

HAWAII ADMINISTRATIVE RULES

TITLE 8 DEPARTMENT OF EDUCATION

SUBTITLE 1 RULES OF PRACTICE AND PROCEDURE

CHAPTER 1

RULES OF GENERAL APPLICABILITY

Historical Note: This chapter is based substantially upon Department of Education "Part I, Rules of Practice and Procedure, Sub-part A, Rules of General Applicability." [Eff. 3/30/62; R AUG 22, 1983]

8-1-1 General. This chapter governs the procedures of the board of education of the State of Hawaii under chapter 296, Hawaii Revised Statutes, and the Hawaii Administrative Procedure Act, and other related acts as may now or hereafter be administered by the board of education. [Eff. AUG 22, 1983] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-1-2 Definitions.

(a) As used in this chapter, unless the context specifically requires otherwise:

"Board" means the board of education.

"Department" means the department of education.

"Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party in a proceeding.

"Persons" includes individuals, partnerships, corporations, associations, or public or private organizations of any character other than agencies.

"*Petitioner*" means the party on whose behalf a petition or application is made in proceedings involving petitions or applications for permission or authorization which the board may give under statutory or other authority delegated to it.

"*Proceedings*" means the board's elucidation of the relevant facts and applicable law, consideration thereof and action thereupon with respect to a particular subject within the board's jurisdiction.

"*Superintendent*" means the superintendent of education.

(b) Unless otherwise specifically stated, the terms used in rules adopted by the board pursuant to powers granted by statute shall have the meaning defined by that statute.

(c) A rule which defines a term without express reference to the statute or to the rules or a portion thereof, defines the term for all purposes as used both in the statute and in the rules, unless the context otherwise specifically requires.

(d) Words importing the singular number may extend and be applied to several persons or things; words importing the plural may include the singular; and words importing the masculine gender may be applied to females. [Eff. AUG 22, 1983] (Auth: HRS §302A-1112) (Imp: HRS §§1-17, 91-1, 302A-101, 302A-1112)

§8-1-3 The board.

(a) The office of the board is in Honolulu, Hawaii. All communications to the board shall be addressed to the Board of Education, Department of Education, State of Hawaii, Honolulu, Hawaii, unless otherwise specifically directed.

(b) The office of the board shall be open from 7:45 a.m. to 4:30 p.m. of each weekday except Saturday unless otherwise provided by statute or executive order.

(c) The board meets and exercises its powers in any part of the State. The board may meet in executive session, from which the public may be excluded, by a recorded vote of not less than two-thirds of the total membership of the board. However, no order, ruling, contract, appointment or decision shall be finally acted upon at an executive session.

(d) As specifically provided by section 296-6, Hawaii Revised Statutes, a majority of all members to which the board is entitled shall constitute a quorum to transact business. The concurrence of a majority of all the members to which the board is entitled shall be necessary to make any act of the board valid.

(e) The superintendent shall:

(1) Be responsible for carrying out the policies formulated by the board.

(2) Have charge of the board's official records and shall be responsible for the maintenance and custody of the docket, files, and records including the transcripts of testimony and exhibits, with all papers and requests filed in proceedings, the minutes of all action taken by the board, and all its findings, determinations, reports, opinions, orders, rules, and approved forms.

(3) Prepare and have published for the board an annual report of the department's activities, including a summarized fiscal statement which shall be transmitted to the governor and to members of the legislature.

(4) Be authorized to sign all official documents of the department, and all orders and other actions of the board shall be authenticated or signed by the superintendent or other persons authorized by the board.

(f) All documents required to be filed with the board shall be filed in the office of the board in Honolulu, Hawaii, within the time limits as prescribed by law, rules, or by order of the board; and similarly, requests for public information, copies of official documents, or opportunity to inspect public records shall be made to the board's office. [Eff. AUG 22, 1983] (Auth: HRS §302A-1112) (Imp:HRS §§92-4, 302A-1106, 302A-1111, 302A-1112)

§8-1-4 Public records.

(a) The term "public records" as used in this part shall be as defined in section 92-50, Hawaii Revised Statutes, and shall include all rules, written statements of policy or interpretation formulated, adopted, or used by the board, all final opinions and orders, the minutes of the board, and any other material on file in the office of the board unless accorded confidential treatment pursuant to statute or the rules of the board.

(b) All public records shall be available for inspection in the office of the board, Honolulu, Hawaii, during established office hours unless public inspection of the records is in violation of any state or federal law; provided that except where the records are open under any rule of court, the attorney general may determine which records may be withheld from public inspection when the records pertain to the preparation of the prosecution or defense of any action or proceeding to which the board is or may be a party, or when the records do not relate to a matter in violation of law and are deemed necessary for the protection of the character, reputation or business of any person.

(c) Public records printed or reproduced by the board in quantity shall be given to any person requesting the same and paying the actual cost thereof. Photo copies of public records shall be made and

given by the superintendent to any person upon request and upon payment of the actual cost thereof.

(d) Requests for public information, for permission to inspect official records, or for copies of public records shall be handled with due regard for the dispatch of other public duties. [Eff. AUG 22, 1983] (Auth: HRS §302A-1112) (Imp: HRS §§92-21, 302A-1112)

§8-1-5 Appearance before the board.

(a) An individual may appear in the individual's own behalf, a member of a partnership may represent the partnership, a bona fide officer of a corporation or association may represent the corporation or association and an officer or employee of an agency of the State or a political subdivision of the State may represent the agency in any proceeding before the board.

(b) A person may be represented by or with counsel or other duly qualified representative in any proceeding under chapters 8-1 to 8-4.

(c) When an individual acting in a representative capacity appears in person or signs a paper in practice before the board, the individual's personal appearance or signature shall constitute a representation to the board that under the provisions of chapters 8-1 to 8-4 and the law, the individual is authorized and qualified to represent the particular person on whose behalf the individual acts. The board at any time may require any person transacting business with the board in a representative capacity to show the person's authority and qualification to act in that capacity. [Eff. AUG 22, 1983] (Auth: HRS §302A-1112) (Imp: HRS §§91-9, 92-6, 302A-1112)