



**STATE OF HAWAII**  
**DEPARTMENT OF EDUCATION**

P.O. BOX 2360  
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

July 15, 2021

TO: The Honorable Catherine Payne  
Chairperson, Board of Education

FROM: Dr. Christina M. Kishimoto  
Superintendent

A blue ink signature of Dr. Christina M. Kishimoto.

SUBJECT: **Board Action on Approving for Public Hearing the Repeal of Hawaii  
Administrative Rules Chapter 66, Part-Time Temporary Employees**

1. RECOMMENDATION

It is recommended that the Board of Education (Board) approve for public hearing the process to repeal Hawaii Administrative Rules (HAR) Chapter 66, Relating to Part-Time Temporary Employees. The Board has oversight of the pay rates covered by the administrative rules that are being repealed. At a future Board meeting, the Department will propose a new process for Board consideration for setting pay rates. The process will include opportunity for public input.

RECOMMENDED EFFECTIVE DATE

The effective date of the repeal of Chapter 8-66 will be determined based upon the completion of the rule adoption process, pursuant to Chapter 91, Hawaii Revised Statute.

2. DISCUSSION

a. Conditions leading to the recommendation:

Before 2005, School Code regulation 5203 provided that the hourly pay rate for part-time, temporary teachers would be one-sixth of the daily pay for substitute teachers. The regulation provided that certain 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 also 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 been paid since July 1, 2005.

In February 2006, a class action lawsuit entitled *Kawashima v. Department of Education (Department) 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 Statutes Chapter 91 rule amendment.

At its May 15, 2012 meeting, the Board approved the proposed rules relating to part-time, temporary employees (now Chapter 8-66, HAR), and on June 1, 2012, the Department submitted its request to the Governor for his final approval for adoption of the rules. With the Governor's subsequent approval, Chapter 8-66, HAR became effective on June 14, 2012.

In June 2017, the Department prevailed in its appeal to the lawsuit, and the Hawaii Supreme Court found that School Code regulation 5203 was not a rule, and the Department can change School Code regulation 5203 without going through formal rulemaking.

Therefore, it has been recommended by the Attorney General's Office to repeal Chapter 8-66, HAR, because it is no longer necessary.

b. Previous Action of the Board on the same or similar matter:

See the above-referenced date of May 15, 2012, concerning previous Board action.

c. Other policies affected:

None.

d. Arguments in support of the recommendation:

The repeal of Chapter 8-66, HAR, would allow the Department to update its pay rates for part-time, temporary employees timely without following formal rulemaking procedures. Also, as noted above, the Department will be proposing a process for Board consideration that will clarify that the Board has oversight of the pay rates covered by the administrative rules that are being repealed.

e. Arguments against the recommendation:

None.

f. Other agencies or departments of the State of Hawaii involved in the action:

None.

g. The possible reaction of the public, professional organizations, unions, Department staff, and/or others to the recommendations:

None.

h. Educational implication:

None.

i. Personnel implications:

The Department will be able to better recruit, hire, and compensate part-time employee staff who are highly qualified and often provide direct instructional support to students.

j. Facilities implications:

None.

k. Financial implications:

None.

The Honorable Catherine Payne  
July 15, 2021  
Page 4

3. OTHER SUPPLEMENTARY RECOMMENDATIONS

None

CMK:sb  
Attachments

c: Office of Talent Management, Personnel Management Branch Director

DEPARTMENT OF EDUCATION

Adoption of Chapter 8-66  
Hawaii Administrative Rules

May 15, 2012

SUMMARY

Chapter 8-66, Hawaii Administrative Rules,  
entitled "Part-time Temporary Employees", is adopted.



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

8-66-1

## 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 JUN 14 2012 ] (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 JUN 14 2012 ] (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.

"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.

"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. [Eff JUN 14 2012 ] (Auth: HRS §302A-1112) (Imp: HRS §§302A-101, 302A-1112)

§§8-66-4 to 8-66-6 (Reserved).



8-66-9

## SUBCHAPTER 2

## PART-TIME TEMPORARY TEACHERS

§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 part-time temporary teachers with a minimum of a bachelor's degree from an accredited institution of higher learning; and
- (2) Class B for all part-time temporary teachers not included in Class A.

[Eff JUN 14 2012 ] (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 JUN 14 2012 ] (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 the same basis as set forth in sections 8-66-7 and 8-66-8 relating to part-time temporary teachers; provided that if the rates indicated do not permit a summer session to be self-supporting, summer school teachers' compensation may be adjusted downward, and further provided that written approval is obtained from the

8-66-9

complex area superintendent and from the summer school teachers before the session starts.  
[Eff JUN 14 2012 ] (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 will be compensated as a summer school teacher plus receive the summer school director's 25 percentage differential in accordance with paragraph (2), or serve only as a summer school director and receive only the 25 percentage 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 JUN 14 2012 ] (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

8-66-14

compensable hours for the summer session plus a percentage differential equal to one-half of the summer school director's differential. [Eff JUN 14 2012 ] (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 JUN 14 2012 ] (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 JUN 14 2012 ] (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 JUN 14 2012 ] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

DEPARTMENT OF EDUCATION

Chapter 8-66, Hawaii Administrative Rules, on the Summary Page dated May 15, 2012, were adopted on May 15, 2012, following a public hearing held on April 24, 2012, after public notice was given in the Honolulu Star\*Advertiser, The Garden Island, The Maui News, West Hawaii Today, and Hawaii Tribune-Herald on March 25, 2012.


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

  
DONALD G. HORNER  
Chairperson  
Board of Education

APPROVED AS TO FORM:

  
Deputy Attorney General

APPROVED:

  
NEIL ABERCROMBIE  
Governor  
State of Hawaii

Date:

6.4.12

\_\_\_\_\_  
Filed

12 JUN -4 24:18

LIUTENANT GOVERNOR'S OFFICE