

TITLE 8 DEPARTMENT OF EDUCATION

SUBTITLE 1 RULES OF PRACTICE AND PROCEDURE

CHAPTER 2

PROCEEDINGS BEFORE THE BOARD

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

§8-2-1 General. The board, on its own motion, or on petition of any interested person, group, organization, or agency may hold proceedings as it may deem necessary from time to time for the purpose of obtaining information necessary or helpful in the determination of its policies, the carrying out of its duties, or the formulation of its rules. For those purposes, it may subpoena witnesses and require the production of evidence. The procedures of the board, unless specifically prescribed by its administrative rules or by chapter 91, Hawaii Revised Statutes, shall be devised as in the opinion of the board will best serve the purposes of the proceedings. [Eff. AUG 22, 1983] (Auth: HRS §302A-1112) (Imp: HRS §§91-2, 91-6, 92-16, 302A-1112)

§8-2-2 Filing of documents.

(a) All pleadings, submittals, petitions, reports, exceptions, briefs, memoranda, and other papers required to be filed with the board in any proceeding shall be filed with the board chairperson. The papers may be sent by mail or hand-carried to the board's office within the time limit, if any, for the filing. The date on which the paper is actually received by the board shall be deemed to be the date of filing.

(b) All papers filed with the board shall be written in ink, typewritten, mimeographed, or printed; shall be plainly legible; shall be on strong durable paper; not larger than 8 1/2" x 14" in size, except that tables, charts and other documents may be larger, folded to the size of the documents to which they are attached.

(c) All papers shall be signed in ink by the party signing the papers or the party's duly authorized agent or attorney. The signature of the person signing the document constitutes a certification that the person has read the document; that to the best of the person's knowledge, information, and belief every statement contained in the instrument is true and no statements are misleading; and that it is not interposed for delay.

(d) Unless otherwise specifically provided by a particular chapter or order of the board, an original and twelve copies of all papers shall be filed unless the papers are printed or mimeographed, in which case twenty-five copies shall be filed.

(e) The initial document filed by any person in any proceeding shall state on the first page thereof who may be served with any documents filed in the proceeding. [Eff. AUG 22, 1983] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-2-3 Docket. The board chairperson shall maintain a docket of all proceedings and each proceeding shall be assigned a number. [Eff. AUG 22, 1983] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-2-4 Computation of time. In computing any period of time prescribed by chapters 8-1 to 8-4, or order of the board, the day of the act, event or default, after which the designated period of time is to run, is not to be included unless it is a Saturday, Sunday, or legal holiday in the State, in which event the period runs until the next day which is neither a Saturday, Sunday nor a holiday. Immediate Saturdays, Sundays and holidays shall not be included in a computation when the period of time prescribed or allowed is ten days or less. A half holiday shall be considered as other days and not as a holiday. [Eff. AUG 22, 1983] (Auth: HRS §302A-1112) (Imp: HRS §§1-29, 302A-1112)

§8-2-5 Continuance or extension of time. Whenever a person or agency has a right or is required to take action within the period prescribed or allowed by chapters 8-1 to 8-4, by notice given thereunder or by an order, the board or superintendent, before the expiration of the prescribed period, with or without notice, may extend the period or, upon motion, permit the act to be done after

the expiration of a specified period where the failure to act is clearly shown to be the result of excusable neglect. [Eff. AUG 22, 1983] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-2-6 Amendment of documents. If any document initiating or filed in a proceeding is not in substantial conformity with the applicable rules of the board as to the contents thereof, or is otherwise insufficient, the board, on its own motion, or on motion of any party, may strike or dismiss the document or require its amendment. If amended, the document shall be effective as of the date of the original filing. [Eff. AUG 22, 1983] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-2-7 Retention of documents by the board. All documents filed with or presented to the board may be retained in the files of the board. However, the board may permit the withdrawal of original documents upon submission of properly authenticated copies to replace the documents. [Eff. AUG 22, 1983] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-2-8 Public information.

(a) Unless otherwise provided by statute, rule, or order of the board, all information contained in any pleading, submittal, petition, statement, recommendation, report, or other document filed with the board pursuant to the requirements of a statute or rule or order of the board shall be available for inspection by the public.

(b) Confidential treatment may be requested where authorized by statute. For good cause shown, the board shall grant the request.

(c) Matters of public record may be inspected in the office of the board during regular office hours. Copies of matters of public record shall be furnished to any person upon request and upon payment of the actual cost thereof as set forth in section 8-1-4. [Eff. AUG 22, 1983] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-2-9 Board decision. All final orders, opinions or rulings entered by the board in a proceeding and rules adopted by the board shall be

served upon the parties or persons participating in the proceeding by regular mail or personal delivery by the board and shall be released for general publication. Copies of published materials shall be available for public inspection in the office of the board or may be obtained upon request and upon payment of charges, if any. [Eff. AUG 22, 1983] (Auth: HRS §302A-1112) (Imp: HRS §§91-2, 302A-1112)

§8-2-10 Counsel for the board. The attorney general or a designated representative serving in the attorney general's capacity as counsel for the board, shall be a party to all proceedings governed by chapters 8-1 to 8-4. The attorney general or designated representative shall be designated as "Counsel for the Board," and shall be served with copies of all papers and documents as are all other parties to the same proceeding. [Eff AUG 22, 1983] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-2-11 Substitution of parties. Upon motion and for good cause shown, the board may order substitution of parties, except that in case of death of a party, substitution may be ordered without the filing of a motion. [Eff. AUG 22, 1983] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)

§8-2-12 Consolidations. The board, upon its own initiation or upon motion, may consolidate for hearing or for other purposes two or more proceedings which involve substantially the same parties, or issues which are the same or closely related, if it finds that consolidation will be conducive to the proper dispatch of its business, will not unduly delay the proceedings, and will not impair the rights of any party to the proceedings. [Eff. AUG 22, 1983] (Auth: HRS §302A-1112) (Imp: HRS §302A-1112)