

Jeffrey Iida  
Chair

Vonnell Ramos  
Vice Chair

Members:  
Fely Faulkner  
Richard Jose  
Beth Tokioka  
Ricky Watanabe

**COUNTY OF KAUAI CIVIL SERVICE COMMISSION**  
**NOTICE OF TELECONFERENCE MEETING AND AGENDA**

Tuesday, October 6, 2020  
3:00 p.m. or shortly thereafter

**Microsoft Teams Phone Number: 1-469-848-0234**  
**Conference ID: 375 365 523#**

**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)**

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**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 is encouraged to provide a request to the Office of Boards and Commissions prior to the day of the meeting to [smuragin@kauai.gov](mailto:smuragin@kauai.gov) or by fax (808) 241-5127, or mailed to: Civil Service Commission, c/o Office of Boards and Commissions, Pi'ikoi Building, 4444 Rice Street, Suite 300, Lihue, HI 96766. This request may include your name, telephone number, electronic mail (email) address, and the specific agenda item(s) that you will be testifying on or provided comments on. Persons who have not registered to testify by the time the Commission meeting begins will be given an opportunity to speak on an item following oral testimony.

**APPROVAL OF MINUTES**

A. Open Session Minutes of September 1, 2020

**HUMAN RESOURCES DIRECTOR'S REPORT**

**CSC 2020-21**

August/September 2020 period.

A. HRMS Project

*An Equal Opportunity Employer*

- B. Teleworking Update
- C. Update on Review and Revisions to Internal Policies and/or Procedures
- D. Update on Complaints (Internal Complaints and others) and Grievances
- E. Update Regarding Payroll Office Structure
- F. New Hire Orientation Video
- G. Collective Bargaining
- H. Documentation Retention and Maintenance Policy
- I. Administrative Services and Benefits
- J. Employee Development and Health Services
- K. Classification and Pay and Labor Relations
- L. Recruitment and Exam
- M. Payroll
- N. EEO/ADA

**BUSINESS**  
**CSC 2020-22**

Review and possible decision-making on the third draft of substantive and non-substantive amendments to the Rules of the Civil Service Commission/Merit Appeals Board document.

- A. Review additional amendments on the October 6, 2020 Ramseyer Version.
- B. 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-021**

Executive Session Minutes of September 1, 2020

**ES-022**

Director of Human Resources Performance Evaluation (on-going).

- A. Review updated DHR Performance Evaluation.
- B. Update from Chair Iida on meeting with the DHR and reviewing the collaborated six-month evaluation form.
- 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-021 and ES-022.

**ANNOUNCEMENTS**

Next Meeting: Tuesday, November 10, 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

cc: Human Resources Director Annette Anderson

## 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](mailto: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](mailto:smuragin@kauai.gov) , faxed: 808-241-5127, or mailed: Civil Service Commission, Office of Boards and Commissions, Pi'ikoi Building, 4444 Rice Street, Suite 300 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](mailto: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.

COUNTY OF KAUAI  
 Minutes of Meeting  
 OPEN SESSION

|                   |   |                   |                          |
|-------------------|---|-------------------|--------------------------|
| Board/Commission: | <b>CIVIL SERVICE COMMISSION</b>   | Meeting Date:     | <b>September 1, 2020</b> |
| Location          | Teleconference via Microsoft Teams  | Start of Meeting: | 3:03 p.m.                |
|                   |   | End of Meeting:   | 4:19 p.m.                |
| Present           | Chair Pro Tem Vonnell Ramos. Commissioners: Fely Faulkner, Richard Jose ( <i>disconnected at 3:51 p.m.</i> ), Beth Tokioka and Ricky Watanabe.<br>Deputy County Attorney Mark Ishmael. Human Resources Director Annette Anderson ( <i>disconnected at 3:31 p.m.</i> ). Office of Boards and Commissions Staff: Administrator Ellen Ching and Commission Support Clerk Sandra Muragin. |                   |                          |
| Excused           | Chair Jeffrey Iida and Commissioner Jennifer Carter.  |                   |                          |
| Absent            |   |                   |                          |

| SUBJECT   | DISCUSSION   | ACTION |
|---|--|--------|
|   | Chair Pro Tem Vonnell Ramos, Commissioner Jose, Commissioner Tokioka, Deputy County Attorney Mark Ishmael, Human Resources Director Annette Anderson, Administrator Ellen Ching, and Commission Support Clerk Sandra Muragin were logged onto Microsoft Teams by video. Commissioner Faulkner and Commissioner Watanabe called into Microsoft Teams and entered the meeting by audio.  |        |
| <b>Call To Order In Open Session /Roll Call</b> | Chair Pro Tem Ramos called the Open Session meeting to order at 3:02 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 Carter was excused.<br>Commissioner Faulkner replied here.<br>Commissioner Jose replied here.<br>Commissioner Tokioka replied here.<br>Commissioner Watanabe replied here.<br>Chair Pro Tem Ramos replied here.<br>Chair Iida was excused.<br>Deputy County Attorney Mark Ismael replied here.<br>Human Resources Director Annette Anderson replied here. |        |

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| SUBJECT                              | DISCUSSION   | ACTION   |
|--------------------------------------|--|--|
|                                      | Administrator Ellen Ching replied here.<br>Commission Support Clerk Sandra Muragin replied here.   | Quorum was established with five commissioners present.  |
| <b>Public Comments and Testimony</b> | No one from the public signed into the meeting.  |  |
| <b>Approval of Minutes</b>           | A. Open Session Minutes of August 4, 2020<br><br>Administrator Ellen Ching said they received a correction from HR Director Annette Anderson to amend page 5, second paragraph under work schedule and change date from July 27 to August 27.  | Ms. Tokioka moved to approve the amended Open Session minutes of August 4, 2020, change July 27 to August 27 on page 5 second paragraph under work schedule. Mr. Watanabe seconded the motion. Motion carried 5:0. |
| <b>Director's Report</b>             | <u><b>CSC 2020-18</b> Director's Reports for the July/August 2020 period.</u><br>A. HRMS Project<br>B. Review and Comparison of Current Procedures with those from Audit Years<br>C. Access Office Structure and Productivity of Staff Assignments<br>D. Collective Bargaining<br>E. Documentation Retention and Maintenance Policy<br>F. Administrative Services and Benefits<br>G. Employee Development and Health Services<br>H. Classification and Pay and Labor Relations<br>I. Recruitment and Exam<br>J. Payroll<br>K. EEO/ADA<br>L. Attachment A: Department of Human Resources Policy Changes Since 2015 Audit<br>M. Attachment B: Number of County Employees as of June 30, 2020.<br><br>Human Resources Director Annette Anderson reviewed the July/August 2020 report with the Commission (on file). |  |

| SUBJECT | DISCUSSION  | ACTION |
|---------|---|--------|
|         | <p><u>Human Resources Management System (HRMS) Project:</u><br/>           Ms. Anderson stated the selection committee completed several meetings to score and select the final vendors. The next meeting would involve a demonstration from the vendors. This would be a virtual meeting and would occur mid-September.</p> <p><u>Review and Comparison of Current Procedures with those from Audit Years:</u><br/> <b>Attachment A:</b> Department of Human Resources Policy Changes Since 2015 Audit.</p> <ol style="list-style-type: none"> <li>1. At the request of the commission a “Date Completed” column was added. Ms. Anderson highlighted that since she assumed the HR Director position, six out of the seventeen audit procedures were completed.</li> <li>2. The audit noted deficiencies in the county’s documentation of personnel transactions; however, Ms. Anderson reviewed the process and concluded that they were adequately documented. She said all documents were now electronically produced and filed, which made it easier and more manageable in comparison to the past when they used hard paper copies to file and retain.</li> <li>3. The new HRMS system would interface with NEO gov and provide a clearer paper trail of documentation.</li> </ol> <p><b>Attachment B:</b> Number of County Employees as of June 30, 2020.<br/>           The report was updated and clarifying information was noted in red. There are 53, 89-day hires with approximately half being bus drivers.</p> <p><u>Access Office Structure and Productivity of Staff Assignments:</u><br/>           Ms. Anderson said payroll department was now setup to take over the payroll from finance department. They developed an electronic timesheet stored on the County of Kauai Share Point Portal that could be accessed by all county employees. New hire orientation workload has transitioned from recruitment staff to administrative services division.</p> |        |

| SUBJECT | DISCUSSION   | ACTION |
|---------|--|--------|
|         | <p><u>Collective Bargaining:</u><br/>           Ms. Anderson reported that funding for all HGEA bills approved by the Legislation were still pending action by Governor Ige, who had until September 15 to veto. All jurisdictions have started preliminary meetings on negotiations for new contracts.</p> <p><u>Documentation Retention and Maintenance Policy:</u><br/>           Ms. Anderson referenced Attachment C: COK Department of Human Resources Internal Policy and Procedures-Human Resources Document Retention &amp; Destruction, Document Number 2020-000, Revision Number/Date 001/July 2020. She said the document was sent to the County Attorney's Office for review and was pending approval.</p> <p>Ms. Anderson reported that there had been an increase in grievances from various unions and the amount received in the last couple of months exceeded the entire amount from last year. She could not explain why it happened and there were no particular issues or trends.</p> <p>Ms. Faulkner asked for the difference between a civil service employee and an exempt employee. Ms. Anderson said exempt employees do not have civil service rights and protection. She explained that positions under the Mayor's Officer were exempt and an exempt employee could be from any department and class titled a department head, clerk, or secretary.</p> <p>Ms. Faulkner asked if access to Neogov and HRMS records were open to the public or only county employees. Ms. Anderson replied that Neogov access was for HR administrative service staff, department &amp; support staff who dealt with recruitment, the average employee would not have access. County employees have access to a Share Point Portal that was a document management and storage system. Share point stores classifications, organizational, and other documents. She explained that the county was transitioning to Power DMS, another portal that would store policy documents. All employees have access and are notified to read and acknowledge policies from Power DMS where it is retained and tracked.</p> |        |

| SUBJECT                | DISCUSSION   | ACTION  |
|------------------------|--|---|
|                        | <p>Ms. Faulkner asked about bullet three under recruitment and exam; the Western Regional Item Bank. Ms. Anderson said it allowed HR to access to use approved questions for recruitment. Under the same recruitment and exam bullet number four, Ms. Faulkner asked who were the transaction staff. Ms. Anderson confirmed transaction staff and administrative staff were the same.</p> <p>Mr. Jose inquired if Ms. Anderson could share the biggest grievance with the unions. Ms. Anderson replied that UPW wrote three letters to COK and other jurisdictions that Unit 1 bargaining unit should receive hazard pay because of COVID-19.</p> <p>Ms. Tokioka thanked Ms. Anderson for follow-up on the matrix and for bringing the grievance situations to the commission.</p> <p>With no further questions, Ms. Anderson disconnected from the Teams meeting at 3:31 p.m.</p> |   |
| <p><b>Business</b></p> | <p><u>CSC 2020-19 Review and possible decision-making on the second draft of substantive and non-substantive amendments to the Rules of the Civil Service Commission/Merit Appeals Board document.</u></p> <p>A. Review additional amendments on the September 1, 2020 Ramsayer Version regarding Subchapter 2 Proceedings Before The Commission §1-14 Filing of documents (b) Form and Subchapter 6 Rules Applicable To Appeals §1-39 Filing of appeal (a) Time.</p> <p>B. Review Notice of Public Hearing.</p> <p>C. Discussion on other related matters.</p>  | <p>Ms. Tokioka moved to adopt the Ramsayer Version September 1, 2020 amendments to the Rules of the Civil Service Commission/Merit Appeals Board document, as circulated. Ms. Faulkner seconded the</p> |

| SUBJECT | DISCUSSION   | ACTION  |
|---------|--|---|
|         | <p>Ms. Ching reviewed the Ramseyer version document with the commission and brought attention to the highlighted amendments. She asked the commission to amend the highlighted verbiage on page 1-11 Subchapter 2 Proceedings Before The Commission §1-14 Filing of documents (b) Form, to read, “All appeals filed with the commission shall be completed on an Civil Service Commission Appeal Form; located on the County of Kauai Civil Service Commission website and submitted online or at the Office of Boards and Commissions.” She said that would identify the appeal form and would continue to identify the county website page in case of any changes.</p> | <p>motion.</p> <p>Ms. Tokioka withdrew her motion. Ms. Faulkner withdrew her second.</p> <p>Ms. Tokioka moved to adopt the Ramsayer Version September 1, 2020 amendments to the Rules of the Civil Service Commission/Merit Appeals Board document with the verbal amendments made to Subchapter 2 Proceedings Before The Commission §1-14 Filing of documents (b) Form to read “All appeals filed with the commission shall be completed on an Civil Service Commission Appeal Form; located on the County of Kauai Civil Service Commission website and submitted online or at the Office of Boards and Commissions.” Mr. Jose seconded the motion. Roll Call</p> |

| SUBJECT | DISCUSSION  | ACTION  |
|---------|---|---|
|         | <p>The commissioner's understood that the date of the notice of public hearing would change and was dependent on when the notice was published in the Garden Island newspaper.</p>  | <p>Vote: 5-Ayes and 0-Nays.<br/>           Motion carried 5:0.</p> <p>Ms. Faulkner moved to adopt and publish the Notice of Public Hearing in the Garden Island newspaper. Mr. Watanabe seconded the motion. Roll Call Vote: 5-Ayes and 0-Nays.<br/>           Motion carried 5:0.</p>  |
|         | <p><b><u>CSC 2020-20</u></b> Review and possible decision-making on the second draft of amendments to the Rules of Appeal to the Civil Service Commission/Merit Appeals Board form.</p> <ul style="list-style-type: none"> <li>A. Review second draft of amendments to the Appeal Form.</li> <li>B. Review and possible decision-making on the first draft amendments to the Appeal Form Representative.</li> </ul> <p>Ms. Ching reviewed the changes to the appeal form and asked the commission to include these additional changes; change the title from "Appeal Form" to "Civil Service Commission Appeal Form" and keep number three "Appellant's Authorized Representative Information (if any)."</p> <p>Ms. Ching explained that changes to the appeal form were made to allow electronic submission.</p> | <p>Mr. Watanabe moved to adopt the appeal form as circulated with the following verbal amendments; change the title to "Civil Service Commission Appeal Form" and keep number three "Appellant's Authorized Representative Information (if any)." Ms. Tokioka seconded the motion. Roll Call Vote: 5-Ayes and 0-Nays. Motion carried 5:0.</p> |

| SUBJECT                         | DISCUSSION   | ACTION  |
|---------------------------------|--|---|
|                                 | <p>She explained they discovered they were unable to allow two electronic signatures sign at the same time from different locations. A separate document, appeal form representative, was created to take care of that problem. Ms. Ching asked Mr. Ishmael if a statement, “they have read all the rules they are in compliance with the rules as listed on the form” should be included above the signature line. Mr. Ishmael said he would review it later and respond sometime this week.</p>  | <p>Ms. Tokioka moved to adopt the appeal form-representative with the verbal amendment to add above the signature line “They have read all the rules and are in compliance with the rules listed on the form” or any other statement and guidance provided by Deputy County Attorney Mark Ishmael. Ms. Faulkner seconded the motion. Roll Call Vote: 5-Ayes and 0-Nays. Motion carried 5:0.</p> |
| <p><b>Executive Session</b></p> | <p>Administrator Ellen Ching read the Hawaii Revised Statutes to move the meeting into Executive Session.</p> <p>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 the County’s powers, duties, privileges, immunities, and/or liabilities as they may relate to this agenda item and take such appropriate action.</p> | <p>Ms. Faulkner moved to enter into Executive Session. Mr. Jose seconded the motion. Roll Call Vote: 5-Ayes and 0-Nays.</p>   |

| SUBJECT  | DISCUSSION  | ACTION   |
|--|---|--|
|  | <p>Commissioner Jose disconnected from Teams meeting at 3:51 p.m. and left the meeting.</p>   | <p>Motion carried 5:0.</p> <p>The commission and staff, except for Commissioner Richard Jose, disconnected from open session at 3:50 p.m. and connected into executive session.</p>    |
| <p><b>Return to Open Session</b></p>                   | <p>Chair Pro Tem Ramos, Commissioner Tokioka, Deputy County Attorney Mark Ishmael, Administrator Ellen Ching, and Commission Support Clerk Sandra Muragin were logged onto Microsoft Teams by video. Commissioner Faulkner and Commissioner Watanabe called into Microsoft Teams and entered the meeting by audio.</p>  |  |
| <p><b>Call To Order In Open Session /Roll Call</b></p> | <p>Chair Pro Tem Ramos called the meeting back to order in open session at 4:17 p.m. and requested a roll call.</p> <p>Commission support clerk Sandra Muragin verified attendance by roll call and requested a verbal response of present or here;</p> <p>Commissioner Faulkner replied here.</p> <p>Commissioner Tokioka replied here.</p> <p>Commissioner Watanabe replied present.</p> <p>Chair Pro Tem Ramos replied here.</p> <p>Deputy County Attorney Mark Ismael replied here.</p> <p>Administrator Ellen Ching replied here.</p> <p>Commission Support Clerk Sandra Muragin replied here.</p> | <p>Quorum was established with four commissioners present.</p>   |
| <p><b>Ratify Actions</b></p>                           | <p>Ratify actions taken by the Civil Service Commission in executive session for agenda items: ES-018, ES-019 and ES-020.</p>   | <p>Ms. Faulkner moved to ratify the actions taken in Executive Session for agenda items ES-018, ES-019 and ES-020. Mr. Watanabe seconded the motion. Roll Call Vote: 4-Ayes and 0-</p> |

| SUBJECT              | DISCUSSION   | ACTION   |
|----------------------|--|--|
|                      |  | Nays. Motion carried 4:0.  |
| <b>Announcements</b> | Next Meeting: Tuesday, October 6, 2020 – 3:00 p.m., Teleconference by Microsoft Teams                |  |
| <b>Adjournment</b>   | With no further business to conduct, Chair Pro Tem Ramos called for a motion to adjourn the meeting. | Ms. Tokioka moved to adjourn the meeting. Ms. Faulkner seconded the motion. Motion carried 4:0<br><br>Chair Pro Tem Ramos adjourned the meeting at 4:19 p.m. |

Submitted by: \_\_\_\_\_  
Sandra Muragin, Commission Support Clerk

Reviewed and Approved by: \_\_\_\_\_  
Vonnell Ramos, Chair Pro Tem

( ) Approved as circulated.

( ) Approved with amendments. See minutes of \_\_\_\_\_ meeting.

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

OCTOBER 6, 2020 MEETING

Report Covering August/September 2020

**HRMS Project:**

Vendor demonstrations occurred over three full days with four (4) vendors from the short list participating. Approximately 40 to 50 County employees participated. There were opportunities to ask questions throughout the presentations. After the demonstrations, the Selection Committee met to do scoring of the presentations and select the top two (2) vendors. Reference notices have been sent out, and client companies will be contacted to discuss their reference/evaluations. Thereafter, the scoring of the reference phase will occur. [Goal 4, Obj. A.1-3. and Goal 5, Obj. A. 3—completed]

|   |                                    |
|---|------------------------------------|
| <b>Issue RFP (Legal Notice).....</b>                    | <b>May 14, 2020</b>                |
| <b>Pre-Proposal Teleconference.....</b>                 | <b>9:00 a.m. HST, May 28, 2020</b> |
| <b>Deadline for Written Inquiries.....</b>              | <b>June 19, 2020</b>               |
| <b>PROPOSAL DUE DATE.....</b>                           | <b>July 13, 2020</b>               |
| <b>Tentative Priority-List Vendor Notification.....</b> | <b>Week of July 27, 2020</b>       |
| <b>Tentative Vendor Demonstrations.....</b>             | <b>Week of August 31, 2020</b>     |
| <b>Tentative Award Date.....</b>                        | <b>October 2020</b>                |

After purchase of the system in the fall of 2020, implementation is anticipated to commence either in the 4<sup>th</sup> 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.

**Teleworking Update:**

Staff from the Administrative Services and Benefits division continue to rotate teleworking and on-site in order to provide front-office coverage. Director's private secretary also rotates to provide coverage during certain days of the month.

Some Administrative Services and Benefits staff have reported poor or no internet connection at home at times. If connection does not improve, some may need to return to office full-time. DHR continues to monitor. [Goal 6, Obj. A.3.—completed]

CSC 2020-21

### **Update on Review and Revisions to Internal Policies and/or Procedures:**

As part of the continued review of internal policies to determine whether revisions should occur, a review of the Interviewing and Selection Procedures occurred. The last revision was in 1986.

Thus, HR will review and compare with current practices to determine if revisions are necessary. [Goal 1, Obj. B.1.]

### **Update on Complaints (Internal Complaints and others) and Grievances:**

HR has received numerous complaints from various employees in other Departments. The complaints entail Internal Complaints to be determined by the DHR regarding recruitment/examination/failure to pass probation, plus discrimination/harassment complaints. Grievances from different unions have been filed. HR Staff has participated in mediations to resolve disputes. In addition, some grievances are being pursued by the unions to binding arbitration.

Given the time involved in conducting investigations into the complaints, attending grievance hearings and rendering decisions, and assisting in the preparation for arbitrations there is concern about the workload and staffing requirements within HR.

HR has developed the following three-part plan to address the above concerns:

1. Train additional HR staff to do workplace investigations.
2. For other departments that already have staff who handle employee relations issues, train them to do investigations so some lower level complaints can be handled either internally within the department, or from other departments to prevent conflict/bias internally.
3. For other large departments that do not have employee relations staff, provide training so some lower level complaints can be handled in a manner similar to the above.

### **Update Regarding Payroll Office Structure**

The Finance Department successfully transferred its payroll reporting function to Human Resources, and it has been a smooth transition. Payroll continues to work with the Housing Agency and the Agency on Elderly Affairs to determine the timing for transition of payroll reporting services to Human Resources. [Goal 6, Obj. A.1.—completed]

As we continue with the transition with other departments, plus a future HRMS system in place, we will evaluate the need for additional positions to service the increased payroll functions. It is hoped that with a new, automated system, the need for additional personnel will be reduced.

### **New Hire Orientation Video**

An updated New Hire Orientation Video was created recently. The video is shown to all new hires during the day-long onboarding session that occurs on the first and sixteenth of each month. The

update includes comments from many of the new directors who have been hired over the past year, including the DHR. Also new is providing web access to the video (once final approval for posting occurs) so that new employees will have an opportunity to re-review the content after employment begins. A PowerPoint presentation has also been created, which will be accessible by employees after hire. It is hoped that this subsequent access to the video and PowerPoint will benefit new hires in retaining the information, given that there is a significant amount of information presented during the onboarding day. [Goal 1, Obj. B.1. & 2.—completed]

**Collective Bargaining:**

- Status of funding of HGEA BUs 2, 3, 4, 13, and 14:
  - On the last day for action, the Governor approved the funding bills for these units.
- New bargaining unit (BU) 15 for ocean and water safety officers:
  - On the last day for action, the Governor approved a bill to establish a new BU 15 for ocean and water safety officers who are currently in BU 14.
  - It will take a very long time to formally establish the new BU by going through labor board and then negotiating a new BU 15 agreement. When established, we will continue to have 8 BUs for COK employees.
- Negotiations between employer group and UPW, HGEA, SHOPO, HFFA will commence in the up-coming months for 8 different bargaining units for new master agreements that will be effective 7/1/21.
  - If cannot reach agreement and impasse is declared, HR will have to participate in interest arbitration hearings for 8 units, unless some HGEA units are combined into one hearing. BU 15 will come later.
- The State will be in negotiations with HGEA and UPW regarding furloughs; other jurisdictions will participate however, given that the County’s budget is in place for FY21, no furloughs or pay cuts are anticipated for FY21

**Document Retention and Maintenance Policy:**

- The draft Human Resources Document Retention & Destruction policy continues to wait approval by the County Attorney. The DHR followed up with the County Attorney’s office regarding the status; it is on the list of their projects to complete but they must prioritize and handle more urgent matters first. [Goal 2, Obj. B, 1—met and ongoing]

**Administrative Services and Benefits:**

- New Hires:
  - Accountant II
  - Plant Electrician
  - Senior Clerk
  - Deputy County Attorney (exempt)
  - Inter-Island Quarantine Manager (exempt)
  - Police Clerical Assistant (exempt)
  - Program Specialist I (exempt)
  - Sexual Assault Forensic Nurse Examiner (exempt)

*Note: Exit Interviews are not done for short-term hires or employees who were discharged*

- Exit Interviews (Retirees): 2 of 2

- Exit Interview (Voluntary Separations) 3 of 3
- TDI Applications None
- Family Leave: 8 (approved)
- Leave Sharing: 1 (approved)
- Reference Checks: 6
- Employment Verifications: 29
- Transactions (i.e., Payroll Certification forms processed):

|                     |    |
|---------------------|----|
| New Hires           | 6  |
| Separations         | 6  |
| Reallocations       | 0  |
| Promotions          | 4  |
| Demotions           | 0  |
| Transfers           | 1  |
| Pay Increase        | 1  |
| Suspension          | 1  |
| Leave Without Pay   | 0  |
| *Misc. Change Forms | 14 |
| **Other             | 8  |
| 89-Day              | 42 |
| 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; three (3) medical-only claims, two (2) indemnity claim, and one (1) controverted claim.
- Bi-monthly reviews of selected workers' compensation claims will be held on September 22, 2020 via WebEx meeting.
- Driver Improvement Training began this month. Nine (9) employees trained. Additional training sessions have been scheduled for September and October.
- Equipment/Driver Training: Truck Tractor (1 Public Works employee)  
Automated Truck Tractor (1 Public Works employee)  
Hooklift Truck (1 Public Works employee)  
Forklift (8 Public Works employees)

**Classification and Pay and Labor Relations:**

- Various grievance hearings were held as follows:
  - SHOPO-Termination (sustained)
  - SHOPO-Transfer (settled)
  - SHOPO-Transfer (sustained)
  - SHOPO-Termination (on hold pending criminal charges)
  - UPW-Discipline (sustained)
  - UPW-6 Day Overtime Provision (sustained individual and class grievance)
  - UPW-Hazard Pay (class grievance) (sustained)
  
- Reallocations Processed:      Assistant Building Inspector to Building Permit Clerk  
   Civil Engineer VI to Civil Engineer IV  
   Mayor’s Administrative Aide to Public Information Officer
  
- Desk Audits:                              None
  
- New Classes Adopted:              None
  
- Administrative Reviews:              None

**Recruitment and Exam:**

A hiring freeze is in place for most positions but vacancies in Council Services, Department of Water, Police, Fire and Public Works-Solid Waste are allowed to be filled.

- Working with both the Kaua’i Police Department and Kaua’i Fire Department to prepare and schedule their department’s annual promotional exams.
- Rather than using the “hire above the minimum”, staff are looking at developing shortage differential tables for other hard to fill positions (Construction and Water Inspectors).
- Currently working with the Mayor’s office and Public Works to hire an Archaeologist to work at the State Historic Preservation Division (SHPD) to assist with the County of Kaua’i’s backlog of submittals. The department also assisted with developing a Memorandum of Understanding between the State and County to ensure that there is a mutual understanding of the employee’s responsibilities.
  
- Recruitments:                              Administrative Clerical Assistant (exempt)  
   Assistant Water Plan Operator  
   Bus Driver (substitute) (exempt)  
   Deputy County Attorney (exempt)  
   Economic Development Specialist IV (exempt) (2)  
   Election Clerk II (exempt)  
   Emergency Services Dispatcher II (exempt)  
   Equipment Operator II  
   Groundskeeper  
   Information Technology Communications and Project

Manager (exempt)  
Intern III (exempt)  
Inter-Island Quarantine Manager (exempt)  
Keiki Kokua Program Leader (exempt)  
Para-Legal Assistant II  
Public Information Officer (exempt)  
Real Property Titles Examiner and Recorder (exempt)  
Solid Waste Program Engineer (exempt)  
Solid Waste Worksite Supervisor  
Wastewater Plant Operator IV  
Waterworks Information Technology Manager

- Lists Referred to Departments:  
Administrative Clerical Assistant (exempt)  
Battalion Fire Chief  
Bus Driver (substitute) (exempt)  
Clerk Dispatcher I (exempt)  
Custodial Services Supervisor  
Deputy County Attorney (exempt)  
Disaster Principal Project Manager (exempt)  
Economic Development Specialist IV (exempt)  
Election Clerk II (exempt)  
Emergency Services Dispatcher I  
Fire Captain  
Fire Fighter II (HAZMAT)  
Fire Fighter III  
Information Technology Communications and Project Manager (exempt)  
Inter-Island Quarantine Manager (exempt)  
Intern III (exempt)  
Investigator (exempt)  
Ocean Safety Officer I  
Police Services Officer  
Public Information Officer (exempt)  
Real Property Titles Examiner and Recorder (exempt)  
Senior Clerk  
Solid Waste Program Engineer (exempt)  
Special Projects Assistant (exempt)  
Utility Worker  
Wastewater Plant Operator IV

Written Exams Administered: Account Clerk (2)  
Custodial Services Supervisor (2)  
Customer Service Representative II (2)  
Utility Worker

- Performance Exams Administered: None

- Administrative Reviews: Custodial Services Supervisor (pending)  
Para-Legal Assistant II (pending)

**Payroll:**

- Significant planning and discussion re implementing pay increases for all HGEA units effective September 15, 2020.
- Significant planning and discussion re implementing retroactive pay increases for all HGEA units retroactive to July 1, 2019.
- Paychecks on 10/15/20 and 10/30/20 will reflect the above.
- Took on Finance payroll August 1, 2020.
- Working on timeline for other departments to transition payroll.
- Gross Payroll for August:

|   |    |                  |
|---|----|------------------|
| 15th  | \$ | <b>4,115,182</b> |
| EOM   | \$ | <b>4,012,441</b> |
| EUTF ACTIVE   | \$ | <b>781,834</b>   |
| EUTF OPEB (will not be billed until further notice) | \$ | -                |
| EUTF RETIREE  | \$ | <b>845,945</b>   |
| ERS (RETIREMENT)                                    | \$ | <b>2,338,792</b> |
| SOCIAL SECURITY                                     | \$ | <b>308,316</b>   |
| MEDICARE  | \$ | <b>112,046</b>   |
| PTS SS SAVINGS                                      | \$ | <b>9,530</b>     |

**EEO/ADA**

- Multiple investigation in process or closed.
- ADA Technical Guidance provided to various departments and agencies.
- Two training of new hires.
- Resolved ADA/FHA complaint regarding certain county parking lot.

## Civil Service Commission Rules – Third Draft of Amendments dated October 6, 2020

1. Bolded and underlined all subchapter headings.
2. Triple spaced between each section.
3. Moved some of the authority citations to its own line.
4. Cover page i: correction to name: Department of Human Resources, added “Part 2 Rules of the”, moved “Merit Appeals Board” to its own line.
5. Table of Sections page ii: correction to name: Department of Human Resources Moved “Merit Appeals Board” to its own line, removed “Table of Contents” title and updated all page numbers.
6. Page 1-5: §1-6 “Definitions”, “Director” correction to name: department of human resources
7. Page 1-6: §1-7 “The Commission” (a) “Office”, changed to read: All communications to the civil service commission shall be addressed to Civil Service Commission c/o the Office of Boards and Commissions...
8. Page 1-7: §1-7 “The Commission” (5) (D) added a comma after “(email)”
9. Page 1-11 §1-14 “Filing of documents” (b) “Form” added an “s” changed to “Forms”
10. Page 1-22: §1:39 “Filing of Appeal” (a) “Time”, deleted “was” and replaced with “is” and added “the”
11. Page 1-23: §1:39 “Filing of Appeal” (a) “Time”, (2) changed to read “Civil Service Commission c/o the Office of Boards and Commissions at...”

CSC 2020-22

**County of Kauaʻi**  
**Department of Human**  
**Resources**  
**Part 2 Rules of the**  
**Civil Service Commission/**  
**Merit Appeals Board**

**Amendments**  
**on**  
**October 6, 2020**

**Ramseyer Version**

**COUNTY OF KAUAI**

**DEPARTMENT OF HUMAN RESOURCES** []

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



CHAPTER 1 RULES OF PRACTICE AND PROCEDURE

| Subchapter 1 Rules of General Applicability                        |  | <u>PAGE NO.</u> |
|--|--|-----------------|
| §1-1   | Purpose of chapter; statement of policy.....             | 1-[14]          |
| §1-2   | Authority.....   | 1-[14]          |
| §1-3   | Construction of rules.....                               | 1-[14]          |
| §1-4   | Limitation of jurisdiction.....                          | 1-[14]          |
| §1-5   | Procedure and terms.....                                 | 1-[14]          |
| §1-6   | Definitions.....   | 1-[15]          |
| §1-7   | The Commission.....                                      | 1-[16]          |
| §1-8   | Delegation of administrative duties.....                 | 1-[18]          |
| §1-9   | Government records.....                                  | 1-[18]          |
| Subchapter 2 Proceedings before the Commission/Merit Appeals Board |  |                 |
| §1-10  | General proceedings.....                                 | 1-[10]          |
| §1-11  | Appearances and practices before the Commission.....     | 1-[10]          |
| §1-12  | Disqualification of commissioner or hearing officer..... | 1-[11]          |
| §1-13  | Consolidation.....                                       | 1-[11]          |
| §1-14  | Filing of documents.....                                 | 1-[11]          |
| §1-15  | Amendment of documents and dismissal.....                | 1-[12]          |
| §1-16  | Retention of documents.....                              | 1-[12]          |
| §1-17  | Computation of time.....                                 | 1-[12]          |
| §1-18  | Continuances or extensions of time.....                  | 1-[13]          |
| §1-19  | Service of process.....                                  | 1-[13]          |
| §1-20  | Commission decision.....                                 | 1-[13]          |
| Subchapter 3 Rules Applicable to Rulemaking Procedures             |  |                 |
| §1-21  | Initiation of rulemaking proceedings.....                | 1-[14]          |
| §1-22  | Notice of public hearing.....                            | 1-[14]          |
| §1-23  | Conduct of hearing.....                                  | 1-[15]          |
| §1-24  | Commission action.....                                   | 1-[16]          |
| §1-25  | Emergency rulemaking.....                                | 1-[16]          |

|  |  | <u>PAGE NO.</u> |
|--|--|-----------------|
| §1-26  | Filing of rules.....                               | 1-[16]          |
| §1-27  | Taking effect of rules.....                        | 1-[16]          |
| §1-28  | Publication of rules.....                          | 1-[16]          |
| <br>Subchapter 4 Rules Applicable to Declaratory Rulings                   |  |                 |
| §1-29  | Petitions for declaratory ruling.....              | 1-[17]          |
| §1-30  | Request for hearing.....                           | 1-[17]          |
| §1-31  | Applicability of order.....                        | 1-[17]          |
| §1-32  | Declaratory ruling on commission's own motion..... | 1-[18]          |
| §1-33  | Refusal to issue declaratory order.....            | 1-[18]          |
| <br>Subchapter 5 Rules Applicable to Initial Pricing and Compensation Plan |  |                 |
| §1-34  | Pricing policies.....                              | 1-[19]          |
| §1-35  | Pricing standards.....                             | 1-[19]          |
| §1-36  | Determination of Blue collar classes.....          | 1-[21]          |
| §1-37  | Amendments to the Compensation Plan.....           | 1-[21]          |
| <br>Subchapter 6 Rules Applicable to Appeals                               |  |                 |
| §1-38  | Standing to appeal.....                            | 1-[22]          |
| §1-39  | Filing of appeal.....                              | 1-[22]          |
| §1-40  | Notice.....  | 1-[24]          |
| §1-41  | Appeal hearing.....                                | 1-[24]          |

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 human resources** [ ]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. All communications to the **civil service commission** shall be addressed to **Civil Service Commission c/o the Office of Boards and[] Commissions, 4444 Rice Street, Suite 300[], 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, **electronic mail (email)**, 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 clerk [ ]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 **forty (40)** 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 law, 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) Forms. All requests [ ] 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. **All appeals filed with the commission shall be completed on a Civil Service Commission Appeal Form; located on the County of Kaua'i Civil Service Commission website and submitted online. Copies of the Civil Service Commission Appeal Form can also be picked up at the Office of Boards and Commissions.**

(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 [copy] 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, **electronic mail (email) 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 copy [ ] 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, **an original copy** 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, **mailing** address, **electronic mail (email) 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 **is** sent by the director or appointing authority. For purposes of this rule the date **the**

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 **Civil Service[] Commission c/o the Office of Boards and Commissions at** 4444 Rice Street, Suite **300[]**, Lihue, Hawaii 96766, between the hours of 7:45a.m. and 4:30 p.m. of each workday **or the date the notice is submitted by electronic mail (email)**. 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)