

HAWAII ADMINISTRATIVE RULES

TITLE 8

DEPARTMENT OF EDUCATION

SUBTITLE 2

EDUCATION

PART 1

PUBLIC SCHOOLS

CHAPTER 57

RESTITUTION FOR DAMAGED AND LOST BOOKS, EQUIPMENT, SUPPLIES, AND
OUTSTANDING FINANCIAL OBLIGATIONS

§8-57-1 Purpose. The department is responsible for providing students with appropriate instructional materials. When students do not return textbooks at the end of a course, semester, or school year, other students are deprived of these materials and the department is expected to purchase replacement copies. It is the purpose of this chapter to hold students accountable for lost and damaged textbooks, library books, equipment and supplies, including financial obligations. This chapter defines consequences for students with outstanding financial obligations who do not make timely restitution, i.e., by the end of the current school year. [Eff 10/5/2000] (Auth: §§302A-1112, 302A-1130) (Imp: §302A-1130)

§8-57-2 Definitions. As used in this chapter:

"Athletics" means a voluntary interscholastic program which provides athletically talented students with opportunities for organized competition with students of similar capabilities from other schools.

"Assigned textbook" means a book issued to a student by an authorized school official for classroom or course use, and signed for by the

student on a sign out sheet or through use of the student's electronic identification number.

"Days" means school days.

"Student activities" means those activities or events which are authorized by the school administration. These activities include, but are not limited to, athletics, academic clubs, service clubs, hobby clubs, proms, class banquets, May Day and other organized festivals/celebrations for which no academic credit is received.

"Damaged books" means library or assigned textbooks that are no longer useable because of damage and must be replaced, as determined by the school.

"Library books" means books that are borrowed by students from the school library. [Eff 10/5/2000] (Auth: §§302A-1112, 302A-1130) (Imp: §302A-1130)

§8-57-3 Fees and charges for lost books, equipment and supplies. A student found to be responsible for the loss, destruction, breakage, or damage of school books, equipment, and supplies, including library and assigned textbooks, shall make restitution to the school. [Eff 10/5/2000] (Auth: §§302A-1112, 302A-1130) (Imp: §302A-1130)

§8-57-4 Collection of fees and charges.

(a) Obligations for lost and damaged textbooks, library books, equipment and supplies shall be based on the replacement cost of the item, and shall be paid by the last day of the school year in which the financial obligation was incurred. If the student is financially unable to pay, the student may participate in a work program designed by the principal and agreed to by the student and parents or guardians.

(b) If a student who is transferring to another school has not cleared all outstanding obligations, a record of those obligations shall be forwarded to the receiving school. The receiving school shall follow all penalties and procedures regarding outstanding obligations outlined in this chapter. Reimbursements received shall remain with the collecting school. [Eff 10/5/2000] (Auth: §§302A-1112, 302A-1130) (Imp: §302A-1130)

§8-57-5 Penalties for outstanding financial obligations. In addition to any other penalties that may be imposed, a student who fails to make restitution as required under section 8-57-4 shall be prohibited from participating in any student activity. [Eff 10/5/2000] (Auth: §§302A-1112, 302A-1130) (Imp: §302A-1130)

§8-57-6 Restitution by work program. (a) If a student is making restitution through a work program, the program must be agreed to in writing by the principal, the student and parents or guardians. The student shall be prohibited from participating in any student activity until the work program is completed.

(b) If restitution is made in this fashion, then no information about the charges, the hearing, and the actions taken shall be communicated to any person not directly involved in the proceedings.

(c) If the pupil and parent or guardian do not agree with the determination made by the principal, the principal shall report to the district superintendent the determination and the findings made by the principal, including all the records and documents regarding the investigation, for any further action. [Eff 10/5/2000] (Auth: §§302A-112, 302A-1130) (Imp: §302A-1130)

§8-57-7 Liability for negligence. (a) When a student is found to be responsible for the negligent loss, destruction, breakage, or damage of school books, equipment, or supplies, restitution shall be made by the student or parent. There shall be no restitution when negligence cannot be proved to have been committed by the student.

(b) If a student is to be disciplined for an act of negligence under chapter 8-19, restitution procedures shall be initiated only after the disciplinary procedures of chapter 8-19 have been completed and the student has been found guilty of the offense. [Eff 10/5/2000] (Auth: §§302A-112, 302A-1130) (Imp: §302A-1130)

§8-57-8 Procedures applicable to negligence. (a) The principal or designee may conduct or order an investigation of the negligent loss,

destruction, breakage or damage of school books, equipment, or supplies.

(b) If the negligence is an act which subjects the student to disciplinary action under chapter 8-19, the principal or designee shall include as part of the investigation required under sections 8-19-7, 8-19-8, and 8-19-9, a determination of the facts and circumstances that support restitution under this chapter. Further action related to restitution shall be held in abeyance until disciplinary action has been determined and appeal procedures exhausted.

(c) In the absence of force, duress, or coercion, when a student voluntarily admits liability and agrees to make restitution for equipment, supplies or school books, the principal or designee shall provide an explanation of due process procedures such as the right to a conference. The school shall inform the parent or guardian of the student's admission by telephone or in writing, personally delivered or mailed.

(d) If the principal or designee has reasonable cause to believe that a student is responsible for the negligent loss, destruction, breakage or damage of school books, equipment, or supplies, and the student does not voluntarily admit liability nor agree to make restitution, the principal or designee shall schedule a conference with the student and parent.

(e) Advance written notice of the conference shall be made on departmental forms which shall be delivered by mail to the student and parent. The notice shall inform them of the charges and the date, time, and location of the conference. The notice shall be mailed at least fifteen days before the conference. When necessary to achieve effective communication, the notice shall be provided in the native language of the parent. The principal or designee may use other means of communication, such as the telephone, to augment the written communication between the school and the student and parent.

(1) The parent shall respond to the notice within seven days from the date of the notice.

(2) The conference date provided for in the notice may be rescheduled if the parent contacts the principal or designee to arrange for a new conference date. The request to reschedule the conference shall be made within seven days of the date of notice.

(3) The conference may be waived by the parent and an informal settlement reached. In that event, a written agreement for restitution shall be executed between the parent and the principal or designee.

(4) If the conference is waived, the parent shall be informed that a notice and an opportunity to be heard at a conference with the principal or designee was given to the parent and that the opportunity to be heard was waived by the parent.

(f) If the parent fails to respond to the notice within the time limit, the principal or designee may:

(1) Reschedule the conference date if it determines that the failure to respond was for good cause or if it is in the best interest of the school or student; or

(2) Make a determination of the liability and the restitution required and inform the parent in writing that:

(A) A notice was given for an opportunity to be heard at a conference with the principal or designee;

(B) Due to the failure to respond to the notice, a determination was made of the liability and restitution required;

(C) The restitution required; and

(D) The matter may be referred to the district superintendent for further action if restitution agreement is not executed within seven days of being informed of the restitution required.

(g) The conference shall be conducted in the following manner:

(1) The principal or designee shall present the findings of the investigation to the student and parent.

(2) If the student and parent agree with the determination of liability made by the principal or designee, a restitution proposal designed by the principal or designee shall be executed in the form of a written agreement on departmental forms by the principal or designee, the student and the parent. The agreement shall specify the manner in which restitution shall be completed.

(3) When restitution is completed in accordance with an executed agreement, all records and documents regarding the investigation and the conference shall be maintained at the school for three years. No information about the charges, conference and the actions taken shall be communicated to any person not directly involved in the proceeding.

(4) If a written agreement is executed and the parent or student fails to comply with the terms of the agreement, the principal or designee may forward the matter to the district superintendent. The district superintendent shall review the matter and take appropriate action, which may include referral to the attorney general for further action.

(5) If the student and parent do not agree with the findings made by the principal or designee, the principal or designee shall transmit all the records and documents regarding the investigation and conference to the district superintendent who shall review the matter and take appropriate action, which may include referral of the matter to the attorney general for further action. [Eff 10/5/2000] (Auth: §§302A-112, 302A-1130) (Imp: §302A-1130)

§8-57-9 Moneys collected as restitution and as payment of outstanding financial obligations. (a) principal or designee shall be responsible for the collection of the amount stipulated in a restitution agreement.

(b) The principal or designee shall be responsible for accounting for the collections which shall be deposited into a special fund account in the State treasury.

(c) Moneys in the special fund account shall be used by the school to replace school books, supplies, or equipment. [Eff 10/5/2000] (Auth: §§302A-1112, 302A-1130) (Imp: §302A-1130)

§8-57-10 Other provisions. Notwithstanding any other provision in this chapter to the contrary, the State may elect to bring any appropriate action for the recovery of all damages to school properties. Nothing in this section shall limit the right of the State to bring any action against any person to recover damages. [Eff 10/5/2000] (Auth: §§302A-1112, 302A-1130) (Imp: §302A-1130)

§8-57-11 Refunds. Moneys paid for restitution of lost library and assigned textbooks, equipment, or supplies shall be refunded if the item is returned in the condition it was borrowed or assigned and if the item is still being used by the school. [Eff 10/5/2000] (Auth: §§302A-1112, 302A-1130) (Imp: §302A-1130)