

**HAWAII ADMINISTRATIVE RULES**

TITLE 8 DEPARTMENT OF EDUCATION

SUBTITLE 2 EDUCATION

PART 1 PUBLIC SCHOOLS

CHAPTER 13

GEOGRAPHICAL EXCEPTIONS

Historical Note: This chapter is based substantially upon Department of Education "Rule 26, Relating to District Exceptions for School Attendance." [Eff. 03/28/64; am 10/11/75; R 09/30/83]

**§8-13-1 Philosophy.** Under Hawaii's laws, all persons of school age are required to attend the school in the geographic area in which they reside. However, permission to attend another school may be granted by the department as provided in this chapter, with the welfare of the student as a major consideration. When a student is granted a geographic exception, the student shall belong to the receiving school and shall enjoy all rights and privileges as are enjoyed by other students at the receiving school except as provided in this chapter. [Eff. 09/30/83; am FEB 22, 1992] (Auth: HRS §302A-1112) (Imp: HRS §302A-1143)

**§8-13-2 Definitions.** As used in this chapter:

"*Applicant*" means the parents, legal guardian or other legal custodian authorized to represent the student or an eighteen year old student who wishes to apply for a geographic exception.

"*Department*" means the department of education.

"*Exceptional student*" means any student who is found eligible for special education and related services.

"*Geographic exception*" means permission to attend a school other than the student's home school as determined by the student's legal residence.

"*Home school*" means the school within the geographic attendance area which the student shall attend according to the student's legal residence.

"*Home school district*" means the school district in which the student's home school is located.

"*Legal residence*" means the residence of the student's parent(s), legal guardian, or legal custodian. The department shall presume that the student resides with the parents or legal guardian. In the event the student's parents do not reside together in the same school district, the department may presume that the student resides in the school district in which either parent resides. The applicant wishing to rebut the presumption has the burden of proving the student's residence.

"*Physical residence*" means where the student actually resides.

"*Receiving school*" means the school outside the geographic area of the student's legal residence.

"*Revocation*" means the return of a student attending a school on a geographic exception to the student's home school.

"*School district*" means a group of schools administered by a district superintendent. [Eff. 09/30/83; am FEB 22, 1992] (Auth: HRS §302A-1112) (Imp: HRS §302A-1143)

**§8-13-3 Applicability.** No geographic exception or revocation of geographic exception shall be granted except in accordance with this chapter. The placement of an exceptional student, under the provisions of chapter 8-56, shall not require a geographic exception. This chapter does not apply to "McKinney-Vento Homeless Education Assistance Improvements Act of 2001" eligible students (i.e., homeless students), unless they seek enrollment at a school other than the school of origin or the home school. [Eff. 09/30/83; am 02/22/92; am JUL 11, 2008] (Auth: HRS §302A-1112) (Imp: HRS §302A-1143)

**§8-13-4 Authority.** (a) After communicating with the home school principal, the principal of the receiving school shall approve or disapprove geographic exceptions based on established criteria and procedures consistent with this chapter. The geographic exception shall be approved based on the ability of a school to accommodate the request.

(b) The district superintendent of the receiving school may revoke a geographic exception based on procedures consistent with this chapter. [Eff. 09/30/83; am FEB 22, 1992] (Auth: HRS §302A-1112) (Imp: HRS §302A-1143)

**§8-13-5 Duration of geographic exception.** Geographic exceptions shall be granted through the student's terminal year. All students on a district exception during school year 1991-92 shall be granted a geographic exception through the student's terminal year at the receiving school. The applicant shall notify the receiving school of the intent to discontinue attendance at the receiving school on a form provided by the department. [Eff. 09/30/83; am FEB 22, 1992] (Auth: HRS §302A-1112) (Imp: HRS §302A-1143)

**§8-13-6 Notification.** The department shall inform the applicant of the procedure to request a geographic exception under this chapter and shall make available a copy of Chapter 13, "Geographic Exceptions," to the applicant upon request. [Eff. 09/30/83; am FEB 22, 1992] (Auth: HRS §302A-1112) (Imp: HRS §302A-1143)

**§8-13-7 Application procedure.** (a) The geographic exception process commences in January for the following school year. Applications for exceptions shall be submitted between January 1 and March 1 to facilitate a decision before the end of the school year. However, applications shall be accepted at other time periods whenever unforeseen circumstances arise, for example, transferring into the school system and opting to pursue a program of study offered in another geographic area.

(b) The applicant shall initiate and complete action for a geographic exception by:

- (1) Obtaining the application form from any public school;

(2) Explaining on the form the reasons for the geographic exception and attaching substantiating documentation; and

(3) Submitting the completed, signed form to the home or receiving school.

(c) Priority consideration for a geographic exception shall be given to applicants requesting an exception because of any of the following reasons:

(1) Authorized physical residence in the receiving school's geographic attendance area;

(2) Program of study of the receiving school that is not available at the home school;

(3) Siblings of students currently enrolled in the receiving school who will continue to be enrolled in the coming school year; or

(4) Children of staff at the receiving school. The reasons for priority consideration are not ranked and each shall be given equal consideration. An exceptional student may apply for a geographic exception, including priority consideration, as long as the receiving school is capable of providing reasonable accommodations for that student. All other requests for geographic exceptions shall be considered only after priority requests have been accommodated.

(d) A chance selection process shall be implemented by the receiving school on a day predetermined by the department if:

(1) There are more priority requests than there are spaces; or

(2) All priority requests are filled and there are still spaces for some but not all remaining requests.

(e) For applications received by March 1, notification of the decision for priority consideration shall be mailed no later than two weeks after March 1. The notification shall:

(1) Be signed by the receiving school principal and include the effective date of the geographic exception or inclusion of the student in the chance selection process;

(2) Inform the applicant that an alternative student may be selected by the principal if the student is not registered at

the receiving school within ten working days from the postmarked date of mailing, unless the student is to be considered in the chance selection process; and

(3) In the case of a denial, explain the reasons for denying the request and that an appeal of the denial may be filed with the district superintendent. [Eff. 09/30/83; am FEB 22, 1992] (Auth: HRS §302A-1112) (Imp: HRS §302A-1143)

**§8-13-8 Appeal procedure.** (a) An applicant may appeal the denial of a geographic exception by filing a request within ten school days of the postmarked date on the denial, for a review by the district superintendent of the receiving school. The form for appealing the denial of a geographic exception request shall be attached to the notification of denial.

(b) The district superintendent of the receiving school shall review the appeal in consultation with the home school district superintendent.

(c) The receiving school district superintendent shall render a written decision within ten school days of the postmarked date of the filing for appeal. The decision of the receiving school district superintendent shall be final. [Eff. 09/30/83; am FEB 22, 1992] (Auth: HRS §302A-1112) (Imp: HRS §302A-1143)

**§8-13-9 Grounds for revocation.** The district superintendent of the receiving school may revoke a geographic exception if the information upon which a geographic exception was granted is found to have been false. [Eff. 09/30/83; am FEB 22, 1992] (Auth: HRS §302A-1112) (Imp: HRS §302A-1143)

**§8-13-10 Revocation of Geographic exception.** (a) The home school principal or receiving school principal may recommend in writing to the receiving school district superintendent the revocation of a geographic exception.

(b) The receiving school district superintendent shall initiate revocation proceedings by providing written notification to the

applicant, return receipt requested. The notice shall contain the following:

- (1) The reasons for revoking the geographic exception;
- (2) A statement regarding the effective date of the recommended revocation. The date shall not be less than eighteen school days after the date the notice is mailed. If a conference is requested, the effective date shall be extended to the last day the receiving school district superintendent has to render a written decision;
- (3) A statement that the applicant has a right to request a conference with the receiving school district superintendent to discuss the reasons for the geographic exception and the reasons for revocation;
- (4) A statement that the conference with the district superintendent shall be requested in writing; and
- (5) A statement that unless a conference is requested by a date specified in the notice, not less than five school days after the notice is mailed, the recommended revocation of the receiving school principal shall be implemented without a conference.

(c) Upon receipt of an appeal of revocation, the receiving school district superintendent shall schedule a conference date within ten school days and shall notify all interested parties of the conference date, time, and place. The conference shall be conducted by the receiving school district superintendent or by a disinterested person designated by the district superintendent who may be an official of the department. The conference shall be conducted in the following manner:

- (1) The receiving school district superintendent or a designee shall impartially weigh the evidence and may consider any records or information relevant to the revocation of the geographic exception, provided that the record or information shall be made available to the parents and students;
- (2) All parties shall have the right to present evidence, cross examine witnesses and submit rebuttal testimony;
- (3) The department shall make a transcript or tape recording of the conference;

(4) At their own expense, parents or students may make a tape recording or obtain a transcript;

(5) In the event the conference is conducted by a person other than the receiving school district superintendent, the recommended decision and record shall be reviewed by the district superintendent who may accept, reject or modify the decision. In the event any change is made, the receiving school district superintendent shall state the reasons therefor in writing. The decision of the receiving school district superintendent shall be final; and

(6) Not later than three school days after the close of the conference, the receiving school district superintendent shall render a decision in writing clearly stating the action to be taken and the reasons therefor. The decision shall be mailed return receipt requested personally delivered. [Eff. 09/30/83; am FEB 22, 1992] (Auth: HRS §302A-1112) (Imp: HRS §302A-1143)