

KAUA‘I COUNTY
BOARD OF ETHICS

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RULES AND REGULATIONS – Part I

Amended and Adopted by the
Board of Ethics

June 17, 2022

INTERPRETIVE RULES – Part II

Amended and Adopted by the
Board of Ethics

February 15, 2013

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RULE I: GENERAL PROVISIONS

I.1 PURPOSE

These rules are made pursuant to Section 20.05 B of the Charter of the County of Kaua'i, and are intended to provide for the efficient administration of the Code of Ethics.

I.2 DEFINITIONS

The following definitions will be used in these rules and regulations, unless the context clearly requires otherwise, it being understood that the use of any gender shall be applicable to all genders, and that the singular number shall include the plural and the plural the singular.

“Advisory Opinion” – an opinion rendered by the Board pursuant to a request by any officer or employee, or former officer or employee, as to whether or not the facts and circumstances of a particular case violate or will violate the standards of conduct prescribed by the Code of Ethics.

“Answer” – the written response to the complaint filed with the Board by the person disputing that complaint.

“Article XX” – Article XX of the Charter of the County of Kaua'i and entitled “CODE OF ETHICS”.

“Board” – Kaua'i County Board of Ethics.

“Charge” – the statement of facts and conclusions establishing a violation issued after the decision of the Board.

“Code of Ethics” – Article XX of the Charter of the County of Kaua'i and ordinances adopted in accordance with Section 20.04 D, as codified in Chapter 3 of the Kaua'i County Code.

“Complainant” – the party who has filed a complaint alleging that an officer or employee has violated the Code of Ethics.

“Complaint” – a notarized letter, or a document authorized by a resolution of the Board, setting forth the basic facts alleging a violation of one or more provisions of the Code of Ethics.

“County Attorney” – the Office of the County Attorney of the County of Kaua'i.

“Decision” – the written conclusion of the Board rendered after the hearing, upon due deliberation of a complaint.

“Deleted opinion or decision” – a summary of an advisory opinion, or decision, in which the identity of persons is not disclosed.

“Employee” – a person employed by the County, except an officer or an independent contractor.

“Officer” – the Mayor, councilpersons, all department heads and deputies, and members of boards and commissions.

“Respondent” – the person allegedly violating the Code of Ethics.

“Ruling” – a statement of Board action, which may be followed by an advisory opinion rendered due to the requester’s need for immediate guidance.

1.3 THE BOARD

(a) Office. The office of the Board of Ethics is in the County Building, Līhu‘e, Kaua‘i, Hawai‘i; or such other address as the Board may designate from time to time. All communications shall be addressed to the Kaua‘i County Board of Ethics, c/o Office of Boards and Commissions, 4444 Rice Street, Suite 150, Līhu‘e, Kaua‘i, Hawai‘i 96766, unless otherwise directed.

(b) Meetings. The Board shall meet at least quarterly and exercise its powers in any part of the County of Kaua‘i. Additional meetings may be called by the Chairman, or two (2) or more members upon notice to the other members. A majority of the membership to which the Board is entitled shall constitute a quorum for the conduct of business and shall be necessary for any action to be taken. Meetings shall be open to the public unless an executive meeting is deemed necessary by the Board pursuant to law.

(c) Election and Terms of Office. The Chair, Vice-Chair and Secretary shall be elected and shall serve for terms of one (1) year; such terms to commence on January 1 of each and every year. No chair shall serve consecutive terms.

(d) Duties and Responsibilities. The Board shall be responsible for the administration of the Code of Ethics.

(e) Agenda. The Board shall give public notice of any regular, special, or rescheduled meeting by filing the notice with the County Clerk and at the Board of Ethics office for public inspection. The notice shall be filed at least six (6) calendar days before the meeting and shall include an agenda which lists all of the items to be considered at the forthcoming meeting, and the date, time and place of the meeting.

(i) All items for the Agenda shall be submitted to the Chair for placement on the agenda no later than five (5) days before the agenda notice is filed. The Chair shall have the discretion of placing items submitted after the deadline on the Agenda of the forthcoming meeting, or holding such late items until the next scheduled meeting after the forthcoming meeting. The Chair shall be responsible for designating and approving the form and content of the Agenda.

(f) Consensus. No individual member of the Board shall act on behalf of the Board without the Board's approval.

RULE 2: DOCUMENTS, SERVICE, WITNESSES AND SUBPOENAS

2.1 FILING OF DOCUMENTS

(a) Where. All disclosures, complaints, requests for opinions, motions, submittals, reports, petitions, briefs, memoranda, and other papers required to be filed with the Board shall be filed by either mailing or hand-carrying same to the Office of the Board of Ethics. The date of the actual receipt of all papers filed and such shall be deemed the official time of filing.

(b) Certificate of Truth. All papers shall be legible and be signed in ink by the party executing same or by his duly authorized agent or attorney. The signature of the person signing the document constitutes a certification that he had read the document; that to the best of his knowledge, information and belief, every statement contained therein is true and no such statements are misleading; and that it is not for purposes of delay.

(c) Name and Address of Affected Persons. The initial document filed by any person in any proceeding shall state on the first page thereof his name, mailing address, and telephone number as well as the name, mailing address, and telephone number of others to be served with any documents filed in the proceeding.

2.2 COMPUTATION OF TIME

The day of the act, event or default is not to be included in computing any period of time prescribed or allowed by the rules, by order of the Board, or by any applicable law. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or legal holiday recognized by the State of Hawai'i, in which event, the period runs until the next day which is not a Saturday, Sunday, or holiday.

2.3 CONTINUANCES OR EXTENSIONS OF TIME

Whenever a person or agency has a right, or is required, to take action within the period prescribed or allowed by these rules, or by order of the Board, he may apply in writing to the Board for an extension. The Board will not accept action not performed or documents not filed within the prescribed time without good cause shown.

2.4 SERVICE OF PROCESS

(a) By Whom Served. The Board shall cause to be served all orders, notices, and other papers which it is required by law to serve. Answers, motions, memoranda, and other pleadings relating to complaints or hearing shall be served by the party filing same.

(b) Upon Whom Served. All papers shall be served upon all counsel of record at the time of filing, upon parties not represented by counsel or upon their agents designated by them or by law. Any counsel entering an appearance subsequent to the initiation of the proceeding shall notify all parties of record of such fact.

(c) Method of Service. The service of complaint shall be made personally upon the individual, or in case he cannot be found, by leaving copies at his usual place of abode with some person of suitable age and discretion then residing there, or by delivering a copy to an agent designated by him or by law to receive service of such papers.

Service of all other papers required to be served shall be made by delivering a copy to counsel of record, if any, or to the individual or his agent designated by him or by law to receive service of such papers or by mailing a copy to his last known address. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at his office, with his secretary, clerk, or other person in charge; or, if there is no one in charge, leaving it in a conspicuous place; or, if the office is closed or the person to be served has no office, leaving it at his usual place of abode with some person of suitable age and discretion then residing there. Service by mail is complete upon mailing. A certificate of the time and place of personal delivery or of mailing shall be filed with the Board by the person making the service.

2.5 SUBPOENAS

(a) Who May Issue. The Board may issue or cause to be issued subpoenas requiring the attendance of witnesses or the production of documentary evidence at any designated place of hearing.

(b) Application. Any party of record may make application to the Board for the issuance of subpoenas. The application must be in writing, must be

reasonable in scope, and must specify as clearly as possible documents or data desired and show their relevancy.

(c) Time of Application. Application for subpoenas shall be made at least five (5) days prior to the hearing. If application is made at a later time, the Board may, in its discretion, continue the hearing or any part thereof.

(d) Enforcement. Enforcement of subpoenas served pursuant to these rules will be effected by written application of the Board to any circuit judge.

RULE 3: DISCLOSURE REQUIREMENTS

3.1 WHO MUST FILE

The Mayor, Councilpersons, Managing Director, heads and deputies of all departments, agencies, and divisions, members of boards and commissions, the purchasing administrator, and regulatory employees shall be required to file the disclosure pursuant to the Code of Ethics.

(b) All candidates for elective office shall be required to file disclosure pursuant to the Code of Ethics within seven (7) days of filing nomination papers.

3.2 PUBLIC INFORMATION

Disclosures filed with the Board are public record, except for disclosures filed by regulatory employees, which shall not be open to public inspection. It is provided however that the personal contact information consisting of address and phone number shall be redacted before release of the document by the Office of Boards & Commissions to a member of the public.

3.3 PROCEDURE AFTER FILING

Each disclosure will be reviewed by the Board for conflicts of interest. If a conflict or potential conflict is found, the Board will so notify the individual and advise corrective action to be taken to avoid violation of the Code of Ethics. Where the situation is deemed to have precedential value, the Board will proceed as though the disclosure was a request for an advisory opinion, and after rendering such, circulate a deleted advisory opinion to appropriate county agencies, officers, and employees.

RULE 4: DISQUALIFICATION OF BOARD MEMBERS

4.1 REQUESTED DISQUALIFICATION

A party to a hearing may request disqualification of any Board member by filing an affidavit alleging that such member cannot act impartially because of personal bias or prejudice. Every such affidavit shall state the facts and reasons therefore, and shall be filed at least ten (10) days before the hearing. The Board member against whom the affidavit is so filed shall answer the affidavit or file a disqualifying certificate. If he chooses to answer the affidavit, the remaining members of the Board shall decide whether or not he should be disqualified.

4.2 VOLUNTARY DISQUALIFICATION

Any Board member may disqualify himself by filing with the Board a certificate that he deems himself unable for stated reasons to sit in judgment with impartiality in the pending hearing.

RULE 5: ADVISORY OPINION

5.1 REQUEST FOR ADVISORY OPINION

(a) Applicability. Advisory opinions may be requested by officers or employees to assist them in the proper performance of their official duties and responsibilities in accordance with the Code of Ethics.

(b) Form. All requests for advisory opinions made to the Board shall be in writing and shall contain (1) the name of the person requesting the opinion, (2) the County agency in which he serves or works, (3) his position therein, (4) the nature and duties of his service or employment, (5) the date of request, (6) contact information (7) a statement of the facts and circumstances upon which the Board is to make its determination, and (8) the signature of the person requesting the opinion.

(c) Supplementary Information. The Board, with prior notice to the person requesting the opinion, may interview or cause to be interviewed anyone who may have information desired by the Board in the consideration of a request for an advisory opinion.

(d) Filing Completed. A request for an advisory opinion is considered filed when the Board has received in writing all the information deemed necessary by it to make a proper determination.

5.2 RENDERING OF ADVISORY OPINION

(a) Timeframe, Signatures, and Mailing. An advisory opinion shall be rendered within forty-five (45) days after the filing of the request has been finalized. It will be considered rendered when the Board has put the matter to a vote. After the opinion has been rendered, it shall be put in writing and signed by at least one (1)

member of the Board. The written opinion shall be personally delivered or placed in the mail, postage prepaid and addressed to the person requesting the opinion at the address furnished by him. [Time period amended from 30 to 45 days by 2010 Charter Amendment]

(b) Dissenting Opinions. Any member who disagrees may file a written dissenting opinion which will be placed at the end of the majority opinion.

5.3 AN OPINION RENDERED BY LAPSE OF FORTY FIVE (45) DAYS

Failure by the Board to render an advisory opinion within forty five (45) days after the filing of a request therefore shall be deemed a finding of no breach of the Code of Ethics. It shall be incumbent on the County Attorney to notify the person requesting the opinion. [Time period amended from 30 to 45 days by 2010 Charter Amendment]

RULE 6: COMPLAINTS

6.1 COMPLAINTS INSTITUTED BY A MEMBER OF THE PUBLIC

(a) Content. All complaints shall contain a concise statement of the facts constituting the alleged violation of the Code of Ethics, the name and position of the respondent, and shall be signed under oath by the complainant. The oath shall be administered in accordance with the laws of the State of Hawai'i.

(b) Deficiency. Upon receipt of a document which does not comply with the requirements of sub-paragraph (a) of this rule, the Board may return the document noting the deficiency.

(c) Deliberation. Upon receipt of a complaint, the Board shall investigate and/or deliberate on its merits. The Board may request a meeting with the complainant to gather more information. The Board may reject such complaint at this time and so notify the complainant, or decide to investigate further by calling for an informal or formal hearing.

(d) Open Session. The respondent may request that the hearing be held in open session. Otherwise, the hearing shall be held in closed session.

6.2 COMPLAINTS INITIATED BY THE BOARD

(a) Investigation. Upon receipt of information indicating a possible violation of the Code of Ethics, the Board shall initiate an investigation, the nature and scope of which shall be defined by resolution.

(b) Complaint. If after such investigation the Board resolves to initiate a complaint, the same shall be reduced to writing and signed by one (i) or more members of the Board.

RULE 7: INFORMAL HEARING

(a) Notice.

Upon the decision to hold an informal hearing, the Board shall notify the respondent in writing of a proposed informal hearing and request his attendance for the purpose of obtaining further information concerning his alleged violation of the Code of Ethics. The notice of informal hearing shall state the date, time, and place of the hearing and shall be given not less than six (6) days prior to the hearing. Such hearing shall be in executive session and may be recessed to a later day or to a different place without notice other than the announcement by the Board at the hearing.

(b) Consolidation. The Board, upon its own initiative or upon motion, may consolidate for hearing or for other purposes, proceedings which involve substantially the same parties or issues if it finds the same to be expeditious and nonprejudicial.

(c) Procedure for an Informal Hearing.

(i) The Presiding member of the Board shall convene the hearing and read the complaint. The hearing, although informal, will be conducted in an orderly manner. Board members shall have an opportunity to direct questions to the respondent and he shall be afforded an opportunity to explain the alleged violation of the Code of Ethics. The Board reserves the right to not take witness testimony.

(2) The respondent may attend the informal hearing with counsel or authorized agent.

(d) Preliminary Opinion. Within a reasonable time after the informal hearing, the Board shall render an opinion as to whether or not there is a probable violation of the Code of Ethics by the respondent.

(i) If no probable violation is indicated by the opinion, the complaint shall be dismissed by the Board, and the complainant so notified.

(2) If a probable violation is indicated by the opinion, the Board shall cause the respondent to be served with a copy of the complaint and preliminary opinion. The respondent shall have twenty (20) days after service to answer the complaint in writing. The answer shall specifically admit, deny, or explain the allegations of the complaint and shall set forth any matter constituting a defense.

(e) Disposition. Upon failure to file an answer or upon admission of the allegations of the complaint, the Board shall make its final decision and transmit its decision and recommendation to the Council as to complaints involving County officers and to the Civil Service Board, the Mayor and appropriate Department Head as to County employees for appropriate disposition; in addition, copies of the Board's decision and recommendations may be referred to the pertinent officer or agency for disciplinary action.

RULE 8: FORMAL AND CONTESTED HEARINGS

8.1 STATUTORY AUTHORITY, PETITION, SETTING, AND NOTICE

(a) Statutory authority. A formal hearing shall be conducted upon motion by the Board in accordance with Chapter 91 of the Hawai`i Revised Statutes. Persons aggrieved by actions of the Board, may petition for a formal hearing before the Board.

(b) Petition. The petition shall be filed with the Chairman of the Board and shall consist of:

1. Name, address and telephone number of the petitioner.
2. Nature of petitioner's interest and the reasons for requesting a formal hearing.
3. A complete statement of the relevant facts giving rise to the petitioner's request.
4. Position or contention of the petitioner.

(c) Setting, rejecting. Petitions for formal hearing may be approved or modified and approved, and set for hearing or rejected at the regular meeting following receipt of the petitions. Petitioners who have been rejected shall be notified in writing of the Board's action.

(d) Consolidation. The Board, upon its own initiative or upon motion, may consolidate for hearing or for other purposes, proceedings which involve substantially the same parties or issues if it finds the same to be expeditious and nonprejudicial.

(e) Written Notice. Should the Board decide to hold a formal hearing, the Board shall give at least fifteen (15) days written notice prior to the hearing, unless such notice is waived in writing by the respondent. The notice of hearing shall state:

- (1) The date, time and place.
- (2) The legal authority for the hearing.
- (3) The particular sections of Article XX and/or the rules involved.
- (4) The right to the party to counsel if so desired
- (5) The right to request an open hearing.

(f) Oral Notice. Once commenced, the hearing may be recessed to a later day or to a different place, without notice other than the announcement thereof at the hearing.

8.2 REQUEST FOR AN OPEN HEARING

A respondent who wants an open hearing shall file a request for same at least seven (7) days prior to the time set for the hearing. The Board, for good cause shown, may waive the foregoing requirement, and may impose conditions deemed advisable.

8.3 PRE-HEARING CONFERENCE

(a) Required Subject Matter:

(1) Each party shall disclose the theory of his case, including the basic facts he intends to prove and the names and addresses of all witnesses he intends to call.

(2) Each party shall disclose and permit examination of all exhibits which are in his possession or under his control and which he intends to offer in evidence at the hearing. Such exhibits shall then be marked for identification.

(3) Unless so disclosed, no witness required to be disclosed by paragraph (a) shall be permitted to testify, nor any exhibits required to be disclosed by paragraph (b) shall be received in evidence, at the hearing over objection unless the Board finds that there was reasonable ground for the failure to disclose same prior to the hearing.

(b) Other Subject Matter. In any action, the Board may direct the parties or their agents or attorneys to appear before it for a conference to consider:

- (1) Simplification of the issues.
- (2) Amendments to the pleadings.
- (3) Avoidance of unnecessary proof by obtaining admissions of fact and of existence and contents of documents.
- (4) Limitation of the number of witnesses.
- (5) Other matters as may aid in the disposition of the complaint.

(c) Order. At least seventy-two (72) hours prior to the hearing, the Board shall issue an order which summarizes the action taken at the conference. Such order shall control the subsequent course of the hearing, unless modified to prevent manifest injustice.

8.4 HEARING PROCEDURE

(a) Rules and Procedures.

1. The Presiding Officer shall convene the hearing, shall read the complaint, and the pre-hearing order, if any.
2. The Board shall determine the order in which the parties to the proceeding shall present their case to the Board.
3. Opportunity shall be afforded all parties to present evidence and arguments on all issues involved.
4. Every party to the proceeding shall have the right to conduct cross-examination as may be required for a full and true disclosure of the facts; and shall have the right to submit rebuttal evidence.
5. Documentary evidence may be received in the form of copies of excerpts, if the original is not readily available; provided that upon request, parties shall be given an opportunity to compare the copy with the original.
6. The Board shall give effect to the rules of privilege recognized by law.
7. The Board may take notice of judicially recognizable facts. In addition, the Board may take notice of generally recognized technical or scientific facts within its knowledge; but parties to the proceedings shall be notified either before or during the hearing, or by reference in

preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed.

8. Any procedure in a contested case may be modified or waived by stipulation of the parties and informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

9. For the purpose of Board decisions, the records shall include:

1. All pleadings, motions, intermediate rulings;
2. Evidence received or considered, including oral testimony, exhibits, and a statement of matters officially noticed;
3. Offers of proof and rulings thereon;
4. Proposed findings and rulings thereon;
5. Report of the officer who presided at the hearing;
6. Staff memoranda submitted to members of the Board in connection with their consideration of the case.
7. No matters outside the record shall be considered by the agency in making its decision except as provided herein.
8. A contested case hearing shall be held in closed session, unless all parties to the proceeding choose to have the hearing in open session. However, any privileged dialogue between the Board and the County Attorney advising the Board shall be held in closed session.

(b) Closing the Hearing. The Presiding Officer shall bring the hearing to a close after final arguments have been completed. All requested memoranda shall be submitted prior to the final decision of the Board.

(c) Petition to reconsider. Within ten (10) days after rendering its final decision, the Board may entertain a written petition to reconsider its decision. The petition shall be promptly granted or denied in writing.

8.5 DECISIONS

(a) Issuance. Every decision of the Board rendered after hearing shall be in writing and shall be accompanied by findings of fact and conclusions of law. Within forty-five (45) days after a decision has been rendered, the Board shall file a deleted

decision which shall be a matter of public record. At the end of each calendar year, the decisions issued during that period may be printed, along with an index. The County Attorney shall provide copies upon request at a charge pursuant to law.

(b) Submission of Proposed Findings of Fact and Conclusions of Law. The Board may direct the prevailing party to submit proposed findings of fact and conclusions of law. The party required to prepare such shall do so within the time set by the Board and shall obtain from the opposing counsel or party the approval thereon as to form, and deliver the original and nine (9) copies to the Board; or, if not so obtained, serve a copy upon each party who has appeared in the action and deliver the original and nine (9) copies to the Board. The party served with the proposed findings and conclusions may within five (5) days thereafter deliver to the Board a copy of his objections, proposed findings, and conclusions. The Board shall determine the actual findings of fact and conclusions of law.

(c) Dissenting Decisions. Any member of the Board who disagrees may file a written dissenting decision.

8.6 RECORD OF THE HEARING

The record of the hearing shall be compiled pursuant to law. The complainant and the respondent shall be entitled to a copy of the record of the hearing or any part thereof upon application to the Board and upon payment of the costs therefore.

8.7 CHARGE

Upon a determination that a violation exists, the Board shall transmit its findings to the Council as to complaints involving County officers and to the Civil Service Board, the Mayor and appropriate Department Head as to County employees.

RULE 9: PUBLIC INFORMATION

The Board shall comply with all requests from the public for copies of the Board's Rules, Minutes, and other documents subject to all relevant State and County laws. Fees and costs shall be applied pursuant to the Hawai'i Administrative Rules and the Kaua'i County Code. (The Board's Rules are also available for viewing at the Office of Boards and Commissions and at the Office of the County Clerk).

RULE 10: DECLARATORY ORDER

Notwithstanding the other provisions of these rules, the Board 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 concerning the application of the Code of Ethics. The order shall state the controversy or uncertainty shall cite the provisions of the Code of Ethics, rule, order of the Board, law or other matter involved.

RULE II: ADOPTION, AMENDMENT, OR REPEAL OF THESE RULES

II.1 METHOD OF ADOPTING, AMENDING OR REPEAL OF RULES

The rules adopted, amended or repealed by the Board shall be made in accordance with the following procedure, pursuant to Chapter 91 of the Hawai'i Revised Statutes:

Prior to the adoption, amendment or repeal of any rule, a public hearing shall be held by the Board. At least 30 days notice shall include a statement of the substance of the proposed rule, and of the date, time and place where interested persons may be heard thereon. The notice shall be mailed to all persons who have made a timely written request of the Board for advance notice of its rule-making proceedings, and shall be published at least once in a newspaper of general circulation on Kaua'i.

All interested persons shall be afforded an opportunity to submit data, views, or arguments, orally or in writing. The Board shall fully consider all written and oral submissions respecting the proposed rule. The Board may make its decision at the public hearing or announce then the date as to when it intends to make its decision. Upon adoption, amendment or repeal of a rule, the Board shall, if requested to do so by an interested person, issue a concise statement of the principal reasons for and against its determination.

II.2 FILING

Certified copies of the rules adopted, amended or repealed by the Board shall be filed forthwith with the County Clerk, and as may be otherwise required by law for the filing of rules for boards and commissions.

II.3 EFFECTIVE DATE OF RULES

The adoption, amendment or repeal of any rule by the Board shall become effective ten days after filing of the rules with the County Clerk; provided that if a later effective date is required by statute or specified in the rule, such later date shall be the effective date. However, no rule shall specify an effective date in excess of thirty days after the filing of the rule as provided herein.

11.4 PETITION

- (a) Who May Petition. Any person may petition the Board for the adoption, amendment, or repeal of these rules of the Board.
- (b) Content of Petition. The petition shall contain:
- (1) The name, address, and telephone number of the petitioner.
 - (2) The nature of the petitioner's interest.
 - (3) The substance of the proposed rule or amendment and/or a designation of the provisions sought to be repealed.
 - (4) The reasons in support of the proposed rule, amendment, or repeal.
 - (5) Any other information relevant to the petition.
- (c) Rejection of Petition. The Board may reject any petition which does not conform to the requirements of this rule.
- (d) Processing and Consideration of Petition. The petition shall be filed at the office of the Board and dated upon receipt. The petitioner shall be notified of the date, time and place of hearing by the Board on his petition, his privilege of personal appearance with or without counsel, and his privilege of presenting evidence and argument in support of his petition.
- (e) Disposition of Petition. Within ninety (90) days after the hearing thereon, the Board shall either deny the petition in writing, stating its reasons, or agree with the petition or portions thereof, by initiating proceedings in accordance with law for adoption, amendment, or repeal of these rules.

RULE 12: APPEARANCE BEFORE THE BOARD

The right to appear before the Board by any person, his counsel or his authorized agent, having business with the Board may be denied if the Board determines that the person, his counsel or his agent has acted in a manner which prevents the orderly and peaceful conduct of business. The right to appear may be reinstated upon the Board's acceptance of a written statement that the individual will abide by the Board's rules and will not disrupt the orderly and peaceful conduct of its proceedings.

RULE 13. PARLIAMENTARY AUTHORITY

Meetings shall be conducted in accordance with the Hawai'i Revised Statutes, the Sunshine Law and procedures established in these Rules. On all matters of procedure not addressed in these Rules, the Commission may refer to *Robert's Rules of Order, Newly Revised*, for guidance in developing procedures for the conduct of Board meetings. (2013)

**Kauai County
Board of Ethics**

Part II

Interpretive Rules

Rule 1: General Provisions

1.1 Purpose

These rules are intended to provide clarity as to the interpretation of Article XX of the Charter.

1.2 Compliance with Section 20.02D. Section 20.02D states: "No officer or employee of the County shall appear in behalf of private interests before any County board, commission or agency." The following definitions shall apply to the interpretation Charter section:

a) Officer – the term "officer" shall include the following: (1) Mayor and members of the council; (2) Any person appointed as administrative head of any agency of the county or as a member of any board or commission; (3) The first deputy appointed by the administrative head of any department; and (4) Deputies of the county attorney. It clarifies that while the definition includes members of County (and not State) boards and commissions, it does not include members of County or State sanctioned Advisory Committees/Boards which are not authorized under the Charter.

b) Employee – the term "employee" shall mean any person, except an officer, employed by the county or any department thereof

c) Appear – the term "appear" shall mean the providing of oral or written testimony at a publicly noticed meeting or hearing of a board, commission, council or agency. Written or oral communication with agencies outside of a publicly noticed meeting or hearing shall not constitute an appearance. This interpretation shall not prohibit:

1. An individual's right to testify at a meeting or hearing of a county board, commission or agency regarding his or her personal opinions.

2. An individual's right to appear in a matter that involves only ministerial action by a department, such as applying for a driver's license, building permit, water meter, or filing a police report.
3. An individual's right to represent himself personally or appear before any agency to petition for redress of grievances caused by any official act or action affecting such person's or such person's immediate family's rights, privileges, or property, including real property. For the purposes of this section, "immediate family" means the person's parents, siblings, spouse or children.
4. An officer's or employee's business or professional partner's or associate's right to practice or appear before a County agency, provided, however, the officer or employee shall not participate in any discussion, decision-making or vote on the related matter.

d) In behalf of – the term "in behalf of" shall mean representation of a third party (not the individual himself), however, a partnership, corporation, or limited liability company, even if partially or wholly owned by the individual, shall be considered a third party.

e) Private interests – the term "private interests" shall mean all persons and entities other than governmental bodies.

CERTIFICATE OF ACKNOWLEDGMENT

I, Kelly M. Gentry, in my capacity as Chair for the Kaua`i County Board of Ethics, do hereby certify that the foregoing true and correct. These amendments to the Rules and Regulations- Part I were adopted by the Board of Ethics on June 17, 2022. A notice of public hearing on the foregoing rules of the Kaua`i County Board of Ethics, which notice included the substance of such rules was published in the Garden Island Newspaper on April 17, 2022.

Kelly M. Gentry, Chair
Kaua`i Board of Ethics

APPROVED AS TO FORM AND LEGALITY:

Aaron Larrimore, Deputy County Attorney, County of Kaua`i

Approved on the ____ day of _____,

Derek S.K. Kawakami, Mayor, County of Kaua`i

I hereby certify that the foregoing amendments to the Rules & Regulations of the Kaua`i County Board of Ethics were received and filed in my Office this ____ day of _____.

Jade Fountain-Tanigawa, County Clerk, County of Kaua`i