Jeffrey Iida
Chair

Vonnell Ramos
Vice Chair

Members:
Fely Faulkner
Richard Jose
Beth Tokioka
Ricky Watanabe

**COUNTY OF KAUA'I CIVIL SERVICE COMMISSION**
**NOTICE OF TELECONFERENCE MEETING AND AGENDA**
Tuesday, July 7, 2020
3:00 p.m. or shortly thereafter

**Microsoft Teams Phone Number: 1-469-848-0234**
**Conference ID: 316 572 537#**

**This meeting will be held via Microsoft Teams teleconference only. Members of the public are invited to join the open session meeting by calling the phone number above and when prompted enter the conference ID information. You may testify during the teleconference or submit written testimony in advance of the meeting via e-mail, fax, or mail. To avoid excessive noise/feedback, please mute your phone and unmute to testify.**

**CALL TO ORDER IN OPEN SESSION (Open to the Public)**

**ROLL CALL**

**PUBLIC COMMENTS AND TESTIMONY**
Individuals may orally testify on any agenda item at this time.

Anyone interested in providing oral or written testimony shall provide a request to the Office of Boards and Commissions prior to the day of the meeting to smuragin@kauai.gov or by fax (808) 241-5127, or mailed to: Civil Service Commission, Office of Boards and Commissions, Pi'ikoi Building Suite 300, 4444 Rice Street, Lihue, HI 96766. This request shall include your name, telephone number, E-mail address, and the specific agenda item(s) that you will be testifying on or provided comments on. Any testimony received after this time will be incorporated into the record as appropriate.

**APPROVAL OF MINUTES**

A. Open Session Minutes of June 2, 2020

**DIRECTOR'S REPORT**

**CSC 2020-15** Director's Report for the May/June 2020 period.

A. HRMS Project
B. COVID-19 and Stay at Home Order

C. Collective Bargaining
D. Documentation Retention and Maintenance Policy
E. Administrative Services and Benefits
F. Employee Development and Health Services
G. Classification and Pay and Labor Relations
H. Recruitment and Exam
I. Payroll
J. EEO/ADA

**CSC 2020-16**

Discussion and possible decision-making on identifying and proposing substantive and non-substantive amendments to the Rules of the Civil Service Commission/Merit Appeals Board document.

A. Update Office of Boards and Commissions address.
B. Change Department of Personnel Services to Department of Human Services.
C. Change Director of Personnel Services to Director of Human Resources.
D. Possible discussion on the addition of a Subchapter 7 Rules on the Selection, Evaluation and Dismissal of the Director of Human Resources.
    a. Overview to amend rules.
    b. Review past discussions from approved minutes dated 2014-2016.
    c. Review Police Commission and Planning Departments Selection, Evaluation and Dismissal outline.
E. Discussion on other related matters.

**CSC 2020-17**

Discussion and possible decision-making on editing the content of the Rules of Appeal to the Civil Service Commission/Merit Appeals Board form.

A. Update Office of Boards and Commission address.
B. Add information to receive an email address.
C. Possible discussion to amendment form and rules to allow online submission.
D. Discussion on other related matters.

**EXECUTIVE SESSION**

Pursuant to Hawai'i Revised Statutes §§92-4, 92-5 (a) (2) (4), 92-9 (a) (1-4) and (b), 76-47 (e) the purpose of this Executive Session is to receive and approve Executive Session minutes, to consider the hire, evaluation, dismissal or discipline of an employee or officer of the County where consideration of matters affecting privacy will be involved; and to consult with the Commission's legal counsel on questions and issues pertaining to the Commission's and County's powers, duties, privileges, immunities, and/or liabilities as they may relate to this item, deliberate and take such action as appropriate.

**ENTER INTO EXECUTIVE SESSION (Closed to the Public)**
Disconnect from Open Session and enter into Microsoft Teams Teleconference in Executive Session.

**CALL TO ORDER IN EXECUTIVE SESSION (Closed to the Public)**

**ROLL CALL**

| | |
|---|---|
| **ES-013** | Executive Session Minutes of June 2, 2020 |
| **ES-014** | Memorandum dated June 22, 2020 from Department of Human Resources Jill Niitani, Human Resources Manager III regarding August Job Performance Report. |
| **ES-015** | Director of Human Resources Performance Evaluation (on-going).<br>A. Review updated DHR Performance Evaluation.<br>B. Prepare a six month job performance report by August 16, 2020.<br>C. Discussion on other related matters. |

**RETURN TO OPEN SESSION**
Disconnect from Executive Session and enter into Microsoft Teams Teleconference in Open Session.

**CALL TO ORDER IN OPEN SESSION (Open to the Public)**

**ROLL CALL**

**RATIFY ACTIONS**
Ratify the actions taken by the Civil Service Commission in executive session for agenda item: ES-013, ES-014 and ES-015.

**ANNOUNCEMENTS**
Next Meeting: Tuesday, August 4, 2020 – 3:00 p.m., Teleconference by Microsoft Teams

**ADJOURNMENT**

**NOTICE OF EXECUTIVE SESSION**
Pursuant to Hawaii Revised Statutes §92-7 (a), the Commission may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to HRS §92-4 and shall be limited to those items described in HRS §92-5(a).

cc: Deputy County Attorney Mark Ishmael

## PUBLIC COMMENTS and TESTIMONY

**SPEAKER REGISTRATION**
Prior to the day of the meeting: Persons wishing to testify are requested to register their name, phone number and agenda item via email to: smuragin@kauai.gov or call 808-241-4919.

On the day of the meeting: Persons who have NOT registered to testify by the time the meeting begins will be given the opportunity to speak on an item following oral testimony from registered speakers.

Each speaker is limited to a three-minute presentation on each item.

**WRITTEN TESTIMONY**
Prior to the day of the meeting: Testimonies may be emailed: smuragin@kauai.gov , faxed: 808-241-5127, or mailed: Civil Service Commission, Office of Boards and Commissions, Pi'ikoi Building Suite 300, 4444 Rice Street, Lihue, HI 96766. Please include your name and if applicable, your position/title and organization you are representing along with the agenda item that you are providing comments on.

While every effort will be made to copy, organize and collate all testimony received, materials received improperly identified may be distributed to the members after the meeting is concluded.

SPECIAL ASSISTANCE
If you need an auxiliary aid/service, other accommodation due to a disability, or an interpreter for non-English speaking persons, please contact the Office of Boards and Commissions at (808) 241-4917 or asegreti@kauai.gov as soon as possible. Requests made as early as possible will allow adequate time to fulfill your request. Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy.

DRAFT To Be Approved

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

| Board/Commission: | **CIVIL SERVICE COMMISSION** | Meeting Date: | **June 2, 2020** |
|---|---|---|---|
| Location | Teleconference via Microsoft Teams | Start of Meeting: 3:14 p.m. | End of Meeting: 3:28 p.m. |
| Present | Chair Jeffrey Iida. Vice Chair Vonnell Ramos. Commissioners: Fely Faulkner, Beth Tokioka and Ricky Watanabe.<br>Deputy County Attorney Mark Ishmael. Human Resources Director Annette Anderson (*disconnected at 3:27 p.m.*). Office of Boards and Commissions Staff: Administrator Ellen Ching and Commission Support Clerk Sandra Muragin. | | |
| Excused | Commissioner Richard Jose | | |
| Absent | | | |

| SUBJECT | DISCUSSION | ACTION |
|---|---|---|
| **Return to Open Session** | Chair Iida, Vice Chair Ramos, Commissioner Tokioka, Deputy Attorney Mark Ishmael, Human Resources Director Annette Anderson and Commission Support Clerk Sandra Muragin were logged onto Microsoft Teams by video. Commissioner Faulkner, Commissioner Watanabe and Administrator Ellen Ching called into Microsoft Teams and entered the meeting by audio. | |
| **Call To Order In Open Session /Roll Call** | Chair Iida called the meeting to order in open session at 3:14 p.m. and requested a roll call.<br><br>Commission support clerk Sandra Muragin verified attendance by roll call and requested a verbal response of present or here;<br>Commissioner Faulkner replied present.<br>Commissioner Tokioka replied here.<br>Commissioner Watanabe replied present.<br>Vice Chair Ramos replied here.<br>Chair Iida replied here.<br>County Attorney Mark Ismael replied here.<br>Human Resources Director Annette Anderson replied here.<br>Administrator Ellen Ching replied here.<br>Commission Support Clerk Sandra Muragin replied here. | Quorum was established with five commissioners present. |
| **Ratify Actions** | Ratify actions taken by the Civil Service Commission in executive session for agenda items: ES-010, ES-011 and ES-012. | Ms. Faulkner moved to ratify the actions taken in Executive Session for agenda items ES- |

A

| SUBJECT | DISCUSSION | ACTION |
|---|---|---|
| | | 010, ES-011 and ES-012. Ms. Tokioka seconded the motion. Roll Call Vote: 5-Ayes and 0-Nays. Motion carried 5:0. |
| **Public Comments and Testimony** | No one from the public logged into the meeting. | |
| **Approval of Minutes** | A. Open Session Minutes of May 5, 2020<br><br>Chair announced corrections to the minutes on page 4, third paragraph, last sentence, change "through negotiations with HGEA" to "through informal consultation with HGEA". | Ms. Tokioka moved to approve the Open Session minutes of May 5, 2020, with amendments to page 4, third paragraph, last sentence, change "through negotiations with HGEA" to "through informal consultation with HGEA." Mr. Watanabe seconded the motion. Motion carried 5:0. |
| **Director's Report** | **CSC 2020-14** Director's Reports for the April/May 2020 period.<br>A. COVID-19<br>B. Collective Bargaining<br>C. HRMS Project<br>D. Administrative Services and Benefits<br>E. Classification and Pay and Labor Relations<br>F. Recruitment and Exam<br>G. Payroll<br>H. Employee Development and Health Services<br>I. EEO/ADA<br><br>Human Resources Director Annette Anderson reviewed the April/May report with the Commission (on file). | |

| SUBJECT | DISCUSSION | ACTION |
|---|---|---|
| | Human Resources Management System (HRMS):<br>Ms. Anderson reported that consultants BerryDunn posted the Request for Proposal (RFP) on May 14, 2020. They scheduled a telephone conference with 19 potential vendors on May 28, 2020, of which 15 participated in the conference call. The next step would be that potential vendors could submit RFP questions by June 19. The deadline for vendors to submit their proposals was July 9.<br><br>COVID 19:<br>Ms. Anderson reported that to date they have not received any complaints or issues with regards to the temporary 4-10 work schedule. She said that HR continued to accept and grant exemptions from the 4-10 work schedule even though the deadline passed. As far as the HR Department, most of her staff telework at home and they continue to schedule daily meetings and report a daily work list to the Mayor's office.<br><br>Collective Bargaining:<br>Ms. Anderson reported that funding for Unit 4, clerical supervisors was approved. Ocean Safety Officer Unit 14 had its first reading at the County Council on May 20 and should conclude in July. They are pending an updated status of funding from the Legislature for the remainder of the bargaining units. The Legislature is anticipated to resume session in June.<br><br>Negotiations:<br>Ms. Anderson reported that she has been in discussions with the other jurisdictions on the uncertainty and financial crisis from the COVID 19 pandemic. Most unions have agreed to postpone bargaining negotiations and formal proposal deadlines. She said that all jurisdictions are uncertain on how they would accommodate contract negotiations that were approved before the pandemic. | |

| SUBJECT | DISCUSSION | ACTION |
|---|---|---|
| | Recruitment Process:<br>Ms. Anderson reported changes were made to their recruitment process to ensure fairness to all applicants. The new procedure would only consider information and documents submitted within the recruitment announcement period. They eliminated acceptance of new information or documentation after the recruitment closure date, which was allowed in the past. An HR recruitment specialist would work with the applicant to clarify information from the application received. The applicant would continue to be offered an administrative review, which would involve Ms. Anderson's review of the information that the HR recruitment specialist verified. If after the administrative review Ms. Anderson sustains its decision, the applicant could file an appeal to the Civil Service Commission.<br><br>Ms. Faulkner expressed concern that only five exit interviews were conducted after 15 separations/terminations. She felt strongly about the importance of obtaining data from these individuals were valuable in identifying improvement. Exit interviews contained valuable information that could strengthen the Counties recruitment and retention of employees. Ms. Anderson agreed with Ms. Faulkner. She said her staff explained that the numbers vary due to different cycle periods; however, they confirmed that they contact 100% of these separated and terminated individuals.<br><br>With no further questions, Ms. Anderson disconnected from the Teams meeting. | |
| **Announcements** | Next Meeting: Tuesday, July 7, 2020 – 3:00 p.m., Teleconference by Microsoft Teams | |
| **Adjournment** | | Ms. Faulkner moved to adjourn the meeting. Mr. Watanabe seconded the motion. Motion carried 5:0<br><br>Meeting adjourned at 3:28 p.m. |

Submitted by: _____
Sandra Muragin, Commission Support Clerk

Reviewed and Approved by: _____
Jeffrey Iida, Chair

( ) Approved as circulated.
( ) Approved with amendments. See minutes of _____ meeting.

DEPARTMENT OF HUMAN RESOURCES
DIRECTOR'S REPORT
TO THE
CIVIL SERVICE COMMISSION

JULY 7, 2020 MEETING

Report Covering May/June 2020

**HRMS Project:**

- Following the XRFP posting on May 14, 2020, a pre-proposal conference was held with interested vendors via MS Teams on May 28, 2020. [Goal 5, Obj. A.1.—completed]
- Selection Committee was established, comprised of HR Managers, Central Payroll Accountant, and IT Manager, to review questions from interested vendors, review submitted proposals, seek clarification, and pose questions to the potential vendors, among other things. [Goal 5, Obj. A, 1.—completed]
- HR and IT, with assistance of BerryDunn, currently are reviewing and responding to 31 inquiries from vendors submitted by the June 19, 2020 deadline. [Goal 4, Obj. 1-3; Goal 5, Obj. A. 3.—ongoing]
- Next Steps: Deadline for the submission of proposals is July 9, 2020. Thereafter, the Selection Committee will review and score proposals. The preliminary schedule is listed below.

The following is a **preliminary** schedule of significant dates that the County has projected. All times are Hawai'i Standard Time (HST).

| | |
|---|---|
| Issue XRFP (Legal Notice) | May 14, 2020 |
| Pre-Proposal Teleconference | 9:00 a.m. HST, May 28, 2020 |
| Deadline for Written Inquiries | June 19, 2020 |
| PROPOSAL DUE DATE | July 9, 2020 |
| Priority-List Vendor Notification | Week of July 27, 2020 |
| Vendor Demonstrations | Week of August 31, 2020 |
| Tentative Award Date | October 2020 |

After purchase of the system in the fall of 2020, implementation is anticipated to commence either in the 4th quarter of 2020 or the first quarter of 2021. Per BerryDunn, systems of this scope and size generally take 12 to 18 months to fully implement and train employees on all aspects of the multi-faceted system.

CSC 2020-15

**COVID-19 and Stay at Home Order:**

- Most HR staff continue to telework from home. Daily meetings with supervisors occur. HRD's direct reports provide daily telework reports, which in turn are incorporated into the HRD's daily teleworking report submitted to Mayor's office. All functions of HR continue to be met. [Goal 7, Obj. A, 1.—met]
- When issues/problems arise, HRD, HR managers, and appropriate teleworking staff meet, via Teams, to discuss and find solutions. We discuss areas for improvement, e.g., staff assigned to review various HR generic email accounts to assure receipt and review; calendaring methods used (manual vs. electronic) for recruitment follow-ups). [Goal 7, Obj. A, 2.—met]
- Teleworking staff have been provided with the following: laptops, VPN (virtual private network) that allows remote access to employee's desktop computer, cables to allow dual monitors (laptop screen and home computer screen) if requested; ability to return to office to obtain files, photocopy, or attend in-person grievance meetings with appropriate social distancing. [Goal 7, Obj. A, 3.—met]

**Collective Bargaining:**

- HGEA BU 14 (Ocean Safety Officers and Law Enforcement Officers) arbitration award funding bill is moving through the Council and Committee beginning with final reading at Council meeting in July 2020.
- Status of Legislative approval of funding of HGEA BUs 2, 3, 4, 13, and 14:
  - The Legislature will return to session on June 22, 2020. We continue to monitor the status of funding bills for these units.
- The employer jurisdictions are having regular Teams meetings to discuss upcoming negotiations with HGEA for successor agreements commencing July 1, 2021. Proposals are being reviewed and voted upon, in anticipation of exchange with the unions.

**Document Retention and Maintenance Policy:**

- Consulted with County Attorney regarding implementation of a document retention and maintenance policy for HR, noting that the State has a very detailed and comprehensive General Records Schedule with respect to personnel and payroll records containing an itemized listing of various records/documents with a wide-range of retention periods. [Goal 2, Obj. B, 1—met and ongoing]

- After consulting with County Attorney, as well as inquiring with the Managing Director, the Director of Finance, the IT Manager, plus review of Hawaii Revised Statues, and Kaua'i County Council Resolutions, the following information was obtained:
  - The County of Kaua'i is governed by HRS §46-43 pertaining to county records, which provides in relevant part:

    (a). . .[T]he county legislative body shall determine whether, and the extent to which, the county shall create, accept, retain, or store in electronic form any records and convert records to electronic form.

    . . .

    (c) The director of finance, with the approval of the county legislative body and the county's legal advisor, shall determine the care, custody, and disposition of other county records and may destroy all vouchers, documents, and other records or papers, exclusive of records required either by law or by the legislative body of the county to be permanently retained, that have been on file or retained for a minimum period to be determined by the legislative body of the county by resolution.

- Kaua'i County Council Resolution No. 2008-39 sets forth the County's Records Disposal Policy, which among other things, provides for a seven (7) year minimum retention period with exceptions for shorter or longer periods. The Director of Finance, with the approval of the County Council and the County Attorney, approves the disposal of county records.
- Kaua'i County Council Resolution No. 2016-21 sets for the County's Electronic Records Storage Policy, which among other things, provides that pursuant to HRS Section 92-30, an electronic copy of a government record shall be deemed to be an original record for all purposes.
- In discussion with the County Attorney, the Managing Director, the Director of Finance, and the IT Manager, it appears that County departments/divisions rely upon the seven (7) year retention policy and do not establish separate procedures for records retention and maintenance. Most departments/divisions convert paper documents to electronic, and occasionally seek approval of the Council to destroy records.
- A review of the retention periods required by various federal and state employment laws all are less than seven (7) years.
- Neither HR nor the County Attorney has been able to determine the extent of past involvement by the Office of the County Attorney (OCA) with respect to HR's records retention and maintenance issues. If HR creates a policy the OCA will review it; however, OCA does not create policies or procedures for departments/divisions.

- After a thorough analysis of the above information and in order to address the audit findings and recommendations from fiscal years 2015-2016 and 2017-2018, the HRD proposes to develop a brief policy statement for personnel documents kept by HR acknowledging the requirements of HRS §46-43 and Council Resolution Nos. 2008-39 and 2016-21, with a commitment to adhere to the seven (7) year minimum retention policy, with the exception of documents pertaining to the State of Hawai'i Employees' Retirement System and documents pertaining to Workers' Compensation claims that will be retained for a minimum period of 30 years. [Goal 2, Obj. B, 1.—met and ongoing.]

**Administrative Services and Benefits:**

- Assisted with responding to 4-10 work schedule change exemption requests; Upkeep of stats related to 4-10 schedules.
- Handled annual employee changes to their EUTF Health Plans following Open Enrollment period that ended on May 15, 2020.
- Annual Flexible Spending Open Enrollment period began on May 16, 2020 and will run through June 15, 2020. HR staff and Allstate Insurance representatives have been assisting employees with the enrollment process.
- New Hires
  - Information Technology Project Coordinator
  - Payroll Specialist I
  - Procurement Clerk II
  - Disaster Assistance Fiscal Clerk (exempt)
  - EOC Public Information Officer (exempt)
  - Field Operations Clerk (exempt)
  - Public Housing & Development Program Specialist I (exempt)
  - Transit Fleet Mechanic (exempt)

- Exit Interviews (Retirees): 3 of 3

- Exit Interview (Voluntary Separations/Terminations) 0 of 0
- TDI Applications 1 (approved); 1 (denied)
- Family Leave: 3 (approved)
- Leave Sharing: None
- Reference Checks: 13
- Employment Verifications: 34
- Transactions:

| | |
|---|---|
| New Hires | 4 |
| Separations | 2 |
| Reallocations | 8 |
| Promotions | 2 |
| Demotions | 0 |
| Transfers | 1 |
| Pay Increase | 4 |
| Suspension | 3 |
| Leave Without Pay | 1 |
| *Misc. Change Forms | 0 |
| **Other | 13 |
| 89-Day | 24 |
| Seasonal | 0 |

- *Miscellaneous Change Forms include expense distribution changes, schedule changes, personal data changes, etc.
- **Other includes end of/extension of TR, add/delete add pay codes, amended PCs, extension of initial probation, rescinded PCs, term of contract/contract appointment PCs, etc.

**Employee Development and Health Services:**

- Six (6) new workers' compensation claims were filed this month; Two (2) medical-only claims, three (3) indemnity claims, and one (1) controverted claim.
- Bi-monthly reviews of selected workers' compensation claims held on May 14, 2020 via WebEx meeting. Sixteen (16) claims reviewed.
- Equipment/Driver Training: Backhoe (3 Public Works' employees)

**Classification and Pay and Labor Relations:**

- A grievance decision was issued by the HRD sustaining the termination of a Fire Recruit. The Hawaii Firefighter Association has filed for arbitration.
- Reallocations Processed: Accounting Assistant to Park Security Officer I
  County Grants Program Manager to Grant and Budget Specialist
  Disaster Assistance Project Manager to Disaster Assistance Fiscal Clerk

Disaster Assistance Project Manager to Project Management and Compliance Officer
Detention Facility Worker to Police Services Officer (2)
Electronics/Electrical Tradesperson I to Plant Electrician
Intern II to Intern III
Legal Clerk III to Senior Clerk
Park Security Officer I to Payroll Technician
Planner II to Planner III
Police Officer I to Police Services Officer
Program Support Technician II to Police Records Technician
Real Property Appraiser IV to Real Property Appraiser V (2)

- Desk Audits: None
- New Classes Adopted: Grant and Budget Specialist
  Real Property Appraisal Specialist
- Administrative Reviews: None

**Recruitment and Exam:**

- Given the current situation with many employees still teleworking, the County Summer Internship Programs (County and DOW) were cancelled. However, the Parks Department is proceeding with a 4-week Summer Fun Program that will adhere to social distancing requirements. Groups of 8-9 participants will be "self-contained" as its own "program" resulting in a significant decrease in participants but the need for more staff. The summer Golf Program will also be held. Positions for these programs remain on continuous recruitment.
- Due to social distancing guidelines that limit the number of individuals who can be in one meeting room, the need to hold multiple New Hire Orientations has occurred, At the beginning of June, two orientations were held on June 1st and one orientation on June 2nd for short term hires.
- Recruitments:
  Accountant I
  Accountant II
  Accountant III
  Bus Driver (substitute) (exempt)
  Construction & Maintenance Worker I
  Detention Facility Worker (exempt)
  Disaster Assistant Fiscal Clerk (exempt)
  Disaster Assistant Principal Project Manager (exempt)
  Emergency Services Dispatcher II (exempt)
  Fire Assistant Chief
  First Deputy County Attorney (exempt)
  Heavy Vehicle and Construction Equipment Mechanic I
  Intern III (exempt)
  IT Communications and Project Manager (exempt)
  Lead Electrician-Electronics Equipment Repairer
  Liquor Clerical Assistant (exempt)
  Pipefitter Helper
  Plant Electrician
  Project Management and Compliance Officer (exempt)

Real Property Appraisal Specialist
Real Property Titles Examiner and Recorder (exempt)
Recreation Worker I
Special Assistant to the Director of Parks and Recreation-Wailua Golf Course (exempt)
Van Driver (substitute) (exempt)
West Kauai Community Plan Assistant (exempt)

- Lists Referred to Departments:

  Administrative Clerical Assistant (exempt)
  Assistant Chief of Police
  Bus Driver (Substitute) (exempt)
  Civil Engineer I
  Detention Facility Worker (exempt)
  Disaster Assistant Fiscal Clerk (exempt)
  Disaster Assistant Principal Project Manager (exempt)
  Emergency Services Dispatcher II (exempt)
  Fire Assistant Chief
  Fire Fighter Trainee
  First Deputy County Attorney (exempt)
  Intern III (exempt)
  IT Communications and Project Manager (exempt)
  Legal Clerk III
  Liquor Clerical Assistant (exempt)
  Ocean Safety Officer I
  Park Caretaker I
  Payroll Technician
  Police Records Technician
  Program Specialist III (Paratransit Manager) (exempt)
  Project Management and Compliance Officer (exempt)
  Real Property Titles Examiner and Recorder (exempt)
  Senior Clerk
  Solid Waste Worker I
  Special Assistant to the Director of Parks and Recreation-Wailua Golf Course (exempt)
  Summer Youth Programs (exempt)

- Written Exams Administered:

  Emergency Services Dispatcher I
  Police Services Officer

- Performance Exams Administered: None

- Administrative Reviews: None

**Payroll:**

- A new Payroll Technician employee began work on June 1, 2020 (position coming from Parks) and will be responsible for Parks payroll time sheet hours entry and auditing.
- Continue plans for expanding centralized services for other departments; training is beginning with KPD, the largest and most complicated system.
- Transition of budget functions from private secretary to Accountant III.
- Gross Payroll for May:

| | | |
|---|---|---|
| 15th | $ | **3,992,903** |
| EOM | $ | **3,904,338** |
| EUTF ACTIVE | $ | **729,724** |
| EUTF OPEB | $ | **590,968** |
| EUTF RETIREE | $ | **845,532** |
| ERS (RETIREMENT) | $ | **1,968,623** |
| SOCIAL SECURITY | $ | **299,026** |
| MEDICARE | $ | **108,623** |
| PTS SS SAVINGS | $ | **4,790** |

**EEO/ADA**

- Employee complaint with investigation in process.
- On-going ADA technical guidance provided to County employees and the public as requested, with recent emphasis on COVID-19 emergency orders.
- Respond to call (although greatly reduced volume) with complaints about State agencies; referred to appropriate State agencies
- Continue coordinating with other County coordinators regarding ADA issues arising from Covid-19 rules

DEPARTMENT OF PERSONNEL SERVICES

COUNTY OF KAUAI

PART 2 RULES OF THE CIVIL SERVICE COMMISSION/MERIT APPEALS BOARD

# TABLE OF CONTENTS

CHAPTER 1 RULES OF PRACTICE AND PROCEDURE


Subchapter 1 Rules of General Applicability — PAGE NO.

§1-1 Purpose of chapter; statement of policy..... 1-2
§1-2 Authority..... 1-2
§1-3 Construction of rules..... 1-3
§1-4 Limitation of jurisdiction..... 1-3
§1-5 Procedure and terms..... 1-3
§1-6 Definitions..... 1-3
§1-7 The Commission..... 1-4
§1-8 Delegation of administrative duties..... 1-7
§1-9 Government records..... 1-7

Subchapter 2 Proceedings before the Commission/Merit Appeals Board

§1-10 General proceedings..... 1-8
§1-11 Appearances and practices before the Commission..... 1-8
§1-12 Disqualification of commissioner or hearing officer..... 1-9
§1-13 Consolidation..... 1-9
§1-14 Filing of documents..... 1-9
§1-15 Amendment of documents and dismissal..... 1-10
§1-16 Retention of documents..... 1-10
§1-17 Computation of time..... 1-10
§1-18 Continuances or extensions of time..... 1-11
§1-19 Service of process..... 1-11
§1-20 Commission decision..... 1-11

Subchapter 3 Rules Applicable to Rulemaking Procedures

§1-21 Initiation of rulemaking proceedings..... 1-12
§1-22 Notice of public hearing..... 1-12
§1-23 Conduct of hearing..... 1-13
§1-24 Commission action..... 1-14
§1-25 Emergency rulemaking..... 1-14




CSC 2020-16

PAGE NO.


| | | |
|---|---|---|
| §1-26 | Filing of rules..... | 1-14 |
| §1-27 | Taking effect of rules..... | 1-14 |
| §1-28 | Publication of rules..... | 1-14 |

Subchapter 4 Rules Applicable to Declaratory Rulings

| | | |
|---|---|---|
| §1-29 | Petitions for declaratory ruling..... | 1-15 |
| §1-30 | Request for hearing..... | 1-15 |
| §1-31 | Applicability of order..... | 1-15 |
| §1-32 | Declaratory ruling on commission's own motion..... | 1-15 |
| §1-33 | Refusal to issue declaratory order..... | 1-16 |

Subchapter 5 Rules Applicable to Initial Pricing and Compensation Plan

| | | |
|---|---|---|
| §1-34 | Pricing policies..... | 1-16 |
| §1-35 | Pricing standards..... | 1-17 |
| §1-36 | Determination of Blue collar classes..... | 1-18 |
| §1-37 | Amendments to the Compensation Plan..... | 1-19 |

Subchapter 6 Rules Applicable to Appeals

| | | |
|---|---|---|
| §1-38 | Standing to appeal..... | 1-19 |
| §1-39 | Filing of appeal..... | 1-20 |
| §1-40 | Notice..... | 1-21 |
| §1-41 | Appeal hearing..... | 1-21 |

DEPARTMENT OF PERSONNEL SERVICES

# PART 2 RULES OF THE CIVIL SERVICE COMMISSION/MERIT APPEALS BOARD

## CHAPTER 1

## RULES OF PRACTICE AND PROCEDURE

### Subchapter 1 Rules of General Applicability


§1-1 Purpose of chapter; statement of policy
§1-2 Authority
§1-3 Construction of rules
§1-4 Limitation of jurisdiction
§1-5 Procedure and terms
§1-6 Definitions
§1-7 The Commission/Merit Appeals Board
§1-8 Delegation of administrative duties
§1-9 Government records


### Subchapter 2 Proceedings before the Commission/Merit Appeals Board


§1-10 General proceedings
§1-11 Appearances and practices before the Commission/Merit Appeals Board
§1-12 Disqualification of commissioner or hearing officer
§1-13 Consolidation
§1-14 Filing of documents
§1-15 Amendment of documents and dismissal
§1-16 Retention of documents
§1-17 Computation of time
§1-18 Continuances or extensions of time
§1-19 Service of process
§1-20 Commission/Merit Appeals Board decision


### Subchapter 3 Rules Applicable to Rulemaking Procedures


§1-21 Initiation of rulemaking proceedings
§1-22 Notice of public hearing
§1-23 Conduct of hearing
§1-24 Commission/Merit Appeals Board action




CSC 2020-16

§1-25 Emergency rulemaking
§1-26 Filing of rules
§1-27 Taking effect of rules
§1-28 Publication of rules

Subchapter 4 Rules Applicable to Declaratory Rulings

§1-29 Petitions for declaratory ruling
§1-30 Request for hearing
§1-31 Applicability of order
§1-32 Declaratory ruling on commission's own motion
§1-33 Refusal to issue declaratory order

Subchapter 5 Rules Applicable to Initial Pricing and Compensation Plan

§1-34 Pricing policies
§1-35 Pricing standards
§1-36 Determination of Blue collar classes
§1-37 Amendments to the Compensation Plan

Subchapter 6 Rules Applicable to Appeals

§1-38 Standing to appeal
§1-39 Filing of appeal
§1-40 Notice
§1-41 Appeal hearing

## Subchapter 1

## RULES OF GENERAL APPLICABILITY

§1-1 Purpose of chapter; statement of policy. This chapter governs procedures before the commission. It shall be construed to effectuate the purpose of the chapter and to secure the just and efficient determination of every proceeding.
(Auth: HRS §§ 76-14, 76-47, Art XV; RCC, Sec. 15.03)

§1-2 Authority. These rules govern practice and procedure before the commission of the County of Kauai under civil service law, as modified by chapter 89, HAWAII REVISED STATUTES; Hawaii Administrative Procedure Act, chapter 91, HAWAII REVISED STATUTES; chapter 92, HAWAII REVISED STATUTES; and such other related acts as may now or hereafter be

administered by the commission. The commission shall serve and sit as an appellate body. The matters of policy, methodology, and administration are left to the determination of the director.
(Auth: HRS §§ 76-14, 76-47)

§1-3 Construction of rules. These rules shall be liberally construed to secure the just, speedy and inexpensive determination of every proceeding.
(Auth: HRS §§ 76-14, 76-47)

§1-4 Limitation of jurisdiction. (a) Where the terms of collective bargaining agreements pursuant to chapter 89, HRS, conflict with these rules the terms of the agreement shall prevail; provided that the terms are not inconsistent with section 89-9(d), HRS.

(b) This title shall not apply to the assignment of classes to SC and EM (excluded managerial) ranges.

(c) Matters concerning the appropriateness of appealed classes and their standards, propriety of positions allocated to these classes, or any other classification matter shall be heard separate from initial pricing appeals.
(Auth: HRS § 76-14)

§1-5 Procedure and terms. (a) Statutory terms. The terms used in rules promulgated by the commission pursuant to powers granted by statute shall have the meaning defined by such statute, unless the context otherwise specifically requires.

(b) Terms defined by rule. A rule or regulation that defines a term without express reference to the statute or to these rules or to a portion thereof, defines such terms for all purposes as used both in the statute and in these rules, unless the context otherwise specifically requires.

(c) Use of number and gender. Words importing the singular number may extend and be applied to several persons or things and words importing the plural may include the singular and words importing the masculine gender may be applied to the feminine gender. (Auth: HRS §§ 1-14, 1-15, 1-16, 1-17)

§1-6 Definitions. As used in this chapter, unless a different meaning clearly appears in the context:

"Affected classes" means the unappealed, related and identical classes of the compensation plan.

"Affected persons" means persons affected by the compensation plan and believing that their respective classes are improperly priced.

"Appointing authority" means a department head or designee having the power to make appointments or changes in the status of employees.

"Chairperson" means the chairperson of the commission.

"Class" means a group of positions that reflect sufficiently similar duties and responsibilities such as that the same title and the same pay range may apply to each position allocated to the class.

"Commission" means the civil service commission/merit appeals board.

"Compensation plan" means the pay plan consisting of the assignment of all classes in the classification system to pay ranges in the appropriate salary schedules on the basis of their relative differences in level of work.

"Director" means the director of the department of personnel services of the county.

"Hearing" means any proceeding governed by sections 76-14, 76-47, HRS; and sections 91-8 and 91-9, HRS.

"Meeting" means the convening of the commission for which a quorum is required in order to make a decision or to deliberate toward a decision upon a matter over which the commission has supervision, control, jurisdiction, or advisory power.

"Merit Appeals Board" means a jurisdiction's appellate body for purpose of Section 76-14, HRS, regardless of whether it is named merit appeals boards, civil service commission, or appeals board.

"New class" means a class which did not formerly exist within the appropriate compensation plan, and represents a new concept of work for which an initial pricing action was taken.

"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.

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

"Presiding officer" means, with respect to proceedings, the chairperson, and includes any member of the commission designated as such, or such other persons authorized by law to conduct hearings.

"Pricing" means the process of assigning classes to appropriate salary ranges and wage board ranges.

"Proceedings" means the commission's determination of the relevant facts and applicable law, consideration thereof, and action thereupon with respect to a particular subject within the commission's jurisdiction, initiated by a filing or submittal or request or a commission's notice or order. It shall include proceedings involving the adoption, amendment or repeal of any rule or regulation of the commission whether initiated by commission order or notice, or by petition of an interested person.
(Auth: HRS §§ 76-14, 76-47)

§1-7 The commission. (a) Office. The office of the commission is at Lihue, Hawaii. All communications to the commission shall be addressed to Office of the Commission, 4444 Rice Street, Suite 140, Lihue, Hawaii 96766, unless otherwise specifically directed.

(b) Hours. The office of the commission will be open from 7:45 a.m. to 4:30 p.m. Of each workday unless otherwise provided by statute or executive order.

(c) Meetings. The commission may meet and exercise its powers in any part of the County of Kauai.

(1) Open meetings. All meetings of the commission except executive meetings and meetings governed by sections 91-8 and 91-9, HRS, shall be open to the public.

(2) Executive meetings. The commission may hold an executive meeting, closed to the public, upon an affirmative vote, taken at an open meeting, of two thirds of the members present. The vote of each member on the question of holding a meeting closed to the public and the reason for holding such a meeting shall be recorded and entered into the minutes of the meeting. A meeting closed to the public may be held only for one or more of the following purposes:

(A) To consider the hire, evaluation, dismissal or discipline of an officer or employee or charges brought against such individual where consideration of matters affecting privacy will be involved; provided, that if the individual concerned requests an open meeting, an open meeting shall be held;

(B) To consult with the commission's attorney;

(C) To investigate proceedings regarding criminal misconduct; and

(D) To consider sensitive matters relating to public safety or security.

(3) Chance meetings. The rules governing meetings shall not apply to any chance meeting, as defined by section 92-2, HRS, at which matters relating to official business are not discussed. No chance meeting or electronic communication shall be used to circumvent the spirit or requirements of the meetings provisions to make a decision or to deliberate toward a decision upon a matter over which the commission has supervision, control, jurisdiction or advisory power.

(4) Special meetings. Special meetings of the commission for the transaction of its business may be held at any time and place as scheduled by the commission.

(5) Emergency meetings. If the commission finds that an imminent peril to the public health, safety or welfare requires a meeting in less time than is provided for in paragraph (6), the commission may hold an emergency meeting provided:

(A) The commission states in writing the reasons for its findings;

(B) Two-thirds of all members to which the commission is entitled agree that an emergency exists;

(C) An emergency agenda and the findings are filed with the office of the county clerk and in the commission's office; and

(D) Persons requesting notification pursuant to paragraph (6) are contacted by mail or telephone as soon as practicable.

(6) Notice.

(A) Public notice.

(i) The commission shall give written public notice of any regular, special, or rescheduled meeting. The public notice shall include an agenda which

lists all of the items to be considered at the forthcoming meeting, the date, time and place of the meeting.

(ii) The commission shall file the public notice in the office of the county county clerk and in the commission's office for public inspection at least six (6) calendar days before the meeting. The public notice shall also be posted at the site of the meeting whenever feasible. The commission shall not add items to the agenda, once filed, without a two-thirds record vote of all members to which the commission is entitled; provided that no item shall be added to the agenda in the manner provided herein, if it is of reasonably major importance and action thereon by the commission will affect a significant number of persons.

(B) Notice to parties. For hearings governed by sections 91-8 and 91-9, HRS, all parties shall be given notice of the hearing as required by law and provided for in these rules.

(7) Construction. The provisions requiring open meetings shall be liberally construed and the provisions providing for exceptions to open meeting requirements shall be strictly construed against closed meetings.

(d) Quorum and number of votes necessary to validate acts. A majority of all members to which the commission is entitled shall constitute a quorum to transact business, and the concurrence of a majority of all members to which the commission is entitled shall be necessary to make valid any action of the commission.

(e) Minutes. The commission shall keep written minutes of all meetings. Unless otherwise required by law, neither a full transcript nor a recording of the meeting is required, but the written minutes shall give a true reflection of the matters discussed and the views of the participants. The minutes shall include, but need not be limited to:

(1) the date, time and place of the meeting;

(2) the members of the commission recorded as either present or absent;

(3) the substance of all matters proposed, discussed or decided; and a record, by individual member, of any votes taken; and

(4) Any other information that any member of the commission requests be included or reflected in the minutes. The minutes shall be available within thirty (30) days after the meeting except where such disclosure would be inconsistent with section 92-4, HRS.

(f) Administrative.

(1) The chairperson of the commission shall be responsible for the administration functions of the commission.

(2) Authentication of commission action. All decisions, orders and other actions of the commission shall be signed by the chairperson or the presiding officer acting in such proceeding. Official copies of decisions, orders and other commission actions may be promulgated under the signature of the chairperson of the commission or the chairperson's delegate.

(g) Submittals and requests. All documents required to be filed with

the commission shall be filed in the office of the commission within such time limits as prescribed by laws, rules of the commission or order of the commission. Requests for public information, copies of official documents or opportunity to inspect public records may be made in writing to the commission's office or in person at said office.
(Auth: HRS §§ 76-14, 76-47, 92-1, 92-3, 92-4, 92-5, 92-7, 92-8, 92-9, 92-15)

§1-8 Delegation of administrative duties. (a) The commission may delegate to any competent and qualified individual such power or authority vested in the commission it deems reasonable and proper for the effective administration of chapter 76, HRS, and these rules except the power to make, amend or repeal rules and regulations.

(b) Hearing officer. The commission may, by written resolution adopted by a majority of the members to which it is entitled, appoint a competent and qualified disinterested person to act as its hearing officer. The hearing officer shall hear the matter in the same manner as if it were before the commission and, upon the conclusion of the hearing, shall transmit to the commission a record of the hearing, including a recording or transcript and a summary of evidence taken at said hearing. After review of the testimony and evidence, a majority of the members to which the commission is entitled shall render a decision in accordance with section 91-11, HRS.
(Auth: HRS §§ 76-14, 76-47, 91-2, 92-16)

§1-9 Government records. (a) Files of the commission. The term "government records" as used in this part is defined as in section 92F-3, HRS, and shall include all rules, regulations, written statements of policy or interpretations formulated, adopted or used by the commission, all petitions of appeal, opinions and orders, written testimony, minutes of meetings of the commission and any other material on file in the office of the commission unless accorded confidential treatment pursuant to law or the rules of the commission.

(b) Inspection of government records. All government records which are required to be disclosed pursuant to section 92F-12, HRS, will be available for inspection in the office of the commission during established office hours unless public inspection of such records is in violation of any law or rule. Nothing in this rule shall be construed to prevent the county attorney from raising any and all objections to the production of government records that are subject to discovery or subpoena under any rule or order of the court. The county attorney is authorized to raise objections and defenses pertaining to the discovery and subpoena of the commission's records and withhold production and disclosure of said documents pending a final court order.

(c) Copies of government records. Government records which are required to be disclosed pursuant to section 92F-12, HRS, that are printed or reproduced by the commission shall be given to any person requesting the same and paying the fees established by the commission or by law.

(d) Requests. Requests for public information, for permission to inspect government records or for copies of government records shall be handled expeditiously. Said government records, however, will not be released for review or copying without the approval of the chairperson or the chairperson's delegate.

(e) Denial of inspection. Any person denied access to inspect government records or to copies of government records may apply to the circuit court of the circuit wherein the government record is found for an order permitting access to inspect government records or to copies of government records.
(Auth: HRS §§ 92.21, 92.F)

## Subchapter 2

## PROCEEDINGS BEFORE THE COMMISSION

§1-10 General proceedings. The commission may, on its own motion or upon the petition of any interested person or agency of the federal, state or county government; hold such proceedings as it may deem necessary in the performance of its duties or the formulation of its rules and regulations. Procedures to be followed by the commission shall, unless specifically prescribed in these rules or by the Hawaii Administrative Procedure Act or by any other statute, be such as in the opinion of the commission will best serve the purpose of such proceeding. (Auth: HRS §§ 76-14, 76-47)

§1-11 Appearances and practices before the commission. (a) Appearances before the commission. A public employee may appear in such employee's own behalf; an employee organization may be represented by its duly designated representative; and the director or appointing authority may appear on their own behalf.

(b) Representation. In any proceeding under these rules, the director, appointing authority or employee may be represented by an attorney or any other individual authorized, in writing, to act in a representative capacity. The cost of such attorney shall be borne by the party being represented.

(c) Validation of authority. When an individual acting in a representative capacity appears in person or signs a paper in practice before the commission, the personal appearance or signature of such individual shall constitute a representation to the commission that, under the provisions of these rules and the law, the individual is authorized and qualified to represent the particular person on whose behalf such individual acts. The commission may at any time require individuals transacting business with the commission in a representative capacity to show to the commission their written authorization to act in such capacity.

(d) Bar to appearance.

(1) Former commission association. No individual who has been associated with the commission as a member, officer, employee or counsel shall be permitted to appear before the commission in behalf of or to represent in any manner any party in connection with any proceeding or matter that such individual has handled or passed upon while associated in any capacity with the commission.

(2) Limitations of assistance from barred persons. No person or

agency appearing before the commission in any proceeding or matter shall, in relation thereto, knowingly accept assistance from and compensate any individual who would be barred by this subsection.

(3) Written consent to appear. No person who has been associated with the commission as a member, officer, employee or counsel thereof shall be permitted to appear before the commission in behalf of, or to represent in any manner, any person or agency in connection with any proceeding or matter that was pending before the commission at the time of such person's association, unless written consent of the commission shall first have been obtained, upon a verified showing that such individual did not give personal consideration to the matter or proceeding as to which consent is sought or gain particular knowledge of the facts thereof during such person's association with the commission.

(4) One year limitation. This subsection shall not apply to any individual or agency who has terminated association with the commission for a period of one year.

(Auth: HRS §§ 76-14, 76-47)

§1-12 Disqualification of commissioner or hearing officer. Any party to a hearing may, up to five (5) days before the proceeding, file an affidavit that one or more of the commissioners or a hearing officer has a personal bias or prejudice. The commissioner against whom the affidavit is so filed may answer the affidavit or may file a disqualifying certificate with the commission. If the commissioner or hearing officer chooses to answer the affidavit, the remaining commissioners shall decide by a majority of all the members to which the commission is entitled whether that commissioner or hearing officer should be disqualified from proceeding therein. Every such affidavit shall state the facts and reasons for the belief that bias or prejudice exists and shall be filed at least five (5) days before the hearing, or good cause shall be shown for the failure to file it within such time. Any commissioner or hearing officer may be disqualified by filing with the chairperson a certificate acknowledging inability for any reason to preside with impartiality in the pending hearing. (Auth: HRS §§ 76-14, 76-47)

§1-13 Consolidation. The commission, upon its own initiative or upon motion, may consolidate for hearing or for other purposes or may contemporaneously consider two or more proceedings that involve substantially the same parties, or issues that are same or closely related, if it finds that such consolidation or contemporaneous hearing will be conducive to the proper dispatch of its business and to the ends of justice and will not unduly delay the proceedings. (Auth: HRS §§ 76-14, 76-47)

§1-14 Filing of documents. (a) Time and place. All requests, appeals, pleadings, submittals, petitions, reports, maps, exceptions, briefs, memoranda and other papers required to be filed with the commission in any proceeding shall be filed at the office of the commission within the time limits prescribed by law, the rules of the commission or by order

of the commission. The date on which the papers are received, if hand delivered, or postmarked, if delivered by mail, shall be regarded as the date of filing.

(b) Form. All requests and appeals filed with the commission shall be written in ink, typewritten, mimeographed or printed; shall be plainly legible; and shall be on strong, durable paper no larger than 8-1/2 x 11 inches in size, except that maps, charts, tables and other like documents may be larger, folded to the size of the papers to which they are attached.

(c) Certification. All documents must be signed in ink by the party signing the same or by such party's duly authorized agent or attorney. The signature of the person signing the document constitutes a certification that such person has read the document; that to the best of the person's knowledge, information and beliefs, every statement contained therein is true and no such statement is misleading; and that it is not interposed for delay.

(d) Copies. Unless otherwise specifically provided by a particular rule, regulation or order of the commission, an original and eight copies of all papers shall be filed.

(e) Identification. All documents filed by any person or agency in any proceeding shall state on the first page thereof the name, mailing address and telephone number, if any, of the individual or individuals who may be served with any documents filed in the proceeding.
(Auth: HRS §§ 76-14, 76-47, 91-2, 91-6, 91-8)

§1-15 Amendment of documents and dismissal. If any document filed in a proceeding is not in substantial conformity with the applicable rules of the commission as to contents thereof, or is otherwise insufficient, the commission may, on its own motion or on motion of any party, strike such document or require its amendment five (5) days or the balance of the period for filing, whichever is greater, shall be allowed for submittal of amended documents. If amended, the document shall be effective as of the date of receipt of the amendment or other date provided by this title. (Auth: HRS §§ 76-14, 76-47, 91-2, 91-6, 91-8)

§1-16 Retention of documents. All documents filed with or presented to the commission shall be retained in the files of the commission. The commission may permit the withdrawal of original documents upon submission of properly authenticated copies to replace such documents. (Auth: HRS §§ 76-14, 76-47, 91-2, 91-6, 91-8)

§1-17 Computation of time. In computing any period of time prescribed or allowed by these rules, the day of the act, event or default, after which the designated period of time is to run, is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday or legal holiday in the State of Hawaii, in which event the period runs until the next day which is neither a Saturday, Sunday nor a holiday. Intermediate Saturdays, Sundays and holidays shall not be included in a computation when the period of time prescribed or allowed is ten (10) days or less. A half day holiday shall be considered as other days and not as a holiday. (Auth: HRS § 1-29)

§1-18 Continuances or extensions of time. Whenever a person or agency has a right or is required to take action within a period prescribed or allowed by these rules, the chairperson upon the filing of a proper motion or request by the person or agency, may permit the act to be done after expiration of the specified period if such delinquency is clearly shown to have been the result of excusable neglect. Such request must be filed no later than ten (10) days prior to the hearing date set for the appeal and be accompanied by an affidavit or other evidence or documents supporting the request for an extension or continuance. This provision shall not apply to the twenty (20) days time period in which the petition of appeal must be filed with the commission as required under section 1-39. (Auth: HRS §§ 76-14, 76-47)

§1-19 Service of process. (a) By whom served. The commission shall cause to be served all orders, notices and other papers issued by it, together with any other papers that is required by law to serve. All other papers shall be served by the parties filing them.

(b) Upon whom served. All papers served by either the commission or any party shall be served upon all parties or their counsel. Any counsel entering an appearance subsequent to the proceeding shall notify all other counsel of record and all parties not represented by counsel of such fact.

(c) Service upon parties. The final order, and any other paper required to be served by the commission upon a party and a copy shall be furnished to counsel of record.

(d) Method of service. Service of papers shall be made personally or, unless otherwise provided by law, by first-class mail to the last known address.

(e) When service complete. Service upon parties, other than the commission, shall be regarded as complete by mail upon deposit in the United States mail, properly stamped and properly addressed to the parties involved.
(Auth: HRS §§ 76-14, 76-47)

§1-20 Commission decision. All final orders, opinions or rulings entered by the commission in the proceeding and rules promulgated by the commission shall be served upon the parties participating in the proceeding by first-class mail or personal delivery by the commission. Copies of such material shall be available for public inspection in the office of the commission or may be obtained upon request and upon payment of reasonable fees, if any. (Auth: HRS §§ 76-14, 76-47)

Subchapter 3

RULES APPLICABLE TO RULEMAKING PROCEDURES

§1-21 Initiation of rulemaking proceedings. (a) Motion by commission. The commission may, at any time on its own motion, initiate proceedings for the adoption, amendment or repeal of any rule of the commission. Procedures to be followed in rulemaking shall be as set forth in rules of the commission and the applicable statutes.

(b) Petition by person or agency. Any interested person or agency may petition the commission for the adoption, amendment or repeal of any rule of the commission. Petitions for rulemaking filed with the commission will become matters of public record.

(1) Form and content. Petitions for rulemaking shall conform to the requirements of section 1-14 and shall contain the name, address and telephone number of each petitioner; the signature of each petitioner; a draft or the substance of the proposed rule or amendment or a designation of the provisions the repeal of which is desired; a statement of the petitioner's interest in the subject matter; and a statement of the reasons in support of the proposed rule, amendment or repeal.

(2) Commission action. The commission shall, within thirty (30) days after the filing of the petition for the adoption, amendment or repeal of any rule of the commission, place the petition on the agenda for its next scheduled public meeting. At the close of the public meeting the commission shall either deny the petition or initiate rulemaking proceedings as provided for in these rules.

(3) Denial of petition. Any petition that fails in material respect to comply with the requirements herein or that fails to disclose sufficient reasons to justify the institution of rulemaking proceedings will be denied by the commission. The commission shall notify the petitioner in writing of such denial, stating the reasons therefor. Denial of a petition shall not prevent the commission from acting on its own motion, on any matter disclosed in the petition. Petitioner may seek a review of said denial through the circuit court pursuant to the administrative procedure act and applicable rules of court and statutes.

(4) Acceptance of petition. If the commission determines that the petition is in order and that it discloses sufficient reasons in support of the petition the commission shall initiate the rule-making proceedings as provided in sections 1-23 through 1-28.

(Auth: HRS § 91-6)

§1-22 Notice of public hearing. (a) Publication and mailing. When, pursuant to a petition or upon its own motion, the commission proposes to adopt, amend or repeal a rule or regulation, a notice of proposed rulemaking shall be published at least once in a newspaper of general circulation in the county and such notice shall also be mailed to all persons or agencies who have made timely written requests for advance notice of the commissioner's

rulemaking proceedings. All such notices shall be published at least thirty (30) days prior to the date set for public hearing.

(b) Form. A notice of the proposed adoption, amendment or repeal of a rule or regulation shall include:

(1) a statement of the date, time and place where public hearing will be held;

(2) reference to the authority under which the adoption, amendment or repeal of a rule or regulation is proposed; and

(3) a statement of the substance of the proposed rule.

(Auth: HRS §§ 91-3, 92-41)

§1-23 Conduct of hearing. (a) Presiding officer. The public hearing for the adoption, amendment or repeal of rules and regulations shall be heard before the commission and presided over by the chairperson of the commission or, in the chairperson's absence, by the vice-chairperson. The hearing shall be conducted in such a way as to afford to interested persons and agencies a reasonable opportunity to offer testimony with respect to the matters specified in the notice of hearing and so as to obtain a clear and orderly record. The presiding officer shall have authority to administer oaths or affirmations and to take all other actions necessary to the orderly conduct of the hearing.

(b) Continuance of hearing. Each such hearing shall be held at the time and place set in the notice of hearing but may at such time and place be continued by the presiding officer from day to day or to a later date or to a different place without notice other than the announcement thereof at the hearing.

(c) Order of proceeding. At the commencement of the hearing, the presiding officer shall read the notice of hearing and shall then outline briefly the procedure to be followed. Testimony shall then be received with respect to the matters specified in the notice of hearing in such order as the presiding officer shall prescribe.

(d) Submission of testimony. Witnesses shall, before testifying, state their name, address and whom they represent at the hearing, and shall give such other information as the presiding officer may request. The presiding officer shall confine the testimony to the matters for which the hearing has been called but shall not apply the technical rules of evidence. Every witness shall be subject to questioning by the members of the commission or by any other representatives of the commission; cross-examination by persons or agencies shall be as permitted.

(e) Oral and written presentation. All interested persons or agencies will be afforded an opportunity to submit data, views or arguments, orally or in writing, that are relevant to the matters specified in the notice of hearing. The period for filing written comments or recommendations may be extended beyond the hearing date by the presiding officer for good cause. An original and eight copies shall be filed when submitting written comments, recommendations or replies.

(f) Transcript of the evidence. Unless otherwise specifically ordered by the commission, testimony given at the public hearing shall not be reported verbatim. All supporting written statements, maps, charts, tabulations or similar data offered in evidence at

the hearing, and which are deemed by the presiding officer to be authentic and relevant, shall be received in evidence and made a part of the record. Unless the presiding officer finds that the furnishing of copies is impracticable, nine (9) copies of the exhibits shall be submitted. (Auth: HRS §§ 91-3, 92-41)

§1-24 Commission action. The commission will consider all relevant comments and material of record before taking final action in a rulemaking proceeding. Final action should be taken within sixty (60) days after the final public hearing, or the expiration of any extension period for submission of written comments or recommendations. (Auth: HRS § 91-3)

§1-25 Emergency rulemaking. Notwithstanding the foregoing rules, if the commission finds that an imminent peril to public health or safety requires adoption, amendment or repeal of a rule or regulation upon less than thirty (30) days notice of hearing, and states in writing its reasons for such findings, it may proceed without prior notice or hearing or upon such abbreviated notice and hearing as it finds practicable to adopt an emergency rule or regulation. The commission shall make an emergency rule known to persons who will be affected by it by publication at least once in a newspaper or general circulation in the county. (Auth: HRS § 91-3)

§1-26 Filing of rules. The commission, upon adopting, amending or repealing a rule and approval by the mayor, shall file certified copies thereof with the county clerk. (Auth: HRS §§ 91-3, 91-4, 91-4.1)

§1-27 Taking effect of rules. Each rule adopted, amended or repealed shall become effective ten (10) days after filing with the county clerk. If a later effective date is required by statute or specified in the rule, the later date shall be the effective date; provided that no rule shall specify an effective date in excess of thirty (30) days after the filing of the rule with the county clerk. An emergency rule shall become effective upon filing with the county clerk for a period not exceeding one hundred twenty (120) days without renewal unless extended in compliance with the provisions of subdivisions (1) and (2) of section 91-3(a), HRS. (Auth: HRS § 91-4)

§1-28 Publication of rules. The commission shall, as soon as practicable compile, index and publish all rules adopted by the commission and remaining in effect. Compilations shall be supplemented as often as necessary and shall be revised at least once every ten (10) years. (Auth: HRS § 91-5)

Subchapter 4

## RULES APPLICABLE TO DECLARATORY RULINGS

§1-29 Petitions for declaratory rulings. On petition of an interested person or agency, the commission may issue a declaratory order as to the applicability of any statutory provision or order of the commission.

(a) Form and Contents. The petition shall conform to the requirements of section 1-14 and shall contain the name, address and telephone number of each petitioner; the signature of each petitioner; a designation of the specific provision, rule or order in question, together with a statement of the controversy or uncertainty involved; a statement of the petitioner's interest in the subject matter, including the reasons for submission of the petition; a statement of the petitioner's position or contention; and a memorandum of authorities, containing a full discussion of reasons and legal authorities in support of such position or contention.

(b) Commission action. The commission shall, within a reasonable time after the petition for a declaratory ruling is filed with the commission, either:

(1) Deny the petition and issue a written decision stating the reasons for such denial;

(2) Issue a declaratory order on the matters contained in the petition; or

(3) Set the matter for hearing as provided in section 1-30.

(c) Dismissal of Petition. The commission may, without notice or hearing, dismiss a petition for declaratory ruling that fails in material respect to comply with the requirements of this part.

(Auth: HRS § 91-8)

§1-30 Request for hearing. Although in the usual course of disposition of a petition for a declaratory ruling no formal hearing will be granted to the petitioner or to a party in interest, the commission may in its discretion order such proceeding set down for hearing. Any petitioner or party in interest who desires a hearing on a petition for a declaratory ruling shall set forth in detail in the request the reasons why the matters alleged in the petition, together with supporting affidavits or other written evidence and briefs or memoranda of legal authorities, will not permit the fair and expeditious disposition of the petition and, to the extent that such request for a hearing is dependent upon factual assertion, shall accompany such request by affidavit establishing such facts. In the event a hearing is ordered by the commission, section 91-9, HRS, shall govern the proceedings. (Auth: HRS § 91-8)

§1-31 Applicability or order. An order disposing of a petition shall be applicable only to the factual situation described in the petition or set forth in the order.

(Auth: HRS § 91-8)

§1-32 Declaratory ruling on commission's own motion. Notwithstanding the other provisions of this part, the commission may, on its own motion or upon request but without

notice or hearing, issue a declaratory order to terminate a controversy or to remove uncertainty. (Auth: HRS § 91-8)

§1-33 Refusal to issue declaratory order. The commission may for good cause, refuse to issue a declaratory order with specific reasons for such determination. Without limiting the generality of the foregoing, the commission may so refuse where:

(1) The question is speculative or purely hypothetical and does not involve existing facts, or facts that can be expected to exist in the near future;

(2) The petitioner's interest is not of the type that would give the petitioner standing to maintain an action if such petitioner were to seek judicial relief;

(3) The issuance of the declaratory order may affect the interests of the commission in a litigation that is pending or may reasonably be expected to arise; or

(4) The matter is not within the jurisdiction of the commission.

(Auth: HRS § 91-8)

## Subchapter 5

## RULES APPLICABLE TO INITIAL PRICING AND COMPENSATION PLANS

§1-34 Pricing policies. (a) The white collar and blue collar compensation plans applicable to the county shall be as consistent as is practicable with the objective of achieving equal pay for equal work as provided in 76-1, HRS.

(b) It shall be the objective of each major plan to maintain proper relationships between classes of positions within each compensation part and within and between the county and its political jurisdictions based on objective criteria and systematic job evaluation of classes, unless it has been agreed in accordance with chapter 89, HRS, to negotiate the repricing of classes. The development of each compensation plan shall be governed by a policy encompassing the criteria set forth in subsections (c) through (f).

(c) Salary range or wage board grade assignments for the various classes of work in each compensation part of the plan shall be set in proper relationship to one another so that like salary range or wage board grade assignments are made for comparable duties and responsibilities.

(d) Salary range or wage board grade assignments between relatable classes in each compensation part of the plan are to be set in a manner consistent with the ranking of classes from low to high in recognition of the varying complexities, difficulties, and nature of responsibilities.

(e) The initial pricing of classes shall not be influenced by employee benefit considerations, night shift and other similar working condition differentials which are separate and distinct parts of pay administration, except where such benefits are considered in the pricing of the classes.

(f) Due consideration shall be given to the financial condition of government.

(Auth: HRS §§ 76-14, L 2000, c 253, §149)

§1-35 Pricing standards. (a) All classes of positions which perform work in recognized trades or crafts or other skilled mechanical crafts or unskilled, semi-skilled, or skilled manual labor occupations, including positions of inspectors and supervisors having trades, crafts or laboring experience and knowledge as the paramount requirement shall be included in the blue collar compensation plan. All other classes of positions shall be included in the white collar compensation plan. The commission shall:

(1) Adopt and maintain guidelines for the determination of classes within the appropriate plan; and

(2) Determine appeals against inclusion and exclusion of classes consistent with the definition and guidelines.

(b) The commission shall adopt and maintain bench mark classes for each compensation part of each plan in accordance with the following criteria:

(1) Achieve the principle of equal pay for equal work;

(2) Serve as pivotal classes in that assignment of other classes within a series of classes of salary range or wage board grade may be made with reference to these classes;

(3) Are easily identifiable work where the nature of duties and responsibilities and the level of complexity are representative; and

(4) Are common to all or most of the jurisdictions or serve as essential and sound reference points to the salary program of a governmental jurisdiction.

(c) The evaluation and ranking of classes within the framework of each compensation part of each compensation plan shall be in accordance with subsections (d) through (g).

(d) Bench mark classes shall be identified to establish and reflect base relationships between classes and to illustrate the level of work found at various salary ranges or grades.

(e) Classes shall be evaluated and ranked by the methods set forth in established guidelines.

(f) Guidelines shall be adopted and maintained to rank classes using appropriate individual or combined evaluation factors from the following:

(1) Knowledge and skills required. The nature and extent of information or facts which must be understood and applied in order to do acceptable work, and the nature and extent of skills needed to apply these knowledges, i.e. training and experience.

(2) Supervisory controls. The nature and extent of direct or indirect controls exercised by the supervisor, i.e. the extent of responsibility for work product and the method of reviewing completed work.

(3) Guidelines. The nature of the guidelines available and the judgment required in applying them.

(4) Complexity. The nature, number, variety, and intricacy of tasks, steps, process, or methods in the work performed; difficulty in identifying what

needs to be done; the difficulty and originality involved in performing the work; and the scope and effect of work done.

(5) Personal contacts. The nature and purpose of face-to-face, telephone, and other dialogue with persons not in the supervisory chain which ranges from the exchange of information to those cases involving significant or controversial issues, differing viewpoints, goals, or objectives.

(6) Physical demands. The physical abilities and exertion required.

(7) Work environment. The risks and discomfort in the work's physical surroundings or the nature of the work assigned and the safety precautions required.

(8) Supervisory skills. The nature and scope of getting work done by subordinates with accountability to superiors for the quality and quantity of work and for assuring efficient and economical work operations.

(9) Managerial responsibilities. The nature and scope of line or staff programs which involve:

(A) Directing the work of a sizeable organization through subordinates who control and guide the operations;

(B) Making decisions or recommendations on contents and character of operations, policies, programs and goals, planning and evaluation activities, and personnel matters affecting key persons and positions;

(C) Monitoring and accounting for the success of specific line or staff programs and for attainment of planned goals and objectives; and

(D) Assessing the impacts of operational activities on public relations, legislative or judicial concerns, and labor-management affairs.

Each factor may have differing values or weight, and shall be consistently applied to each class within the compensation part of each plan.

(g) The commission shall adopt and maintain guidelines to reflect relationships between compensation parts of each plan to insure the objectives of section 1-34 are carried out effectively.

(Auth: HRS §§ 76-14, L2000, c 253, 149)

§1-36 Determination of blue collar classes. (a) Any person who has standing to appeal pricing in accordance with section 1-38 may file to determine the inclusion or exclusion of the person's class from the blue collar compensation plan in conjunction with an initial pricing appeal.

(b) Appeal on the appropriateness of the assigned compensation plan shall be filed on a special form furnished by the commission and it shall conform to the requirements of section 1 -39.

(c) The commission shall be guided by section 1-35 and other commission guidelines in determining whether a class belongs to the white collar or blue collar compensation plan.

(d) The remaining procedures and requirements of subchapter 6 of these rules shall be applicable in determining the appropriateness of the designated compensation plan and the proper pricing of the class under appeal within that plan.
(Auth: HRS § 76-14)

§1-37 Amendments to Compensation Plans. (a) The commission shall report adjustments to the director for notification to departments/agencies and other jurisdictions for amendment to the compensation plan.

(b) The effective date on initial pricing appeals where the decisions are in favor of the appellants shall be retroactive to the effective date of the action of the director.
(Auth: HRS § 76-14)

## Subchapter 6

## RULES APPLICABLE TO APPEALS

§1-38 Standing to appeal. (a) The commission shall decide appeals from any action under this chapter taken by the chief executive, the director, an appointing authority, or a designee acting on behalf of one of these individuals, relating to:

(1) Recruitment and examination;
(2) Classification and reclassification or a particular position;
(3) Initial pricing of classes; and
(4) Other employment actions under this chapter, including disciplinary actions and adverse actions for failure to meet performance requirements, taken against civil service employees who are excluded from collective bargaining coverage under section 89-6, HRS.

(b) Any person suffering legal wrong by an action under subsection (a)(1) or aggrieved by such action shall be entitled to appeal to the commission.
Any employee covered by chapter 76, HRS, suffering legal wrong by an action under subsection (a)(2) or (3) shall be entitled to appeal to the commission. Only employees covered by chapter 76, HRS, who are excluded from collective bargaining, suffering legal wrong by an action under subsection (a)(4) shall be entitled to appeal to the commission.
Persons who may file initial pricing appeals are:

(1) an employee, or the employee's designated representative may file a pricing appeal on a new class to which the employee's position is allocated;
(2) the director of a department or the director's designated representative may file pricing appeals on classes in which it has positions; and
(3) an employee organization acting on behalf of its membership may file pricing appeals on the classes in which it has members.

(c) The commission shall not act on an appeal, but shall defer to other authority, if the action complained of constitutes a prohibited act that is subject to the jurisdiction of

another appellate body or administrative agency or the grievance procedure under a collective bargaining agreement;

(d) The commission shall not proceed on an appeal or shall hold proceedings in abeyance if there is any controversy regarding its authority to hear the appeal until the controversy is resolved by the Hawaii Labor Relations Board;

(e) The commission shall not proceed on an appeal unless all internal complaint procedures, including administrative review and departmental complaint procedures have been exhausted.

(Auth: HRS § 76-47)

§1-39 Filing of appeal. (a) Time. Any person who has standing to appeal shall file a petition of appeal to the commission within twenty (20) calendar days after notice of the action was sent by the director or appointing authority. For purposes of this rule the date notice of the action is sent shall be construed as either:

(1) If the notice is mailed, the date the director or appointing authority mails the notice by first class mail to the person's last known address; or

(2) If the notice is not mailed, the date the notice is hand delivered to the person. The petition of appeal shall be filed with the Office of the Commission at 4444 Rice Street, Suite 140, Lihue, Hawaii 96766, between the hours of 7:45 a.m. and 4:30 p.m. of each workday. All petitions submitted to the commission beyond the twenty (20) day period shall be deemed untimely and shall not be considered an appeal by the commission.

(b) Form. The petition of appeal shall conform to the requirements of section 1-14.

(c) Content. The petition of appeal shall contain the following information:

(1) A statement and description of the adverse action being appealed from the person filing the petition of appeal.

(2) The particular rule, regulation, statute, or policy that was violated by the director or appointing authority.

(3) A statement and description of all material and relevant facts in support of the appeal indicating how and in what manner the particular rule, regulation, statute, or policy was violated by the director or appointing authority.

(4) A statement of the issues involved in the appeal. Provided, that in the event the appellant is unable to ascertain the particular rule, regulation, statute or policy that was violated by the director or appointing authority or state all material and relevant facts in support of the appeal at the time the petition of appeal is filed, the appellant may, within thirty (30) days of the filing of the original petition of appeal, file an amended petition of appeal. For the purpose of the twenty (20) day filing limitation, the appeal shall be effective as of the date the original petition of appeal was filed.

(5) Initial pricing appeals shall:

(a) be limited to a single class; and contain:

(1) the name and signature of each petitioner;

(2) the address and telephone number of each petitioner of the designated representative for any position having four or more petitioners;

(3) all pricing appeal issues including a concise statement of relevant facts; and

(4) the remedy sought, including the rationale.

All other materials intended to support the pricing appeal issues shall be submitted in the proper number of copies and within fifteen (15) days after submission of the pricing appeal.

(b) be based on conditions existing at the time of the dated position description on which the new class and the initial pricing action was taken.

(c) amended pricing appeals which are submitted within period prescribed in section 1-15 shall be effective as of the date of the original filing.

(Auth: HRS §§ 76-14, 76-47)

§1-40 Notice. All parties shall be given written notice of the hearing by registered or certified mail with return receipt requested at least fifteen (15) days prior to the hearing. The notice shall include a statement of:

(1) The date, time, place and nature of the hearing;

(2) The legal authority under which the hearing is to be held;

(3) The particular sections of the statutes and rules involved;

(4) An explicit statement in plain language of the issues involved and the facts alleged by the appellant in support thereof; provided that if the appellant is unable to state such issues and facts in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved; and

(5) The fact that any party may retain counsel if such party so desires.

(Auth: HRS §§ 76-14, 76-47)

§1-41 Appeal hearing. (a) General. An appeal shall be conducted as a contested case under chapter 91, HRS. The commission shall, upon receipt of an appeal, order the matter set for hearing. In any appeal, all parties shall be afforded an opportunity for hearing after reasonable notice. Opportunities shall be afforded all parties to present evidence and argument on all issues involved. Any procedure in a contested case may be modified or waived by stipulation of the parties and informal disposition may be made of any appeal by stipulation, agreed settlement, consent order or default; provided that waiver of any procedure includes procedural requirements of section 91-11, HRS.

(b) Time and place. Hearing shall be held at the time and place set forth in the notice of hearing, but may at such time and place be continued from day to day or to a later day or to a different place without notice other than the announcement thereof by the presiding officer or hearing officer at the hearing.

(c) Nature of hearing. The nature of the hearing, whether open or closed, shall be governed by subsection 1- 7 (c).

(d) Before whom. Appeals shall be heard before the commission or a hearing officer duly appointed by the commission.

(e) Presiding officer. When a proceeding is conducted before the commission itself, the proceeding shall be presided over by the chairperson of the commission or, in the chairperson's absence, by the vice-chairperson.

(f) Powers of presiding officer. The presiding officer at a proceeding shall have authority to control the course of the hearing; to hold conferences open to the public on which they have had notice, for the settlement of simplification of issues; to administer oaths and affirmation; to grant application for and issue subpoenas; to take or cause depositions to be taken; to rule upon offers of proof and receive relevant evidence; to limit lines of questioning or testimony that are irrelevant, immaterial or repetitious; to rule upon all objections, procedural requests and motions that do not involve final determination of proceedings; to dispose of any other matter that normally and properly arises in the course of the proceeding; and to take all other actions authorized by chapter 76, HRS, Hawaii Administrative Procedure Act, rules of the commission or by any other statute, that are deemed necessary to the orderly and just conduct of the hearing.

(g) Pre-hearing motions and requests. All pre-hearing motions and requests shall be filed with the office of the commission and served on the opposing party by personal service or by first class mail no later than two (2) weeks prior to the hearing date set by the commission for the appeal.

(h) Any hearing officer, board member or representative of the commission shall not consult with the director or representative of the petitioners, union, department director or their representatives on any matter pending before the commission except on notice and opportunity for the appellant or the appellant's representative and the director or representatives to participate.

(i) Disqualification. No hearing officer or commissioner shall be assigned to serve in any proceeding who has any pecuniary interest in any matter or business involved in the proceeding; who is related within the first degree by blood or marriage to any party to the proceeding; or who has participated in an investigation preceding the institution of the proceeding or in a determination that it should be instituted or in the development of the evidence to be introduced therein.

(j) Record of the hearing. The record of the hearing shall be compiled in conformance with section 91-9(e), HRS. The commission will make provisions for stenographic record of the testimony, but it shall not be necessary to transcribe the record unless requested for purposes of pre-hearing or court review. Any person desiring a copy of the record of a hearing or any part thereof shall be entitled to the same upon written application to the commission and upon payments of reasonable costs thereof.

(k) Witnesses.

(l) Subpoenas. Subpoenas requiring the attendance of witnesses or the production of documentary evidence from any place within the State of Hawaii at any designated place of hearing may be issued by the presiding officer or any designated member of the commission or by the hearing officer. Application for subpoenas shall be made in writing to the commission or

hearing officer. The application shall specify the particular documents or data desired and shall show their relevancy to the issues involved. Application shall be made at least five (5) days prior to the hearing. If application is made at a later time, the commission may, in its discretion, issue subpoenas and/or continue the hearing or any part thereof. Enforcement of obedience to subpoenas issued by the commission and served pursuant to these rules will be effected by written application of any member of the commission to any circuit judge.

(2) Fees. Witnesses summoned shall be paid the same fees and mileage as are paid witnesses in circuit courts of the State of Hawaii and such fees and mileage shall be paid by the party at whose instance the witnesses appear. Fees for the depositions shall be paid by the party at whose instance the depositions are taken.

(3) Oath. Witnesses shall be placed under oath or affirmation prior to testifying.

(l) Order of proceeding. At the commencement of the hearing, the presiding officer or hearing officer shall read the notice of hearing and shall then outline briefly the procedure to be followed. Such procedure, unless specifically prescribed in these rules or by the Hawaii Administrative Procedure Act or by any other applicable statute shall, in the opinion of the presiding officer or hearing officer, best serve the purpose of the hearing without prejudice to any party. Following the outlining of the procedures to be followed, the commission or the hearing officer shall first consider all pre-hearing motions or requests filed by the parties.

(m) Submission of testimony. All parties shall be given reasonable opportunity to offer testimony with respect to the matters relevant to the proceeding. Witnesses shall, before proceeding to testify, state their name, address and whom they represent at the hearing and shall give such information respecting their appearance relevant to the proceeding as the presiding officer or hearing officer may request. The presiding officer or hearing officer shall confine the testimony to the matters for which the hearing has been called, but need not apply the technical rules of evidence except as required by statute. Each witness may be subject to questioning by members of the commission and by any representative of the commission. Each witness may also be subject to cross-examination by the adverse party at the discretion of the presiding officer. Each party shall have the right to submit rebuttal evidence and rebuttal arguments.

(n) Official notice of facts. The commission or hearing officer shall take notice of judicially recognizable facts and may take notice of generally recognizable technical or scientific facts within the commission's or hearing officer's specialized knowledge when parties are given notice either before or during the hearing of the material so noticed and afforded the opportunity to contest the facts so noticed.

(o) Additional evidence. At the hearing, the presiding officer or hearing officer may require the production of further evidence upon any issue.

(p) Closing the hearing. After all the evidence has been presented, the

commission or hearing officer shall give the parties opportunity to summarize. Within reasonable time after such final arguments have been completed and all requested memoranda submitted, the commission or hearing officer shall bring the matter to a close.

(q) Proposed findings and conclusions. The commission or hearing officer shall permit parties to file proposed findings and conclusions, together with the reasons therefore at the close of the hearing or within such time as is extended at the discretion of the commission or hearing officer. Such proposal shall be in writing and shall contain references to the record and to the authorities relied upon. Copies thereof shall be furnished to all parties.

(r) Commission action. (1) General. If the commission finds that the director or the appointing authority violated any applicable civil service rule, regulation, law or policy; the commission shall grant such relief to the appellant as allowed by law. If the commission finds that the director or the appointing authority did not violate any applicable civil service rule, regulation, law or policy; the commission shall deny the appeal and uphold the action of the director or the appointing authority.

(2) Appeals relating to failure to meet performance requirements. The commission shall use the conditions listed in section 76-41(c), HRS, in reaching a decision on whether actions taken by the appointing authority based on a failure by the employee to meet the performance requirements of the employee's position is with or without merit.

(3) Suspensions, discharge and demotions. If the commission finds that the reasons for the action are not substantiated in any material respect, the commission shall order that the employee be reinstated in the employee's position, without loss of pay, but if the commission finds that the reasons are substantiated or are only partially substantiated, the commission shall sustain the action of the appointing authority, provided that the commission may modify the action of the appointing authority if it finds the circumstances of the case so require and may thereupon order such disposition of the case as it may deem just.

(s) The commission shall confine its findings and decision on initial pricing appeals addressed to the appropriateness of either their assigned compensation plan and salary range or wage board grade assignment. Classification matters shall be heard in separate appeal.

(t) Findings and decisions. The findings and decisions of the commission shall be final on all appeals, unless an appeal is taken pursuant to section 91-14, HRS. For initial pricing appeals, findings and decisions of the commission shall be final until the next review of the compensation plans or negotiated repricing.

(u) Notice of decision. The commission shall, within sixty (60) days after the close of the hearing on the appeal, or such other time as the commission may deem reasonable, notify all parties of its decision and order by delivering or mailing a certified copy of the decision and order to each party or to such party's attorney of record. This decision and order shall include separate finds of facts and conclusions of law and, if the

parties have presented to the commission proposed findings of fact the commission shall incorporate in its decision a ruling upon each proposed finding so presented.
(Auth: HRS §§ 76-14, 76-47, Art XV, RCC, Sec. 15.03)

CIVIL SERVICE COMMISSION
**Subchapter 7**

# Policies and Procedures for Rules on the Selection, Evaluation, and Dismissal of the Director of Personnel Services

1-42 Authority for Rule-making:

Pursuant to Article XV Section 15.03A of the Kauai County Charter ("Charter"), the Civil Service Commission of the County of Kaua'i ("Commission") adopts the following administrative rules pertaining to the selection, evaluation, and dismissal of the Director of Personnel Services.

1-43 Authority to Appoint Director of Personnel Services:

Pursuant to Article XV Section 15.04 of the Charter, the Director of Personnel Services shall be appointed by the Civil Service Commission. Prior to the appointment of a Director of Personnel Services the Commission shall obtain certification from the Department of Personnel Services that each applicant meets the minimum qualifications set forth in Article XV Section 15.04 of the Charter. The Commission shall develop and periodically review the position description for the Director of Personnel Services position. The Commission shall transmit a copy of the position description to the Department of Personnel Services.

1-44 Authority for the Director of Personnel Services to Appoint a Deputy:

The Director of Personnel Services may appoint a Deputy Director of Personnel Services to assist with his or her duties as provided in Article XV Section 15.04 of the Charter. The



CSC 2020-16 D.

Director of Personnel Services shall develop and periodically review the position description for the Deputy Director of Personnel Services position. The Director shall transmit a copy of the position description to the Department of Personnel Services.

1-45 Selection of the Director of Personnel Services:

The Director shall be selected in the following order:

1. First, by nomination of candidates to the Commission by any of the Civil Service Commissioners;
2. Second, if no candidates are nominated by any Civil Service Commissioner or the Commission fails to take action on any of the nominated candidates, the Commission may:
    a. Form a select committee to compile a list of candidates for recommendation to the Commission; or
    b. Contract with a consultant, specializing in the recruitment of employees, to compile a list of candidates for recommendation to the Commission; or
    c. Agree, by majority of the Commission, to develop its own process to select the Director.

1-46 Provisions for the Evaluation of the Director of Personnel Services and Deputy Director of Personnel Services:

1. The Commission shall annually evaluate the performance of the Director.
2. The Director shall annually evaluate the performance of the Deputy Director.
3. The performance evaluations shall be conducted in accordance with the "Administrative Policies and

Procedures" established by the Department of Personnel Services.

1-47 Dismissal of the Director of Personnel Services

The Director serves at the pleasure of the Commission and can be dismissed at any time without cause or hearing on the matter.

# Overview to amend the "Rules of the CSC/Merit Appeals Board" Document

1. Discuss and list/highlight amendments to the document or possibly assign two Commissioners to work on changes.
    a. Propose changes at a scheduled meeting.
    b. Support staff will incorporate amendments to the document.

2. Proofread Ramseyer version.
    a. Support staff will maintain Ramseyer version and incorporate additional edits and changes as needed.
    b. This process may take several meetings before the final document.

3. Proofread final document. Approve final document at a scheduled meeting and set date of the Public Hearing.

4. Support staff will draft the Public Hearing Notice with a written description of the changes.
    a. Indicate the date, time and location of the Public Hearing on the "Notice of Public Hearing".

5. Support staff will publish the "Notice of Public Hearing" in the Garden Island Newspaper (30) days before the Public Hearing Date/Civil Service Commission meeting.

6. Conduct the Public Hearing at a scheduled Civil Service Commission meeting.

7. Close the Public Hearing.

8. Approve the final document or if there are any changes to the final document it would require approval at the next scheduled meeting.

9. Once the final document is approved, support staff will complete the following;
    a. Prepare Certificate – date of public hearing, date of adoption, chair to sign.
    b. Note on coversheet date of the amendments approved/adopted by the Civil Service Commission.
    c. Print five original copies of the final approved document.
        i. Chair signs all five original copies.
        ii. Deputy County Attorney signs all five original copies.
        iii. Mayor signs all five original copies.

10. Support Staff will transmit all five original copies to the Office of the Mayor for transmittal to the Office of the County Clerk.

11. County Clerk will transmit all five original copies to the Office of the Lieutenant Governor for recording.

CSC 2020-16 D. 2.

**Copied verbatim from Approved Civil Service Commission Open Session Minutes on file**

**July 22, 2014**

**CSC 2014-08 Discussion and possible decision-making on amending the CSC Rules to allow for a section governing the selection, evaluation and dismissal of the Department of Personnel Services/Human Resources Director**

Vice Chair Morita said he would strongly support adopting these Rules, but would like to defer this item for discussion with the full Commission.

Ms. Matsumoto stated in 2001 the State Legislature reformed the Civil Service Laws, which became effective in July 2002. DPS revised its rules and policies, which went through a public hearing before being adopted. But instead of being the Merit Appeals Board (MAB) the Mayor decided he wanted a combination of civil service type authority as well as a merit appeals board. Since the rules are clearly appellate, Ms. Matsumoto asked Deputy Attorney Courson to provide guidance on administrative rules so the Commission does not overstep the boundaries in place. While similar to the Planning Department with the responsibility for the hiring and firing of the Director through the Charter, according to HRS the Merit Appeals Board was created to hear appeals. Ms. Matsumoto also pointed out that a Public Hearing to amend the Rules will delay the hiring of a Director.

Vice Chair Morita personally thought it was sad that each commission does not have a set policy to follow. Ms. Hahn said even if it takes longer, it makes sense to have this type of structure set up first.

Ms. Morikami said the Civil Service Commission does not have to adopt the rules established by the Planning Commission, they can be used as a guideline in their deliberations. The rules can be adopted at any time in the future. Deputy Attorney Courson said he was going to also make that suggestion since there are timeline concerns.

The proposed Rules will be placed on the August agenda as a guideline in the implementation of hiring a Director.

**MOTION:** Ms. Hahn moved to defer decision-making on amending the CSC Rules. Ms. Golden seconded the motion.

**WITHDREW MOTION:** Ms. Golden withdrew her second. Ms. Hahn withdrew her motion.

**MOTION:** Ms. Hahn moved to use the Planning Department's Rule as a guideline in the hiring of a Director and in the future, consider incorporating them as part of this Commission's Rules. Ms. Golden seconded the motion. Motion carried 4:0



CSC 2020-16 D.b.

**March 24, 2015**

**CSC 2015-06 Discussion on adopting Guidelines for Implementing Civil Service Commission Procedures for the Selection, Evaluation and Dismissal of the Director of Human Resources and possible decision-making to schedule a Public Hearing on adding such Rule Changes as Subchapter 7 (On-going)**

Deputy Attorney Courson explained the one big change made to the guidelines is that the resumes will not go to Human Resources but to the Commission. Ms. Adams said she would be happy to attend the Public Hearing when it is scheduled if the Commission would like her assistance. Ms. Rapozo noted these were guidelines and not the rules the Planning Commission adopted and questioned the status of the Commission's rules. Deputy Attorney Courson said they have not done the rules yet as the plan would be to incorporate as many changes as they can for an efficient use of resources. Vice Chair Low clarified that the rules go before a public hearing whereas the guidelines are a working document to which the Attorney stated he would have to check on that. Chair Low suggested incorporating a step by step process whereby new commissioners would understand what needs to be done at a certain point. Deputy Attorney Courson said he could work on a flow chart to let the commissioners know the various steps in the complaint process.

Chair Morita noted that most of the commissions that appoint their directors might be okay using the guidelines developed by the Planning Commission, but the uniqueness of the Civil Service Commission working with and responsible for the hiring of the Director of Human Resources makes our amendments quite specific to this Commission. Ms. Rapozo agreed it seemed appropriate that HR would not be accepting resumes for the position of Director of HR.

**NO MOTION**

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**April 28, 2015**

**CSC 2015-04 Review Department and Commission's procedures and forms for filing appeals (On-going)**

Ms. Rapozo explained that Deputy County Attorney Nick Courson is the lead on this, but is absent today and therefore asked for a deferral.

**MOTION:** Ms. Hahn moved to defer this item to the next meeting. Mr. Jose seconded the motion. Motion carried 6:0

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**May 26, 2015**

**CSC 2015-06 Discussion on adopting Guidelines for Implementing Civil Service Commission Procedures for the Selection, Evaluation and Dismissal of the Director of Human Resources and possible decision-making to schedule a Public Hearing on adding such Rule Changes as Subchapter 7 (On-going)**

No Commission action pending input from Deputy Attorney Courson.

**NO MOTION**

**June 23, 2015**

**CSC 2015-06 Discussion on adopting Guidelines for Implementing Civil Service Commission Procedures for the Selection, Evaluation and Dismissal of the Director of Human Resources and possible decision-making to schedule a Public Hearing on adding such Rule Changes as Subchapter 7 (On-going)**

Attorney Courson noted he anticipated completing this item faster that CSC 2015-04 and it can be left on the agenda as on-going.

**NO MOTION**

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**August 25, 2015**

**CSC 2015-06 Discussion on adopting Guidelines for Implementing Civil Service Commission Procedures for the Selection, Evaluation and Dismissal of the Director of Human Resources and possible decision-making to schedule a Public Hearing on adding such Rule Changes as Subchapter 7 (On-going)**

Attorney Courson said he would like to review this with the Administrator, Mr. Furfaro, before he presents suggestions to the Commission for decision making. Ms. Rapozo said the guidelines do not need to go to public hearing; it was something the Planning Commission did so when it came time to implement that rule if they needed to hire or fire the director they would have a guideline on the steps to follow. The Rules would need to be approved to go to public hearing. Staff said the decision has not been made as to whether the guidelines should be rolled into the Rules as a stepping stone for the future or just remain as a guideline. Ms. Rapozo explained the process and reasoning the Planning Department used in keeping the guidelines separate from their Rules. Mr. Low recalled the Civil Service Commission had discussed the options before and they also did not want to tie the guidelines to the Rules.

**NO MOTION**

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**September 22, 2015**

**CSC 2015-06 Discussion on adopting Guidelines for Implementing Civil Service Commission Procedures for the Selection, Evaluation and Dismissal of the Director of Human Resources and possible decision-making to schedule a Public Hearing on adding such Rule Changes as Subchapter 7 (On-going)**

Attorney Courson stated he met with Boards and Commissions and some concerns came up, which have been researched and addressed. Basically the concern was did HRS (Hawai'i Revised Statutes §76-75) provide any rules for the appointment of the personnel director and the answer is yes. HRS does provide something but it is real scanty. The merit appeals board, which is this Commission, shall appoint and may at pleasure remove a personnel director, who shall be the chief administrative officer of the department of civil service. The director shall, at the time of the director's appointment, and thereafter, be thoroughly familiar with the principles and methods of personnel administration and shall believe in applying merit principles and scientific administrative methods to public personnel administration. The Commission may want to make sure that is incorporated into the selection rules, but it is not something that would probably be overlooked; it is a pretty basic thing. The "may at pleasure remove" is the main

thing; appoint and remove is completely consistent with the Charter. This review is, however, still on-going.

Attorney Courson also took the opportunity to introduce his colleague Teresa (Tumbaga) who will be taking over as counsel for the Civil Service Commission.

**NO MOTION**

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**November 24, 2015**

**CSC 2015-06 Discussion on adopting Guidelines for Implementing Civil Service Commission Procedures for the Selection, Evaluation and Dismissal of the Director of Human Resources and possible decision-making to schedule a Public Hearing on adding such Rule Changes as Subchapter 7 (On-going)**

Deputy Attorney Tumbaga asked what the Commission wanted to do in terms of adopting guidelines and rule changes. Chair Morita said he recalled they did make some amendments, but were waiting because Attorney Courson said there were some issues he had to clarify. Attorney Tumbaga asked if they still wanted to amend the guidelines or implement the guidelines. Chair Morita thought they wanted to implement the guidelines, but Attorney Courson said there were some issues. Attorney Tumbaga said at one point there was a question as to whether the Hawai'i Revised Statutes (HRS) addressed the Human Resources Director and there is a statute that does, but it is very brief and previously read into the record. Attorney Tumbaga was not sure if that was the only question noting the HRS also addresses a Deputy Director. Attorney Tumbaga asked what the Commission wanted to do in terms of guidelines and rules so she can assist in drafting what is needed. Attorney Tumbaga said in discussions with Attorney Courson he also was not sure where the Commission was on this item so she went through the older minutes. In the minutes from June 23, 2015, the Commission discussed guidelines versus rules and a decision had not been made as to whether the guidelines should be rolled into the rules or just remain as guidelines, and she asked if that was a decision the Commission still needs to make. Attorney Tumbaga said it was not so much of changing the current rules, but adding a section to the rules as there is nothing in place for this particular area of the HR Director.

Ms. Rapozo said she sat on the committee that worked on these rules for the Planning Commission, and they came up with rules they wanted to incorporate as part of their Commission rules. They came up with guidelines that any Commission coming in would understand as rules are sometimes vague, and another Commission might think that is not what was meant. The guidelines they came up with could be used, but were not necessarily rules that have to go through the public hearing process. Ms. Rapozo thought at some meeting they approved the rule change to add in the selection process, but the guidelines were still up in the air whether to adopt them or not; she did not recall if and when the rules were approved.

Chair Morita asked if they only made changes to the guidelines would they need a public hearing. Attorney Tumbaga said from the minutes of June 23rd Ms. Rapozo explained that the guidelines did not need to go public hearing whereas the rules would need to be approved through public hearing. Further in those minutes Mr. Low recalled the Commission had discussed the option before and did not want to tie the guidelines to the rules. Mr. Low recalled that saying they did not want the guidelines to be in the

rules because they did not know if they would want to change some of the guidelines as things progressed since it was a new department; he still feels that way in that the rules should be separate. Asked if they had approved the guidelines, Staff thought they adopted them only for the placement of the current position they were hiring for. Mr. Low said his recollection was that Attorney Courson was going to go through the guidelines and make sure they were acceptable and there were no problems. Chair Morita said there was one change in the event Ms. Rapozo was to retire the applications would not go through HR, but rather directly to the Civil Service Commission. Ms. Rapozo was not sure if the current rules have a discussion on how to select a director to which the Chair noted it does not. Ms. Rapozo thought they were working off the Planning Commission's rule change and modified their rules wanting to incorporate into the Commission's rules. Because this was on hold, there was no public hearing.

Attorney Tumbaga said she was not sure whether one of those things had to do with the Deputy Director. Staff said because there was nothing in the Charter about a deputy position that might be one of the things Attorney Courson was going to check out. Attorney Tumbaga said there is a section in the HRS (§76-76) dealing with a Deputy. If a public hearing is not needed the Commission can just approve the guidelines.

Mr. Low said he had a fairly clear memory that one of the issues the Commission was grappling with was we did not want to make guidelines into rules forcing future Commissions into them, but rather they should be able to adopt the ones they thought was right, and not have to go through a rule change.

**NO MOTION**

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**January 26, 2016**

**CSC 2016-01 Discussion on adopting Guidelines for Implementing Civil Service Commission Procedures for the Selection, Evaluation and Dismissal of the Director of Human Resources and possible decision-making to schedule a Public Hearing on adding such Rule Changes as Subchapter 7 (On-going)**

**a. CSC Guidelines for Selection, Evaluation, and Dismissal of HR Director**

**b. Proposed changes to the Civil Service Commission Rules and discussion of the required Public Hearing**

**c. Planning Department Task Force/Select Committee Report from 2013**

Attorney Tumbaga stated she was asked at the last meeting whether anyone had made a motion to accept the Rule amendment. In going through past minutes, no motion was made to accept the Rule amendment pertaining to the HR Director. The work was not completed at the March meeting because the plan was to go through all the Rules and incorporate any and all changes at one time to be efficient. In August the Commission discussed that the Rules need to be approved to go to Public Hearing. The Commission did not want the Guidelines to be tied to the Rules, which was discussed again in November. In summary, Rule changes have not be accepted or approved. The Guidelines were amended pursuant to discussion by the Commission but you should take a look at all the Rules so they can all be amended at one time and then set a future agenda item to cover that.

Attorney Tumbaga did have one suggestion for the Policies and Procedures for the Rules that pertains to the HR Director, which would be to add in §1-44 the words "pursuant to HRS §76-76" just following The

Director of Personnel Services may appoint a Deputy Director of Personnel Services because that statute gives the authority for the Human Resources Director to designate a qualified person as the deputy.

Ms. Hahn said her understanding is if they go with rules they have to be formalized and then go to Public Hearing. Up to now the Commission has been working with guidelines; guidelines are internal and they are not something that has to go through formal adaptations. Because HR is a totally new situation and is still evolving for the first year or two, the Commission might want to stay with guidelines just to see how it flows and not try to make rules yet.

Attorney Tumbaga verified that there are no rules currently in place regarding the HR Director.

Mr. Morita asked if they could make a motion today to accept the guidelines for hiring a Director and make amendments later.

Attorney Tumbaga said her understanding of why Planning had guidelines in place was because they made a Rule and they wanted to make sure the future Commissions could understand how to implement the Rule. Here, if there is no Rule that the Commission made, it is not a good idea to try to adopt a guideline since there is no Rule in place. The authority to appoint the HR Director comes from the Charter and then the Commission has the authority to adopt the Rule. You would need to go through the actual procedure and to skip that and make an informal guideline does not seem to comply with the Rules of Administrative Procedure. If the Rule is going to be adopted it then has to go to Public Hearing. Attorney Tumbaga said there is no requirement that they have to make a Rule. Planning did it because they wanted to ensure they were properly using their powers under the Charter when they appointed a Director, but there is nothing that says if you don't have it in place you are violating anything. For the future if the Commission wants to have a Rule in place then you should consider doing it.

Ms. Matsumoto said they used the Guidelines for selecting the current Director just as Guidelines. As far as the Planning Department, this Commission wanted to stay aligned with what they were doing, which is why we decided to go with the Guidelines following their format. We don't need to put it into the Rules because HRS gives the authority.

Attorney Tumbaga said when they say they used the Guidelines she was not sure if they officially accepted them, but in the HRS there is no official guideline.

Mr. Morita said the reason they used those Guidelines was there were zero guidelines for the Commission to hire a Director, so we decided not to adopt the Rules but create the Guidelines.

Ms. Matsumoto said her concern with making a Rule is that should the HRS change like it did fifteen years ago all of the Rules would have to be changed again. It limits the Commission instead of giving flexibility.

Ms. Rapozo wanted to give some background because she did sit on the committee that helped develop this process for the Planning Commission. The reason they did Rules versus Guidelines, the committee members that were present wanted to ensure that the process would be in place after they left. If it was just Guidelines they felt they could be changed at any time. The Rules are very specific that they have to go through the process of the selection committee and then they could hire a consultant and then go

headhunter. The Planning Commission did not want a new Commission to go straight to a headhunter and they wanted it in the Rules so it couldn't be changed, or if it could be changed it would have to go through a process. It does lead to less flexibility, but they wanted that in the Rules. They also wanted to prevent some political part as well.

Ms. Davis said she also recalled the Commission wanted to use the Guidelines since they were not using the normal hiring process of going to the outside, and this would cover an area like nominating candidates by the Commission and to provide background for their reasoning.

Chair Low said that was his recollection, but also the Commission was not trying to reinvent the wheel and the way Planning did it was a good way. Chair Low said he was not talking about adopting the Guidelines as Rules or making a Rule that says you must follow these Guidelines. Every commission should have their own ability, if they are going to be charged with finding a new director, to be able to do it the way they think is the right way and not be tied to a Commission that is 12 years past. The thing with the politics doesn't fly because that is kind of politicking the backdoor way because you are setting it forever that people have to do it that way. Chair Low thought they should consider not tying the Guidelines to the Rules – that they are a separate entity.

Mr. Morita disagreed with that and asked if the other Boards and Commissions (who appoint) are involved with this too. Ms. Rapozo said the push was to try to come up with some type of standard process, so they wanted to do it for Planning first in the hope that other Commissions with department heads would follow suit, not to say it has to be adopted in the exact same way. The intention was to try to come up with some kind of standardized process. Mr. Morita said he would like to see consistency as far as the process is concerned and suggested getting the six Boards and Commissions together and do the Public Hearing all at once as a whole as opposed to doing it by each Board and Commission.

Ms. Matsumoto said it will never happen with some Boards and Commissions. Staff suggested it would have to be individual because Rules are individual to each Commission.

Chair Low said he would agree if they were all the same, but he is not comfortable with one size fits all. It should be something all the Commissions can live with and not decided by one.

Ms. Hahn also did not think any one Commission would go out of their way to study the Rules unless the issue was on their table. It would come up as the need arises. Having a model was very useful and the Commission was able to choose the guidelines we felt were applicable to the situation at the time. We had the freedom and the flexibility to do that because we were not held by a Rule. Until a Rule becomes evident Ms. Hahn said she was totally in favor of sticking with Guidelines if it is not a violation to not have a Rule.

Asked about Rules, Ms. Rapozo said the Commission does have Rules but they do not address the hiring of a Director.

Chair Low then felt they do need to come up with something to address that. Mr. Iida asked if they could have a rule that states they will follow these Guidelines.

Ms. Hahn said they were not mandated to have rules about that; they can get by with only the Guidelines.

Attorney Tumbaga said she was not precisely asked that, but that is a concern to make sure if they are adopting something as a body without the rule in place if that is allowed. Attorney Tumbaga was of the understanding from Attorney Courson that in using the Guidelines they would then use that process to make Rules. In looking at the HRS administrative procedures and when agencies are required to make rules she would like to look at it further before giving a final opinion. The rule does not need to be so specific that it ties everyone to something super specific. Parts of the draft Rules are not that specific, but §1-45 is because there is an order to follow, but it can be made more general. Attorney Tumbaga said if they officially accept the Guidelines she wants to make sure it is being done properly.

Chair Low said his recollection was that Attorney Courson answered that and they could just go by Guidelines for the selection, but it would be prudent to confirm that is in fact proper.

Attorney Tumbaga said regarding the Rules themselves if the Commission does want to look at the Rules she has gone through all of them, and there are certain areas they can adjust to make them more precise and match up with the statute.

Chair Low asked if they could convince Attorney Tumbaga to include that with what she is doing on the Guidelines. Attorney Tumbaga said she could if that is something the Commission wants to do.

**MOTION:** Mr. Morita moved to defer CSC 2016-01. Mr. Iida seconded the motion. Motion carried 5:0

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**February 23, 2016**

**CSC 2016-01 Discussion on adopting Guidelines for Implementing Civil Service Commission Procedures for the Selection, Evaluation and Dismissal of the Director of Human Resources and possible decision-making to schedule a Public Hearing on adding such Rule Changes as Subchapter 7 (On-going)**

**a. CSC Guidelines for Selection, Evaluation, and Dismissal of HR Director**

**b. Discussion and possible decision-making in consideration of proposing changes to the Civil Service Commission**

**MOTION:** Mr. Iida moved to defer this item indefinitely. Ms. Hahn seconded the motion. Motion carried 5:1 (Nay-Morita)

## RULE 4 SELECTION PROCESS FOR THE CHIEF OF POLICE

Rule 4-1 General Powers of Appointment. The Police Commission shall appoint the Chief of Police.

In no event, shall the Commission appoint an applicant for the position of Chief of Police to act as interim or acting Chief, solely for the purpose of permitting the applicant to obtain the necessary qualifications for the position of Chief of Police.

Rule 4-2 Qualifications for Police Chief. Section 11.04 Kauai County Charter states the minimum qualifications for the Chief of Police to be: Five years of training and experience in law enforcement, at least three of which shall be in a responsible, administrative capacity.

In addition to the minimum qualifications set by the county charter, the Police Commission determines that a successful applicant for Chief of Police shall:

- Possess the desired skills, knowledge, and ability to perform the Essential Duties and Responsibilities set forth in the County of Kauai, Department of Human Resources Job Description for Chief of Police (Annex 4-A).

Rule 4-3 Selection Process.

a. Hiring of a Consultant. The Commission may choose to hire a consultant to assist in the recruitment and selection of a Chief of Police. Should the Commission choose to hire a consultant, the Commission shall follow the procurement procedures set forth under HRS Section 103D-304 and any other applicable State statutes and County ordinances.

b. Selection of Semi-finalists and Finalists. In the event that there are multiple applicants for the position of Chief of Police, the Commission may choose to narrow down the list of applicants to semi-finalists and/or finalists. The interviews and/or selections of such semi-finalists and/or finalists shall be conducted in closed session, and the Commission shall decide how to interview and make the selection of the semi-finalists and/or finalists. All details and identities of the applicants shall be kept confidential, unless any applicant expressly agrees to waive his privacy rights.

c. Assessment by Consultant. In the event that a consultant conducts an assessment of any of the finalists, the Commission shall not participate in the assessment.



CSC 2020-16 D.C.

d. Selection of Final Candidate. Following the interviews of the finalists, the Commission shall vote on a final candidate to whom the Commission shall extend a conditional job offer. Said vote shall take place in executive session. The final candidate's identity, as well as the result of the votes, shall remain confidential until the candidate has been given an official job offer, or if the candidate expressly agrees to waive his or her privacy rights, whichever occurs sooner.

e. Follow-up Requirements. Following the extension of the conditional job offer, the Commission shall require the final candidate to undergo mandatory follow-up examinations as required by the Kaua'i Police Department and consistent with State and Federal laws.

f. Final Job Offer. Following the completion of all required examinations by the final candidate, the Commission shall vote to extend an official job offer to said candidate.

The Commission shall also vote on the terms of the employment contract that the Commission shall extend to the candidate. The contract may also specify a time period, or may be an open-ended contract. The contract shall also specify the job duties and salary specifications, in addition to any other provisions that the Commission believes necessary to incorporate into the contract.

Rule 4-4 Salary of the Chief of Police. The Commission shall determine the initial salary of any new Chief of Police, and determine any subsequent increased in salary, consistent with the County of Kaua'i salary ordinance.

Rule 4-5 Evaluation of Performance. The Chief of Police's performance shall be subject to on-going evaluation by the Commission. Such evaluation will comply with the following:

a. First Year Evaluation. The newly appointed Chief of Police **shall not** be subjected to a probationary period. However, the performance of a newly appointed Chief of Police shall be subject to an on-going evaluation for the first twelve (12) months beginning of the date of hire. During this period the Chief's performance shall be **documented** six 6) months from the date of hire. The procedures contained in section c, below shall be utilized for this on-going review. The Commission developed an on-going Evaluation Form in Annex 4-(b) shall be utilized for this evaluation.

i. All Commissioners shall provide input into this evaluation during Executive Session. The Chair and Vice and/or Vice Chair will utilize the feedback from the entire Commission in preparing this six (6) month

evaluation.

ii. The Chair and/or Vice Chair shall conduct a discussion with the Chief regarding his/her performance.

iii. If the Chief's performance "does NOT meet expectations" a Performance Improvement Plan, outlined in section 4-5 (d) below, shall be prepared by the Commission.

iv. One year from the date of hire a final evaluation shall be prepared by the Commission. The County of Kaua'i Performance Evaluation for Chief of Police contained in Annex 4-(c) shall be utilized for this evaluation.

v. After successfully completing twelve (12) months of employment the Chief of Police shall thereafter be evaluated on a fiscal year basis to align his/her performance with departmental goals.

b. Annual Evaluation. The Commission shall on a fiscal year basis, evaluate the Chief's performance. Each Commissioner shall be provided the opportunity to rate the Chief's performance utilizing the County's Performance Evaluation Form.

i. The Commissioners may seek input from various stakeholders in government and the private sector into the Chief's performance. Stakeholders include, but are not limited to: The Mayor, other elected officials, heads of various county departments, public safety peers, and labor union representative.

ii. The Chief and Chair shall review and consider input from other Commission members and external stakeholders to prepare a final performance evaluation which the Chair and/or Vice Chair shall present to the Chief.

iii. Once the Chief has reviewed his/her performance evaluation all Commission members will be provided the opportunity to review, in Executive Session, the completed performance evaluation.

c. Semi-Annual Performance Review. The Commission shall on a semi-annual basis conduct a review of the Chief's performance. The purpose of the semi-annual review is to ensure that the Police Commission and the Chief of Police are in concurrence regarding the Chief's performance, departmental operations, personnel issues, fiscal accountability, and the Commission's expectations. Such

review will be documented utilizing the on-going Performance Review Form, Annex 4- (c) and presented to the Chief.

i. The semi-annual review shall discuss areas of exceptional performance, areas of concern regarding the Chief's performance, issues, facing KPD, efforts toward goal attainment, and fiscal accountability.

ii. The review form shall be maintained by the Commission secretary and utilized during the preparation of the Chief's Annual Performance Evaluation.

d. Performance Improvement Required. If, at any time, the Chief's performance does not meet expectations a Performance Improvement Plan shall be prepared which incorporates:

i. Areas of Concern.
ii. Observations, Previous Discussions or Counseling.
iii. Improvement Goals/Behaviors and Tasks.
iv. Resources Needed to Complete Improvement Activities
v. Management Support
vi. Follow-up / Meeting Dates – Level of Progress Expected.
viii. Consequences / Failure to reach or Maintain Performance Standards.

ANNEX 4-A Chief of Police Job Description

**DEPARTMENT OF PERSONNEL SERVICES COUNTY OF KAUAI**
**CHIEF OF POLICE**

**JOB PURPOSE**

Administrative head of the Kauai Police Department.

**ESSENTIAL DUTIES AND RESPONSIBILITIES**

- Administers, supervises, and manages all aspects of police operations for Kauai Police Department.
- Ensures the preservation of peace within the community, enforces state and federal law, and county ordinances.
- Provides for traffic safety and traffic safety education.
- Recruits, selects, trains, and manages personnel.
- Utilizes resources to promote effective law enforcement services and activities.

- Reports to the Commission on administrative, budgetary, legislative, and policy matters, making recommendations for appropriate action.
- Develops the annual operating and capital budget. Submits budget and supporting documentation to Commission, Mayor, and County Council as required.
- Oversees implementation of the operating budget and ensures fiscal accountability.
- Establishes department's priorities, goals and objectives with input from the Mayor and Police Commission, when necessary or appropriate.
- Communicates with the Office of the Mayor, County Council, Police Commission, and other county agencies on issues that impact the health, safety, or welfare of the County of Kauai and its' residents and visitors.
- Maintains positive working relationship and open communications with all labor organizations representing employees of the Kauai Police Department. Adheres to the provisions of bargaining unit contracts.
- Maintains positive, on-going, and open communications with citizens and community groups.
- Receives and investigates citizen's complaints, taking action as necessary.
- Assumes direct command of major emergency incidents, civil disturbances, natural disasters, and special police problems.
- Ensures proper procedures are in place regarding records retention and confidentiality, and reporting requirements.
- Maintains a safe and secure workplace that is in compliance with federal, state, and county regulations and policies regarding Equal Employment Opportunity, Americans with Disabilities Act, and Workplace Violence, and free from any form of discrimination, harassment or retaliation based on any protected class such as age, sexual orientation, gender, religion, national origin, gender identification.
- Performs other duties as required by law or at the direction of the Commission.

**MINIMUM QUALIFICATION REQUIREMENTS**

- Five years of training and experience in law enforcement, at least three of which shall be in a responsible administrative capacity.
- Possess a valid Hawaii motor vehicle operator's license upon hire.
- Meet federal and state eligibility requirements to possess firearms.
- Be a citizen of the United States.
- Willingness to establish residence on Kaua`i and shall, upon hire, reside in the County on such date and shall continue to reside in the county.

**DESIRABLE KNOWLEDGE OF**

- The principles of police administration, crime prevention, and investigation.
- The principles and practices of law enforcement organization and management.

- The technical and administrative aspects of law enforcement, rules of evidence, criminal investigation, and identification.
- Organizational development, leadership and supervision, team development, discipline, and conflict resolution.
- The structure of Kauai County government, the functions of the various departments within that structure, and the principles and practices of county administration.
- The State of Hawaii governmental structure, including laws, regulations, administrative and legislative practices, procedures, and history.
- The historical and cultural background of the State of Hawaii, the County of Kauai, and its people.
- Federal, state and county Equal Employment Opportunity laws, regulations and policies.

**DESIRABLE SKILLS**

- Communicates effectively verbally and in writing.
- Ability to utilize computer and related software.
- Demonstrated skills in leadership, teambuilding, goal achievement, and conflict resolution.
- Possession of interpersonal skills that fosters trust, and establishes positive working relationships with: diverse cultural groups, the community, subordinates, the Police Commission, peers, supervisors, and other governmental agencies.
- Proficiency with firearms.

**SPECIAL WORKING CONDITIONS**

- Irregular work hours that may include week-ends, evenings, and holidays.
- Successfully pass post-offer background check, medical and psychological examinations.

**OTHER DESIRABLE QUALIFICATIONS**

- Possession of Bachelor's Degree. A degree in Criminal Justice, Public Administration, Social Science or related field is desirable.
- Progressively responsible Law Enforcement supervisory and management experience. Experience as bureau, section, station, departmental commander, or higher, preferred.

**Approved by County Human Resources and Police Commission on August 26, 2016**

ANNEX 4-B Chief of Police On-Going Review

COUNTY OF KAUAI – POLICE COMMISSION -CHIEF of POLICE – ON-GOING REVIEW

| |
|---|
| **Name:** _____ **Reporting Period:** _____ **to** _____<br>**Type of Report:** (circle one) **Semi-Annual Review** **Improvement Needed** |
| **Notable Accomplishments This Reporting Period:** |
| **Progress Toward Annual Goal Accomplishment:** |
| **Areas of Concern by Police Commission:** |
| **Overall Performance for this Reporting Period:** **Meets Expectations** **Does NOT Meet Expectations** |
| **I Received a Copy of this Performance Review:** _____ **Date:** _____<br>_____ **Chief of Police** |
| **Discussed with Chief By:** **Date:** _____<br>_____<br>**Chair – Kauai Police Commission** |

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ANNEX 4-C Chief of Police – Annual Evaluation

COUNTY OF KAUAI – POLICE COMMISSION
CHIEF of POLICE – ANNUAL PERFORMANCE EVALUATION

| **Name:** | **Appointment Date:** |
|---|---|
| **Reason for Report:** Annual - Improvement Required) | **Period of Report:**<br>_____To_____ |

## CRITICAL PERFORMANCE FACTORS

1. **Leadership Skills and Professional Qualities**

- **Leads by example. Exhibits honesty, integrity and self-discipline.**
- **Sets and enforces professional standards.**
- **Promotes, supports, and implements EEO policies and programs.**
- **Motivates and develops subordinates. Serves as a mentor.**
- **Accepts personal responsibility.**

| **Discussion:** (Provide specific examples of performance. Absent examples mark Unable to Rate below)<br>•<br>• | | |
|---|---|---|
| Meets Expectations | *Does NOT Meet Expectations* | *Unable to Rate* |

2. **Policies, Procedures, Rules and Regulations**

- **Knows and implements the technical and administrative aspects of law enforcement, rules of evidence, criminal investigation and the principles of police administration.**
- **Knows and implements Federal, state, and county EEO laws, regulations, and practices.**
- **Adheres to and implements collective bargaining agreements.**
- **Applies knowledge and experience to daily operations and non-routine situations.**

| **Discussion:** (Provide specific examples of performance. Absent examples mark Unable to Rate below)<br>•<br>• | | |
|---|---|---|
| Meets Expectations | *Does NOT Meet Expectations* | *Unable to Rate* |

3. **Planning, Organizing, and Setting Priorities**

- **Sets priorities. Develops realistic and attainable goals with accompanying metrics to measure progress.**

- **Develops plans to achieve departmental and county goals.**
- **Anticipates and solves problems.**
- **Anticipates and budgets for future personnel and equipment.**
- **Develops contingency plans for major events and emergency operations.**

| **Discussion:** (Provide specific examples of performance. Absent examples mark Unable to Rate below)<br>•<br>• | | |
|---|---|---|
| Meets Expectations | *Does NOT Meet Expectations* | *Unable to Rate* |

4. **Personnel and Resource Management**
   - **Insures specialized training for all KPD members to maintain current on tactics, techniques, and procedures.**
   - **Recognizes and addresses personnel problems at the earliest stages.**
   - **Pursues external funding sources and uses other resources outside the department to enhance KPD capabilities.**
   - **Prepares the budget in accordance with department and county policies. Exercises fiscal control, with emphasis on controlling overtime.**

| **Discussion:** (Provide specific examples of performance. Absent examples mark Unable to Rate below)<br>•<br>• | | |
|---|---|---|
| Meets Expectations | *Does NOT Meet Expectations* | *Unable to Rate* |

5. **Communications**
   - **Provides positive feedback and corrective counseling to subordinate personnel as appropriate.**
   - **Maintains on-going communications with county leadership, media and community on public safety issues and incidents.**
   - **Keeps the Police Commission and county leadership informed on incidents that could affect departmental operations and community relations. Responds promptly to Commission requests for information.**

| **Discussion:** (Provide specific examples of performance. Absent examples mark Unable to Rate below)<br>•<br>• | | |
|---|---|---|
| Meets Expectations | *Does NOT Meet Expectations* | *Unable to Rate* |
| **Achievement of Goals:** (Provide explanation for goals Not Achieved) | | |
| **Summary of Performance:** | | |
| **Employee Signature:**<br>I acknowledge receipt of this Performance Evaluation _____ Date: _____ | | |

| |
|---|
| **Rater Certification:** |
| _____ Date: _____ |
| Chair – Kauai Police Commission |

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## RULE 5 RULES OF PRACTICE, HEARINGS

Rule 5-1 Informal Hearing. The Commission may, in its discretion, on its own motion, or upon petition filed with the Commission at least fifteen (15) days prior to the date of the regular meeting hold an informal hearing on matters within its jurisdiction. The petition need not be in any form but shall, where applicable, include:

a. Nature of the petitioner's interest and the reasons for requesting an informal petition.

b. A complete statement of the relevant facts.

c. Position or contention of the petitioner.

d. Name, address and telephone number of petitioner.

In an informal hearing the Commission shall determine the manner and procedure in which the hearing shall be conducted.

Rule 5-2 Contested Case Hearing. A formal hearing shall be conducted upon motion by the Commission in accordance with Hawaii Revised Statutes, Chapter 91. Persons aggrieved by actions of the Commission, may petition for a formal hearing before the Commission.

Rule 5-3 Petition. The petition shall be filed with the Chair of the Commission and shall consist of:

a. Name, address and telephone number of the petitioner.

b. Nature of petitioner's interest and the reasons for requesting formal hearing.

c. A complete statement of the relevant facts giving rise to the petitioner's request.

d. Position or contention of the petitioner.

e. Petition for a hearing.

Rule 5-4 Setting, Rejecting. Petitions for formal hearing may be approved or modified and approved, and set for hearing or rejected at the regular meeting following receipt

## CHAPTER 15[1]

## POLICIES AND PROCEDURES FOR RULES ON THE SELECTION, EVALUATION, AND DISMISSAL OF THE PLANNING DIRECTOR

1-15-1 Authority for Rule-making:
Pursuant to Article XIV Section 14.03.E of the Kauai County Charter ("Charter"), the Planning Commission of the County of Kaua'i ("Commission") adopts the following administrative rules pertaining to the selection, evaluation, and dismissal of the Planning Director.

1-15-2 Authority to Appoint Planning Director:
Pursuant to Article XIV Section 14.04 of the Charter, the Planning Director shall be appointed by the Planning Commission. Prior to the appointment of a Planning Director the Commission shall obtain certification from the Department of Personnel Services that each applicant meets the minimum qualifications set forth in Article XIV Section 14.04 of the Charter. The Commission shall develop and periodically review the position description for the Planning Director position. The Commission shall transmit a copy of the position description to the Department of Personnel Services.

1-15-3 Authority for the Planning Director to Appoint a Deputy:
The Planning Director may appoint a Deputy Planning Director to assist with his or her duties as provided in Article XIV Section 14.05 of the Charter. The Planning Director shall develop and periodically review the position description for the Deputy Planning Director position. The Planning Director shall transmit a copy of the position description to the Department of Personnel Services.

1-15-4 Selection of the Planning Director:
The Planning Director shall be selected in the following order:

1. First, by nomination of candidates to the Commission by any of the Planning Commissioners;
2. Second, if no candidates are nominated by any Planning Commissioner or the Commission fails to take action on any of the nominated candidates, the Commission may:
    a. Form a select committee to compile a list of candidates for recommendation to the Commission; or
    b. Contract with a consultant, specializing in the recruitment of employees, to compile a list of candidates for recommendation to the Commission; or
    c. Agree, by majority of the Commission, to develop its own process to select the Planning Director.

[1] This chapter was approved as "Chapter 14" by the Planning Commission. The Office of the County Attorney has deemed the dual approval of two chapters with the same number as an inadvertent non-substantive error and by practice can refer to this chapter as "Chapter 15."

1-15-5 Provisions for the Evaluation of the Planning Director and Deputy Planning Director:

1. The Commission shall annually evaluate the performance of the Planning Director.
2. The Planning Director shall annually evaluate the performance of the Deputy Planning Director.
3. The performance evaluations shall be conducted in accordance with the "Administrative Policies and Procedures" established by the Department of Personnel Services.

1-15-6 Dismissal of the Planning Director

The Planning Director serves at the pleasure of the Commission and can be dismissed at any time without cause or hearing on the matter.

DATE RECEIVED:_____

Appeal to the

# CIVIL SERVICE COMMISSION/MERIT APPEALS BOARD

MO'IKEHA BUILDING
4444 Rice Street, Suite 150
LIHU'E, KAUA'I, HAWAI'I 96766
Telephone (808) 241-4919 • Fax (808) 241-5127

Submit original plus eight (8) copies of this form to the above address.

**Use black ink or a typewriter to complete this form. Use additional pages as necessary.**

1. Name, address, and telephone number of the Appellant:

   Is the Appellant a County employee: ___Yes ___No

2. Name, address, and telephone number of Appellant's authorized representative (if any):

3. Name of the Mayor, the Director of Human Resources, or appointing authority or a designee acting on behalf of one of these individuals whose action is being appealed:

4. Pursuant to HRS 76-14, this appeal is being filed for an action under the following category (check all applicable):

   ___ Recruitment & Examination

   ___ Classification or reclassification of a particular position

   ___ Employment action taken under Chapter 76, HRS, (appellant must be a civil service employee excluded from collective bargaining)

5. Date action taken:

6. Date notice of action was received by Appellant:

7. Statement of legal wrong caused by the action of the Mayor, Director of Human Resources, or an appointing authority or a designee acting on one of these individuals, or a statement as to how such action has adversely affected or aggrieved the Appellant. Include a concise statement of the facts pertinent to this appeal.

CSC 2020-17

8. Other facts relevant to this appeal:

9. Remedy requested with reasons and explanation of the legal basis by which remedy should be granted:

10. I would like to have my appeal heard in a meeting:

_____Open to the Public
_____Closed to the Public

Rules of the Civil Service Commission/Merit Appeals Board provide as follows:

§1-39 Filing of appeal. (a) Time. Any person who has a standing to appeal shall file a petition of appeal to the commission within twenty (20) calendar days after notice of the action was sent by the director or appointing authority.

(e) The commission shall not proceed on an appeal unless all internal complaint procedures, including administrative review and departmental complaint procedures have been exhausted.

This is to certify that to the best of my knowledge, information, and beliefs, every statement contained herein is true and no statement is misleading nor interposed for delay.

Date:_____

_____
Appellant's Printed Name

_____
Appellant's Signature

_____
Printed Name of Appellant's Representative (if any)

_____
Representative's Signature