

DEPARTMENT OF EDUCATION

Adoption of Chapter 8-600  
Hawaii Administrative Rules

XXX XX, 2024

1. Chapter 8-600, Hawaii Administrative Rules, entitled "School Facilities Authority Rules of Practice and Procedure", is adopted to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 8

DEPARTMENT OF EDUCATION

SUBTITLE 6

SCHOOL FACILITIES AUTHORITY

CHAPTER 8-600

SCHOOL FACILITIES AUTHORITY  
RULES OF PRACTICE AND PROCEDURE

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### SUBCHAPTER 1

#### GENERAL PROVISIONS

**§8-600-1 Purpose.** This chapter governs the practice and procedure before the school facilities authority under chapter 302A, part VI, subpart C, HRS, and shall be construed to effectuate the purposes of that subpart and to secure the just and efficient determination of every proceeding.

[Eff ] (Auth: HRS §§91-2, 302A-1703)

(Imp: HRS §§91-2, 302A-1703)

**§8-600-2 Definitions.** Unless the context clearly indicates otherwise, as used in this chapter:

"Agency" means an entity of the federal, state, or county government.

"Authority" means the school facilities authority.

"Board" means the board of the school facilities authority.

"Government records" has the same meaning as is defined in section 92F-3, HRS.

"Person" includes individuals, partnerships, corporations, associations, or public or private organizations of any character other than agencies. [Eff ] (Auth: HRS §§91-2, 302A-1703) (Imp: HRS §§91-2, 302A-1703)

**§8-600-3 Office and office hours.** (a) The office of the authority shall serve as the office of the board. All communications to the authority or board shall be addressed to the authority's office unless otherwise directed by the authority or board.

(b) The office of the authority shall be open from 7:45 a.m. to 4:30 p.m., each day of the week except Saturdays, Sundays, and state holidays, unless otherwise provided by statute or executive order. [Eff ] (Auth: HRS §§91-2, 302A-1703) (Imp: HRS §§91-2, 302A-1703)

**§8-600-4 Government records.** (a) Government records of the authority or board shall be available for inspection during established business hours, pursuant to chapter 92F, HRS, rules adopted under that chapter, and any other applicable laws.

(b) Government records printed or reproduced by the authority or board shall be given to any person requesting a copy of the same by paying twenty-five cents per page. [Eff ] (Auth: HRS §§91-2, 302A-1703) (Imp: HRS §§91-2, 92-21, ch. 92F, §302A-1703)

**§8-600-5 Meetings, generally; conduct of meetings.** (a) The board may meet and exercise its powers in any part of the state. All meetings of the board shall be conducted in accordance with chapter 92, HRS.

(b) At each meeting, the board shall afford all interested persons an opportunity to submit data, views, or arguments as written testimony on any item on the meeting agenda. At each meeting, the board shall afford all interested persons an opportunity to present oral testimony on any item on the meeting agenda, provided that oral testimony pertaining to items to be taken in an executive meeting shall be presented in an open meeting prior to the executive meeting. The board may record oral testimony presented.

(c) The board may reasonably administer oral testimony so as to limit or prohibit any redundant, immaterial, impertinent, or scandalous testimony or to limit the amount of time for testimony, provided that the time limit per person per issue is equal.

(d) The presiding officer of a meeting of the board may remove any person who wilfully disrupts the meeting. [Eff \_\_\_\_\_] (Auth: HRS §§91-2, 92-3, 302A-1703) (Imp: HRS §§91-2, 92-3)

**§8-600-6 Computation of time.** In computing any period of time prescribed or allowed by these rules, order of the authority or board, or any applicable law, the day of the act, event, or default, after which the designated period of time is to run, shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or state holiday, in which event the period runs until the next day which is neither a Saturday, Sunday, or state holiday. Intermediate Saturdays, Sundays, and state holidays shall not be included in a computation when the period of time prescribed or

allowed is ten days or less. [Eff ]  
(Auth: HRS §§91-2, 302A-1703) (Imp: HRS §§91-2,  
302A-1703)

**§8-600-7 Severability.** If any section of this chapter is held invalid for any reason, the invalidity shall not affect the validity of the remaining sections of this chapter. [Eff ]  
(Auth: HRS §§91-2, 302A-1703) (Imp: HRS §§91-2, 302A-1703)

**§§8-600-8 to 8-600-10 (Reserved).**

## SUBCHAPTER 2

### RULEMAKING

**§8-600-11 Petitions for adoption, amendment, or repeal of rules.** (a) Any interested person or agency may petition the board to adopt, amend, or repeal any rule that is designed to implement, interpret, or prescribe law, policy, procedure, or practice requirements of the authority or board.

(b) The petition shall be filed in writing and shall include:

- (1) The petitioner's name, mailing address, and telephone number;
- (2) The petitioner's signature or the signature of the petitioner's authorized representative or attorney;
- (3) The text of any proposed rule or amendment or a designation of the rule sought to be repealed;
- (4) A statement of the nature of the petitioner's interest in the subject matter and the petitioner's reasons for seeking the

adoption, amendment, or repeal of the rule;  
and

(5) Any other information relevant to the petition.

(c) The board may require the petitioner to serve other persons or agencies known or believed to be interested in the proposed rulemaking.

(d) The board may dismiss any petition that fails to comply with the requirements of this section.

(e) Within thirty calendar days after the petition is filed, the board shall either deny the petition or initiate rulemaking procedures. The authority shall notify the petitioner in writing of the board's decision within thirty calendar days after the petition is filed, provided that if the board denies the petition, the notification shall state the reasons therefor.

(f) Nothing in this chapter prevents the authority or board, on its own motion, from acting on any matter disclosed in any petition.

[Eff \_\_\_\_\_ ] (Auth: HRS §§91-2, 91-6, 302A-1703) (Imp: HRS §§91-2, 91-6)

**§8-600-12 Notice of proposed rulemaking.** When the board proposes to adopt, amend, or repeal a rule, notice of proposed rulemaking shall be published as required by statute. [Eff \_\_\_\_\_ ] (Auth: HRS §§91-2, 302A-1703) (Imp: HRS §§91-2, 91-3, 92-41)

**§8-600-13 Conduct of hearings.** (a) Each rulemaking hearing shall be presided over by a hearings officer who shall be an employee of the authority designated by the authority's executive director or a member of the board designated by the board's chairperson. The hearing shall be conducted in a way to afford any interested person or agency a reasonable opportunity to be heard on matters specified in the notice of hearing and in a way to

obtain a clear and orderly record. The hearings officer may direct the order of statements, set time limits on statements, and take all action necessary for the orderly conduct of the hearing.

(b) At the commencement of the hearing, the hearings officer shall read the notice of hearing, or distribute copies of the notice and summarize it, and then outline briefly the procedure to be followed.

(c) All interested persons or agencies shall be given reasonable opportunity to speak with respect to the matters specified in the notice of hearing. Every individual shall, before presenting his or her statement, state his or her name, address, and whom the individual represents at the hearing, and shall give such other information regarding the individual's appearance as the hearings officer may request. The hearings officer shall confine the statements to the matters specified in the notice of the hearing. Every individual may be questioned by the hearings officer, but shall not be questioned by anyone else unless the hearings officer expressly permits it.

(d) In addition to or in place of oral statements at a hearing, persons and agencies may also file with the authority within five calendar days following the close of the hearing, or within such other time permitted by the hearings officer, written comments or recommendations regarding the proposed rulemaking.

(e) The hearings officer may determine if statements given at a rulemaking hearing will be recorded and the manner in which they are recorded. All supporting written statements and data received at the hearing, and which are deemed by the hearings officer to be authentic and relevant, shall be made a part of the record and shall be reported to the board. Unless otherwise specifically ordered by the board, statements given at the hearing shall not be reported verbatim.

(f) A rulemaking hearing shall be held at the time and place announced in the notice of hearing. The hearing may be continued by the hearings officer from day to day or adjourned to a later date or to a

different place without notice other than the announcement of the continuance or adjournment during or at the end of the hearing held at the scheduled time and place. [Eff \_\_\_\_\_ ] (Auth: HRS §§91-2, 302A-1703) (Imp: HRS §§91-2, 91-3)

**§8-600-14 Board action.** At the conclusion of the final public hearing, the board may make its decision on the proposed rulemaking or the hearings officer shall announce the date when the board shall make its decision. The board shall consider all relevant comments and material of record before taking final action at a meeting of the board. [Eff \_\_\_\_\_ ] (Auth: HRS §§91-2, 302A-1703) (Imp: HRS §§91-2, 91-3)

**§§8-600-15 to 8-600-20 (Reserved) .**

### SUBCHAPTER 3

#### DECLARATORY RULINGS

**§8-600-21 Petitions for declaratory rulings.**

(a) Any interested person or agency may petition to the board for a declaratory ruling as to the applicability of any statutory provision administered by the authority or board or any rule or order of the authority or board.

(b) The petition shall be filed in writing and shall include:

- (1) The petitioner's name, mailing address, and telephone number;
- (2) The petitioner's signature or the signature of the petitioner's authorized representative or attorney;



- (3) A designation of the specific statutory provision, rule, or order in question, together with a clear and concise statement of the controversy or uncertainty involved;
- (4) A full disclosure of the petitioner's interest in the subject matter, including the reason or grounds for submission of the petition;
- (5) A detailed statement of the facts;
- (6) A statement of the petitioner's position or contention; and
- (7) A memorandum containing a discussion of reasons and legal authorities in support of the petitioner's position or contention.

(c) The board may summarily dismiss any petition that fails to comply with the requirements of this section, or may require the petitioner to file additional data in support of the petition, or may offer a reasonable opportunity to correct any deficiencies in the petition.

(d) There is no right to a hearing on a petition for a declaratory ruling. At its discretion, the board may hold a hearing of any type it chooses before it rules on the petition. The board may appoint a hearings officer to conduct such a hearing.

(e) The board may, for good cause, refuse to issue a declaratory ruling. Good cause includes, but is not limited to, a finding by the board that:

- (1) The question is speculative or purely hypothetical and does not involve an existing situation or one that can reasonably be expected to occur in the near future;
- (2) The petitioner's interest is not of the type that would give the petitioner standing to maintain an action in a court of law based on the same factual and legal circumstances presented in the petition;
- (3) The statutory provision cited in the petition is not administered by the authority or board or the rule or order

cited in the petition is not a rule or order of the authority or board;

- (4) There is pending legislation or rulemaking that may address the petition;
- (5) The factual and legal circumstances presented in the petition are involved in a pending administrative or judicial proceeding that may result in a decision on the applicability of the statutory provision or rule or order cited in the petition; or
- (6) The question has already been determined by a prior declaratory ruling or an administrative or judicial order.

(f) Within a reasonable time after the petition is filed, the board shall either deny the petition, grant the petition, or grant part and deny part of the petition and issue a declaratory ruling if the petition is granted in whole or in part. The authority shall notify the petitioner in writing of the board's decision and the reasons therefor.

[Eff \_\_\_\_\_ ] (Auth: HRS §§91-2, 91-8, 302A-1703) (Imp: HRS §91-8)

**§§8-600-22 to 8-600-30 (Reserved) ."**

2. The adoption of chapter 8-600, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on XXX XX, 2024, and filed with the Office of the Lieutenant Governor.

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CHAD K. FARIAS  
Executive Director  
School Facilities Authority

APPROVED AS TO FORM:

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Deputy Attorney General