatory on other bases covered in this chapter; nor shall it relate to those situations where a bodily condition or characteristic will present a danger to the health or safety of any individual or school.

[“Public school” means a school established and maintained by the department in accordance with state law.]

“Respondent” means [department personnel] **an employee**, who [are] **is** [specifically named] **identified** in the complaint as having allegedly [taken an action which violates the nondiscrimination rights of the complainant; or] **discriminated against a student, or failed to intervene when a student harasses another student. It also means officially recognized volunteers. Respondent also means** the department when a complaint alleges systemic discrimination.

“Retaliation” means adverse action taken against anyone engaging in protected activity. Protected activity is defined as

anyone who files a complaint; participates in proceedings related to a complaint; inquires about his or her rights under this chapter; or otherwise opposes acts covered under this chapter.

“School” means all academic and non-college type schools established and maintained by the department in accordance with the law.

“Sexual orientation” means having preference for heterosexuality, homosexuality, or bisexuality; having a history of any one or more of these preferences; or being identified with any one or more of these preferences.

“Socio-economic status” means a measure of an individual or family’s relative economic and social ranking.

“Student” means a person who is currently enrolled in a [public] school, or in any program or activity conducted by the department.

“Systemic discrimination” means discrimination that results when an established policy, rule, regulation or procedure of the department has continuing effect of violating nondiscrimination rights. [Eff. 4/21/86; am and comp OCT 28, 1995; am and comp _____] (Auth: HRS §302A-1112) (Imp: Hawaii Const. Art. X §1, HRS §§302A-1101, 302A-1112, 302A-1001, 302A-101, 368-1.5, 42 U.S.C. 2000d et seq., 34 C.F.R. 100, 5 U.S.C. 301, 34 C.F.R. 101, 794, 34 C.F.R. 104, 20 U.S.C. 1681, 34 C.F.R. 106, 45 C.F.R. 90, 42 U.S.C. 12101 et seq., 28 C.F.R. 35)

§8-41-3 Applicability. [(a)] This chapter shall apply to all students [~~who are currently~~] enrolled in [~~Hawaii's public schools or to all persons who meet the essential eligibility requirements to receive the benefits of or to participate in, a program, activity or service of the public school system.~~] school during the regular school year, summer session, extended learning opportunities, intersessions or breaks who believe they have been subjected to discrimination or harassment by employees of the department on the basis of race, color, physical appearances or characteristics, national origin, ancestry, sex, sexual orientation, gender identity or expression, age, religion, socio-economic status, or disability in a program activity or service of the department.

[(b)]—With respect to Section 504 of the Rehabilitation Act of 1973, this chapter shall apply to complaints concerning disparate treatment under Subpart A, General Provisions, and facilities or program accessibility under Subpart C, Program Accessibility, of 34 C.F.R. 104.

~~(c) — This chapter shall apply to students who believe they have been subjected to harassment by employees of the department or other students on the basis of race, color, national origin, ancestry, sex, age, religion, or disability.~~

~~(d) — Employees of the department who believe that their nondiscrimination employment rights have been violated may file complaints under Policy 5513 of the School Code, Certificated Personnel Policies and Regulations. Employees may also opt to file a grievance in accordance with the applicable collective bargaining agreement.] [Eff. 4/21/86; am and comp OCT 28, 1995; am and comp~~

~~] (Auth: HRS §302A-1112) (Imp: Hawaii Const. Art. X §1, HRS §§302A-1101, 302A-1112, 302A-1001, 302A-101, 368-1.5, 42 U.S.C. 2000d et seq., 34 C.F.R. 100, 5 U.S.C. 301, 34 C.F.R. 101, 794, 34 C.F.R. 104, 20 U.S.C. 1681, 34 C.F.R. 106, 45 C.F.R. 90, 42 U.S.C. 12101 et seq., 28 C.F.R. 35)~~

§8-41-4 [District complaint board.] Responsibilities of the civil rights compliance office. ~~[(a) There shall be a district complaint board for each school district of the department for the purpose of receiving and hearing complaints.~~

~~(b) — Each district complaint board shall consist of:~~

~~(1) — The district superintendent or designee of the school district who shall serve as chairperson of the board;~~

~~(2) — A principal or designee of a public school in the respective school district who shall be appointed by the district superintendent and who shall serve a term of one school year, subject to recall by the department during the summer vacation period;~~

~~(3) — The equal educational opportunity coordinator or designee of the school district;~~

~~(4) — The director of management analysis and compliance branch or designee; and~~

~~(5) — The president of the district student council or designee who shall serve a term of one school year and, as may be required, during the summer vacation period immediately following the school year.~~

~~(c) — The following exceptions shall govern the composition of any district complaint board:~~

~~(1) — If a principal or designee appointed to a district complaint board is from a school at which the student named in a~~

~~complaint was enrolled at the time of the alleged violation, the chairperson shall appoint an alternate principal or designee to hear the complaint.~~

~~(2) If any member of a district complaint board is named as a respondent in a complaint, the chairperson shall appoint an alternate to hear the complaint; provided, if the district superintendent is named as a respondent, the state superintendent of education shall appoint an alternate to serve as chairperson of the district complaint board to hear the complaint.~~

~~(3) If any member of a district complaint board has reason to be disqualified from hearing a complaint, the chairperson may appoint an alternate to hear the complaint; provided in the case of a district superintendent, the state superintendent may appoint an alternate who shall serve as chairperson to hear the complaint.~~

~~(d) The district complaint board shall meet as necessary on a regularly scheduled date once every calendar month to hear complaints which may have been filed.~~

~~(e) At each regularly scheduled meeting, the district complaint board shall hear those complaints received at least fifteen days prior to the regularly scheduled meeting.~~

~~(f) A quorum of a district complaint board shall be three board members or designees.~~

~~(g) Each board member or designee shall have one vote.~~

~~(h) A decision of a district complaint board shall require the concurring vote of a majority of the board members or designees who are present at the board hearing on the subject complaint.]~~

(a) The CRCO shall coordinate the implementation of this chapter.

(b) The CRCO or other assigned entity shall be the entity responsible for investigating complaints stemming from allegations that fall under this chapter.

(c) The CRCO shall:

(1) prepare a final investigation report which will include findings; and

(2) provide the decision-maker with the final investigation report;

(d) The CRCO shall be the entity responsible for disseminating appropriate information about Chapter 41 to employees, volunteers officially recognized by the department, students and their parent(s) or legal guardian(s).

(e) Nothing in this chapter precludes an investigation being conducted by someone outside of the department. The CRCO's investigation(s) and such other investigation(s) may be used by the appropriate decision-making authorities. [Eff. 4/21/86; am and comp OCT 28, 1995; am and comp] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1101, 302A-1112, 20 U.S.C. 1405, 794, 34 C.F.R. 104.7, 20 U.S.C. 1681, 1682, 34 C.F.R. 106.8)

§8-41-5 Decision-making authority. [~~The authority to adjudicate complaints shall rest with the district complaint boards or the state superintendent of education or designee when a district complaint board fails to reach a decision because there is no concurring majority.~~]

(a) The decision-maker shall use the final investigation report prepared by the CRCO or other investigator(s) to determine whether the respondent should be subjected to disciplinary or non-disciplinary action. Disciplinary actions against a respondent found to have subjected a student to discrimination under this chapter may result in an oral warning, written warning, suspension without pay, demotion, transfer or termination, in accordance with applicable department policies, regulations, rules, collective bargaining agreements, and other department and civil service laws, rules and regulations. Disciplinary action should be such that it is reasonably calculated to stop the discrimination. Non-disciplinary action may include but are not limited to training, transfer, and counseling.

(b) If a violation of provision(s) in this chapter is found, the decision-maker shall work with the respective personnel regional officer or state office administrators to decide on the appropriate disciplinary action.

(c) The appropriate decision-maker possesses the authority to ultimately determine the appropriate disciplinary or non-disciplinary action under this chapter. [Eff. 4/21/86; comp OCT 28, 1995; am and comp] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1101, 302A-1112)

§8-41-6 Right to seek other relief. Nothing in this chapter shall be construed to limit or waive the right of the complainant to seek other relief as provided under federal and state laws. [~~A complainant has the right to file a discrimination complaint with the federal or state government:~~

(1) ~~without filing a complaint under this chapter;~~

- (2) ~~at the same time a complaint is filed under this chapter;~~
- (3) ~~at any time during the pendency of a complaint filed under this chapter; or~~
- (4) ~~after a complaint filed under this chapter has been adjudicated-] [Eff. 4/21/86; am and comp OCT 28, 1995; am and comp _____] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1101, 302A-1112, 368-3, 42 U.S.C. 2000d et seq. 34 C.F.R. 100)~~

§8-41-7 [Right to counsel.] **Responsibilities of the principals, complex area superintendents, directors, assistant superintendents, deputy superintendent, and superintendent.**
~~[Complainants and respondents shall have the right to seek counsel at their own expense in preparing, filing, and presenting any matter arising out of a complaint.]~~

(a) Principals, complex area superintendents, directors, assistant superintendents, deputy superintendent, or superintendent who witness or receive report(s) of discrimination shall take immediate action to address the immediate situation. Immediate action means that the principals, complex area superintendents, assistant superintendents, deputy superintendent, or the superintendent shall immediately contact the CRCO to initiate an investigation into complaint(s) stemming from allegations that fall under this chapter, and utilize the school's safety plan and other safety measures to take steps towards addressing any immediate safety issues to keep student(s) and staff safe.

(b) After an investigation is completed and a respondent was found to have violated provisions of this chapter, the appropriate decision-maker shall take appropriate action reasonably calculated to end the discrimination. The appropriate action may be disciplinary or non-disciplinary, and should be implemented as described in section 8-41-5. [Eff. 4/21/86; comp OCT 28, 1995; am and comp _____] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1101, 302A-1112, 42 U.S.C. 2000d et seq., 34 C.F.R. 100.9, 5 U.S.C. 301, 34 C.F.R. 101.11)

§8-41-8 [Right to information.] **Student's right to privacy.** ~~[A complainant and respondent shall have access to information and records in the possession of the department which bear upon the validity of the~~

complaint except for such information and records that must remain confidential in accordance with federal and state laws.] (a) **During the investigation process, identifiable information regarding a student who has allegedly been discriminated against by an employee or officially recognized volunteer will not be provided to a respondent without notice to the student's parent(s) or legal guardian(s). Once notice is provided to the student's parent(s) or legal guardian(s), the information may be made available to the respondent.**

(b) Identifiable information regarding a student who is a witness in an investigation under this chapter, will not be disclosed until written consent is provided by the parent(s) or legal guardian(s).

(c) Written withdrawal of parental or legal guardian consent for student witnesses shall be effective upon receipt and shall not affect any identifiable information released prior to receiving the written withdrawal.

(d) In the event the parent(s) or legal guardian(s) of a student witness, does not provide written consent for the release of identifiable information about the student, information about the student shall not be used, identified, or released. (Eff. 4/21/86; comp OCT 28, 1995; am and comp] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1101, 302A-1112)

§8-41-9 **Limited Confidentiality.** [Complaint] **Investigation** records shall remain confidential[.] **pursuant to state and federal laws.** They shall be maintained separate and apart from student and personnel files. **Investigations will be conducted with as much discretion as possible. The release of identifiable information of a student shall occur only upon obtaining the appropriate consent described in section 8-41-8.** [Eff. 4/21/86; comp OCT 28, 1995; am and comp] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1101, 302A-1112)

§8-41-10 [Right to discuss with principal.] **Complainants.** [Nothing in this chapter shall be construed to prevent or discourage a complainant from discussing discrimination concerns with the school principal prior to filing a complaint.] **Complaints stemming from allegations that fall under this chapter shall be filed pursuant to the**

procedure in section 8-41-11 and may be filed by the following complainants:

- (1) parent(s) or legal guardian(s) who know of an incident or witness conduct by an employee against a student that may possibly violate this chapter;**
- (2) student(s) who experience conduct by an employee against a student or observe an incident that may violate this chapter;**
- (3) employee(s) who witness or know about any incident or conduct by an employee against a student that may possibly violate this chapter; or**
- (4) anonymous person(s) who witness or know about any incident or conduct by an employee against a student that may possibly violate this chapter.** (Eff. 4/21/86; comp OCT 28, 1995; am and comp
] (Auth: HRS §302A-1112)
(Imp: HRS §§302A-1101, 302A-1112)

~~§8-41-11 Complaint procedure. [(a) The complainant shall file a written complaint with the district superintendent of the school district in which the alleged violation took place. The written complaint shall be filed within twenty days of the alleged violation and shall be made on a form provided by the department. There shall be no time limit for a complainant to file a written complaint alleging systemic discrimination. A copy of the written complaint shall be sent by mail, return receipt requested, to each respondent by the department within three days of receipt of the written complaint.~~

~~(b) The district complaint board shall investigate and afford all parties a hearing on all written complaints as provided herein. All parties to a complaint shall be given written notice of the hearing by registered or certified mail, return receipt requested, at least ten days before the scheduled hearing. The notice shall include the following:~~

- ~~(1) The date, time, place, and nature of the hearing;~~
- ~~(2) The nondiscrimination law allegedly violated;~~
- ~~(3) A statement of the issues or actions involved;~~
- ~~(4) The fact that any party may retain counsel if so desired; and~~
- ~~(5) The fact that any party who has difficulty speaking or understanding the English language may request appropriate assistance in that person's native language by the district complaint board.~~

~~(c) — Any party in a district complaint board hearing who has difficulty speaking or understanding the English language shall be provided appropriate assistance in that person's native language by the district complaint board. Reasonable modifications shall be made for any party in a hearing with a disability.~~

~~(d) — The district complaint board shall provide the complainant and respondent a written decision within ten days of concluding its hearing on the complaint. The written decision shall be a declaratory finding on the merits of the complaint. The written decision shall be sent by registered or certified mail, return receipt requested.~~

~~(e) — A decision of a district complaint board shall be final unless the district complaint board is unable to reach a decision because there is no concurring majority.~~

~~(f) — If a district complaint board fails to reach a decision because there is no concurring majority as provided herein, the complaint, recorded proceedings of the hearing, and any and all evidence accepted at the hearing shall automatically be forwarded to the state superintendent of education or designee who shall hear and examine the evidence and render a decision on the merits of the complaint within fifteen days from the date the district complaint board concluded its hearing. The decision of the state superintendent or designee shall be final under this section. The written decision shall be sent by registered or certified mail, return receipt requested, to the complainant and respondent.]~~

(a) A complaint may be filed with a school administrator, a complex area superintendent, director, deputy superintendent, superintendent, or the CRCO staff. A complaint may be filed either verbally or in writing by formally notifying the above named personnel. A complainant may also utilize a complaint form provided by the department to lodge his or her complaint. The complaint shall be accepted by the above entities and forwarded to the CRCO investigator(s) to assess whether an immediate investigation should be initiated.

(b) Complaints shall be forwarded to the CRCO. An investigator with the CRCO will determine whether the complaint is jurisdictional, and if so, will investigate the complaint within a reasonable time period depending on the complexity of the case.

[Eff. 4/21/86; am and comp OCT 28, 1995; am and comp

] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1101, 302A-1112, 20 U.S.C. 1405, 794, 34 C.F.R. 104.7, 20 U.S.C. 1681, 1682, 34 C.F.R. 106.8)

§8-41-12 [Waiver of time] Time limits. [The time limits established under this chapter may be waived for good and just cause at the discretion of the chairperson of the presiding district complaint board, or at the discretion of the state superintendent of education or designee under section 8-41-11(f).] Complaints shall be forwarded to the CRCO. The CRCO investigator will determine whether the CRCO has jurisdiction over the complaint, and if so, a CRCO investigator will investigate the complaint within a reasonable time period depending on the complexity of the case. [Eff. 4/21/86; comp OCT 28, 1995; am and comp] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1101, 302A-1112, 5 U.S.C. 301, 34 C.F.R. 101.42)

§8-41-13 [Remedy.] Chapter violation. [If a decision of a district complaint board, or the state superintendent of education or designee under section 8-41-11(f) of this chapter, requires remedial action by the department, the state superintendent of education shall promptly and equitably determine an appropriate remedy and be responsible for its implementation.] An employee or volunteer officially recognized by the department found to be in violation of this chapter by an appropriate decision maker, based on information contained in the final report prepared by the CRCO or other assigned entity, may receive disciplinary or non-disciplinary action as deemed appropriate by said decision maker. Such action will be taken in accordance with department policies, regulations, rules, collective bargaining agreements, and other laws, rules, and regulations. [Eff. 4/21/86; comp OCT 28, 1995; am and comp] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1101, 302A-1112)

§8-41-14 Withdrawal of [complainant] complaint. A complainant may not automatically withdraw the complaint any time [prior to the conclusion of the hearing by the district complaint board] after the school administrator, complex area superintendent, director, assistant superintendent, deputy superintendent, superintendent, or the CRCO has knowledge of said complaint. Withdrawal of any complaint filed with the department shall be at the superintendent's discretion and approval. [Eff. 4/21/86; comp OCT 28, 1995; am and comp] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1101, 302A-1112)

§8-41-15 [Reprisal] **Retaliation** prohibited [sanctions]. [Reprisal] **Retaliation** is prohibited against any person [because] **who engages in protected activity. Engaging in protected activity means** that **a** person has made a complaint, testified, assisted, or participated in any manner in [a proceeding] **an investigation** as provided herein. Any employee [of the department] who violates this section shall be subjected to disciplinary action **as determined by the appropriate decision-maker. Such action will be taken in accordance with department policies, regulations, rules, collective bargaining agreements, and other laws, rules, and regulations.**" [Eff. 4/21/86; comp OCT 28, 1995; am and comp] (Auth: HRS §302A-1112) (Imp: HRS §§302A-1101, 302A-1112)

2. Material, except source notes, to be repealed is bracketed and stricken. New material is underscored and bold.
3. Additions to update source notes to reflect these amendments are not underscored.
4. The amendments to Chapter 8-41, 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 (date), and filed with the Office of the Lieutenant Governor.

Garrett Toguchi
Chairperson
Board of Education

APPROVED AS TO FORM:

Deputy Attorney General