

HAWAII ADMINISTRATIVE RULES

TITLE 8

DEPARTMENT OF EDUCATION

SUBTITLE 5

CHARTER SCHOOLS

CHAPTER 510

APPEALS

§8-510-1	Purpose
§8-510-2	Definitions
§8-510-3	When appeal allowed
§8-510-4	When appeal taken
§8-510-5	Notice of appeal
§8-510-6	Record on appeal
§8-510-7	Opening brief
§8-510-8	Answering brief
§8-510-9	Reply brief
§8-510-10	Oral argument
§8-510-11	Decision on appeal
§8-510-12	Page limits for briefs
§8-510-13	Failure to meet deadlines
§8-510-14	Computation of time

§8-510-1 Purpose. This chapter governs appeal procedures before the board of education under chapter 302D, Hawaii Revised Statutes. [Eff. APR 4, 2014] (Auth: HRS §302A-1112) (Imp: HRS §§302D-15, 302D-22)

§8-510-2 Definitions. As used in this chapter, unless a different meaning clearly appears in the context:

"Appellant" means the party taking an appeal.

"Applicant" means the applicant who submits a charter application to an authorizer.

"Authorizer" means an authorizer as defined in section 302D-1, Hawaii Revised Statutes.

"Board" means the board of education. [Eff. APR 4, 2014] (Auth: HRS §302A-1112) (Imp: HRS §§302D-15, 302D-22)

§8-510-3 When appeal allowed. An appeal may only be taken from a decision by an authorizer as provided by law to:

- (1) Deny approval of a start-up or conversion charter school application;
- (2) Deny renewal of a charter contract; or
- (3) Revoke a charter contract. [Eff. APR 4, 2014]
(Auth: HRS §302A-1112) (Imp: HRS §§302D-15, 302D-22)

§8-510-4 When appeal taken. An appeal shall be filed with the board within twenty-one days after the applicant's or the charter school's receipt of the notification of the authorizer's decision. For these purposes, an authorizer's notification of decision shall be deemed received three days after the date of

mailing to the applicant or charter school as computed in accordance with section 8-510-14. [Eff. APR 4, 2014] (Auth: HRS §302A-1112) (Imp: HRS §§302D-15, 302D-22)

§8-510-5 Notice of appeal. An appeal shall commence by the filing of a notice of appeal which shall clearly identify the appellant, contact information for the appellant, and the decision being appealed. The appellant shall file the notice of appeal with the board in accordance with section 8-2-2, and shall serve a copy upon the authorizer at the office of the authorizer. [Eff. APR 4, 2014] (Auth: HRS §302A-1112) (Imp: HRS §§302D-15, 302D-22)

§8-510-6 Record on appeal. Within seven days of the filing of the notice of appeal, the authorizer shall transmit to the board the entire record relating to the decision being appealed, and shall transmit to the appellant an index of the record which was transmitted to the board. [Eff. APR 4, 2014] (Auth: HRS §302A-1112) (Imp: HRS §§302D-15, 302D-22)

§8-510-7 Opening brief. Within ten days after the filing of the notice of appeal, the appellant shall file with the board and serve upon the authorizer an opening brief, which shall contain the following:

- (1) A concise statement of the case, setting forth the nature of the case, the course and disposition of the proceedings by the authorizer, and the facts material to consideration of the questions and points presented. In presenting those material facts, the appellant shall clearly set forth all supporting and

contradictory evidence that was presented to, or considered by, the authorizer;

(2) The argument, containing contentions of the appellant on the points presented and the reasons therefor, with citations to the authorities, rules, statutes, and parts of the record relied upon; and

(3) A conclusion, stating with particularity the relief sought. [Eff. APR 4, 2014] (Auth: HRS §302A-1112) (Imp: HRS §§302D-15, 302D-22)

§8-510-8 Answering brief. Within ten days of being served with appellant's opening brief, the authorizer shall file with the board and serve upon the appellant an answering brief in response to the opening brief. [Eff. APR 4, 2014] (Auth: HRS §302A-1112) (Imp: HRS §§302D-15, 302D-22)

§8-510-9 Reply brief. (a) Within seven days of being served with the authorizer's answering brief, the appellant may, but is not required to, file with the board and serve upon the authorizer a reply brief in response to the answering brief.

(b) The reply brief shall respond only to arguments raised in the answering brief. Any argument raised for the first time in the reply brief shall be disregarded. [Eff. APR 4, 2014] (Auth: HRS §302A-1112) (Imp: HRS §§302D-15, 302D-22)

§8-510-10 Oral argument. The board, in its discretion, may hold oral argument on the appeal. [Eff. APR 4, 2014] (Auth: HRS §302A-1112) (Imp: HRS §§302D-15, 302D-22)

§8-510-11 Decision on appeal. (a) Upon review of the record, the board may affirm the decision of the authorizer, remand the case with instructions for further proceedings, or reverse or modify the decision if the substantial rights of the appellant may have been prejudiced because the authorizer's decision is:

- (1) In violation of statutory or regulatory provisions;
- (2) In excess of the authority or jurisdiction of the authorizer;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (6) Arbitrary or capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(b) The board shall review an appeal and issue a final decision within sixty calendar days of the filing of the notice of appeal. [Eff. APR 4, 2014] (Auth: HRS §302A-1112) (Imp: HRS §§302D-15, 302D-22)

§8-510-12 Page limits for briefs. (a) An opening or answering brief shall not exceed thirty double-spaced pages, and a reply brief shall not exceed fifteen double-spaced pages, exclusive of indexes and appendices.

(b) An authorizer or appellant may request an increase in the number of pages beyond the limits defined in subsection (a) which may be granted by the board at its discretion, provided that any such request shall not toll the time for filing of the brief. [Eff. APR 4, 2014] (Auth: HRS §302A-1112) (Imp: HRS §§302D-15, 302D-22)

§8-510-13 Failure to meet deadlines. The board shall have full discretion to dismiss an appeal where the appellant fails to meet any of the deadlines in this chapter. [Eff. APR 4, 2014] (Auth: HRS §302A-1112) (Imp: HRS §§302D-15, 302D-22)

§8-510-14 Computation of time. The time in which any act provided in this chapter is to be done is computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or holiday and then it is also excluded. When the prescribed period of time is less than seven days, Saturdays, Sundays, or legal holidays within the designated period shall be excluded in the computation. [Eff. APR 4, 2014] (Auth: HRS §302A-1112) (Imp: HRS §§91-2)