

NOTICE OF SCHOOL FACILITIES AUTHORITY BOARD MEETING

Date: July 6, 2023
Time: 8:30 a.m.
Board of Education
1390 Miller Street, Board Conference Room
Honolulu, Hawaii 96813
and
Teleconference via Zoom

Topic: School Facilities Authority Board Meeting - July 2023
Time: Jul 6, 2023 08:00 AM Hawaii

Join Zoom Meeting
<https://zoom.us/j/98116332160?pwd=S2piNHRBci9jN2RjK3FwWldCSjAzUT09>

Meeting ID: 981 1633 2160
Passcode: 674372

AGENDA

- I. Call to Order
- II. Roll Call and Determination of a Quorum
- III. Approval of the Meeting Minutes
 - Board Meeting – June 6, 2023
- IV. Public Testimony

Individuals may submit written testimony in advance of the meeting via email to sfaboard@hisfa.org, or by mail addressed to:

School Facilities Authority
75 Aupuni Street, Basement
Hilo, Hawaii 96720

Individuals interested in signing up to provide oral testimony at the meeting may submit their name, email, and phone number to sfaboard@hisfa.org. Individuals may provide oral testimony in person at the meeting and via the above-listed video conferencing link or by calling in to the above-listed telephone number.

- V. Update from the SFA Executive Director
 - Update on Act 257, SLH 2022
 - 2023 Legislative Session Report
 - Administrative Activities
 - Other updates
- VI. Update from the Department of Education
- VII. Discussion Item:
 - Board Policy on Land Transactions
 - Board Administrative Rules
 - SFA Strategic Plan Roadmap
- VIII. Board Action Item:
 - Board Permitted Interaction Group Composition (PIGs)
- IX. Additional Public Testimony
- X. Announcements
- XI. Adjournment

The School Facilities Authority Board will be meeting remotely using interactive conference technology. If the Video Conferencing Link cannot be maintained either with all Board members participating in the meeting, or with the public, the meeting shall be automatically recessed for up to thirty (30) minutes to allow staff to attempt to restore communication with all participating members. If communication by the Video Conferencing Link with all participating Board members is restored in those 30 minutes, the meeting will be reconvened. If communication by the Video Conferencing Link cannot be restored in those 30 minutes, the meeting may be reconvened using the audio-only communication at the above-listed telephone number only, if within 15 minutes of establishing audio-only communication, copies of nonconfidential visual aids brought to the meeting by Board members or as part of a scheduled presentation are made available to the public via <http://hisfa.org/>. If the meeting is not reconvened as provided above, the Board may continue the meeting by notifying the public of the date, time, and place of the meeting at <http://hisfa.org/>. Otherwise, the meeting will be automatically terminated.

If you require special assistance or auxiliary aids and/or services to participate in this meeting of the School Facilities Authority Board, please contact Cindy Watarida at (808) 430-5531, or by email at cindy.watarida@k12.hi.us at least 48 hours prior to the meeting so arrangements can be made. For further information, please contact Scott Fuji at scott.fuji@k12.hi.us.

SCHOOL FACILITIES AUTHORITY BOARD MEETING

MINUTES

Date: June 6, 2023
Time: 8:30 a.m.
Teleconference via Zoom

Members Present:

Alan Oshima, Chairperson
Harold Edwards
Bettina Mehnert
Candy Suiso

Staff Present:

Chad Keone Farias, Executive Director
Anne Horiuchi, Department of the Attorney General
Emma Christopherson, Department of the Attorney General
Ronald Rodriguez, Department of the Attorney General
Cindy Watarida
Greg Zabinski

AGENDA

- I. Call to Order – Chairperson Oshima called the meeting to order at 8:30 a.m.
- II. Roll Call and Determination of a Quorum – Three members were present at roll call. Quorum is established.
- III. Approval of the Meeting Minutes
 - Motion: To approve the May 2, 2023 meeting minutes.**
 - a. Movant: Edwards; Second: Suiso
 - b. Discussion: None
 - c. Vote: 4 Ayes (Oshima, Edwards, Suiso, Mehnert), 0 Noes, 0 Abstentions
 - d. Motion carries; minutes are approved.
- IV. Public Testimony - None
- V. Update from the SFA Executive Director
 - A. July SFA Board meeting date upcoming change due to the 4th of July holiday.
 - i. Noted that updates will be on the website; hisfa.org
 - B. Update on Act 257, 2022
 - i. Noting that more updates will be provided during the DOE update

scheduled later on the agenda.

C. Other Updates

- i. Legislative Updates: ED Farias
 - i. Bills that have passed still await Governor Green's signature.
 - 1. Anticipating further updates once the Governor decides to make his decisions ahead of the intent to veto deadlines.
 - ii. Website update
 - i. Procured a webmaster to assist with making the website more accessible and be more user friendly. Work set to be completed on July 31st.
 - iii. Administrative Rules:
 - i. Noted that the rules are with Deputy AGs for final review on formatting and approval.
 - ii. Member Edwards asked the AGs if they had a timetable on when the review for those rules would be completed and could be put out to public comment.
 - 1. Deputy Attorney Horiuchi: Latest draft went back to SFA yesterday and I believe that they are ready to go out for public comment.
 - iv. Administration: ED Farias
 - i. Working with DHRD on the 8 additional positions that were allocated in this current budget.
 - ii. Office space is being negotiated with DAGS and the property manager at One Kapiolani.
 - 1. Basic layout and quotes for furniture are prepared. Once lease is finalized the office can be moved into.
 - 2. Chair Oshima asked what the term of the lease is and if this was meant to be temporary space.
 - a. ED Farias noted that the SFA is looking for at least a 2 year lease term.
 - 3. Noted the availability of a board conference room.
 - 4. Member Suiso asked for clarification on where the office space is
 - a. ED Farias noted that it is off Kapiolani Blvd near Honolulu Hale.

VII. DOE Update: Camille Masutomi (HIDOE)

- A. Chief of Staff Masutomi noted the ongoing partnership work with the SFA on the Ready Keiki initiative.
 - i. Noted the continued work on the 11 classrooms scheduled for opening on August 2023 are continuing. Noted that all classrooms have had work commenced.
 - ii. Working on the next set of cohort classrooms for the next 19.
 - iii. Introduced Cherrisse Shikada from HIDOE Facilities who is helping to oversee this.
- B. Deputy Superintendent Otaguro
 - i. Glad to continue the work with SFA on pre-kindergarten expansion

- ii. Are working to look at additional sites for renovation at HIDOE schools
 - i. Cherisse Shikada noted that initial site assessments are underway
- iii. Noted continuing to look at opportunities for new build partnerships with SFA for the Central/Downtown area. Noting the ongoing conversation with the Complex Area Superintendents and YMCA. Working with existing contractor Bowers and Kubota about potential types of builds.
- iv. New School Builds: Central Maui Elementary/Middle, Grove Farm, East Kapolei
 - i. Noted that FIN Chair wants the DOE to work with the SFA on site identification. Recognize that there is a significant need for a middle school.
 - ii. Grove Farm land is available for SFA to move forward on Kauai for potential school development including pre-kindergarten opportunities.
 - iii. East Kapolei has parcels from D.R. Horton for a potential new high school that is needed in that area. 2 of the parcels are ready or near ready; each parcel would be a potential site for a high school or elementary school. Pre-kindergarten would like to be considered given the on-going mission and need.

VIII. Announcements

- A. No announcements were made

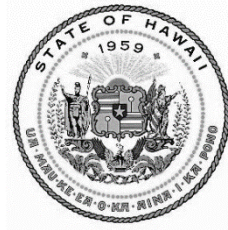
IX. Adjournment:

A. Motion to adjourn the meeting.

- i. Movant: Mehnert, Second: Edwards
- ii. Discussion: None
- iii. Vote: 4 Ayes (Oshima, Edwards, Mehnert, Suiso), 0 Noes, 0 Abstention.

- B. Motion carries; meeting adjourned at 9:25am

JOSH GREEN, M.D.
GOVERNOR



CHAD K. FARIAS
EXECUTIVE DIRECTOR

STATE OF HAWAII
SCHOOL FACILITIES AUTHORITY
75 AUPUNI STREET, STE. BASEMENT
HILO, HAWAII 96720

July 4, 2023

To: School Facilities Authority Board

From: Alan Oshima
Chairperson, School Facilities Authority Board

Agenda Item: Board action to annually review Permitted Interaction Groups for board composition and renewal

1. **EXECUTIVE SUMMARY**

- The School Facilities Authority Board (Board) has established several Permitted Interaction Groups (PIG) to engage the Board in various elements of the School Facilities Authority (SFA) work.
- As Board composition changes, the Board will find it valuable to reassess the composition and board member makeup of the PIGs on a regular basis, coinciding with the start of new terms for board members.

2. **BACKGROUND**

The Board has the statutory authority to create PIGs under HRS 302A-1704 in compliance with HRS Chapter 92 (Sunshine Law). The Board is limited to two or more board members, but less than a quorum. The Board, under HRS 302A-1704, has 5 voting members, limiting PIGs to a maximum of 2 board members.

The Board has created multiple PIGs since the appointment of the first board in 2021 to look into specific areas of the SFA's activities. These include rules, housing, act 257, and

legislation. As the Board enters its second year, no formal process for the review and enactment of PIGs has been discussed.

3. **DISCUSSION**

The Chair seeks to establish an annual review process for Board PIGs to include the types of PIGs and makeup of board membership on the PIGs.

Because board member terms are linked to the fiscal year, which ends in June and starts in July, I believe that it is most prudent to schedule this annual review during the July board meeting.

As the Chair, I am requesting that the Board review our existing PIGs, board composition of PIGs, and determine if any changes are necessary to the work of the SFA.

4. **RECOMMENDATION**

Based on the forgoing, I recommend the Board approve the review and establishment of board PIGs for the upcoming year, ending June 30, 2024.

Proposed Motion: “Moved to approve the review and establishment of permitted interaction groups (PIGs) for the period of July 6 2023 to June 30 2024.”



School Facilities Authority

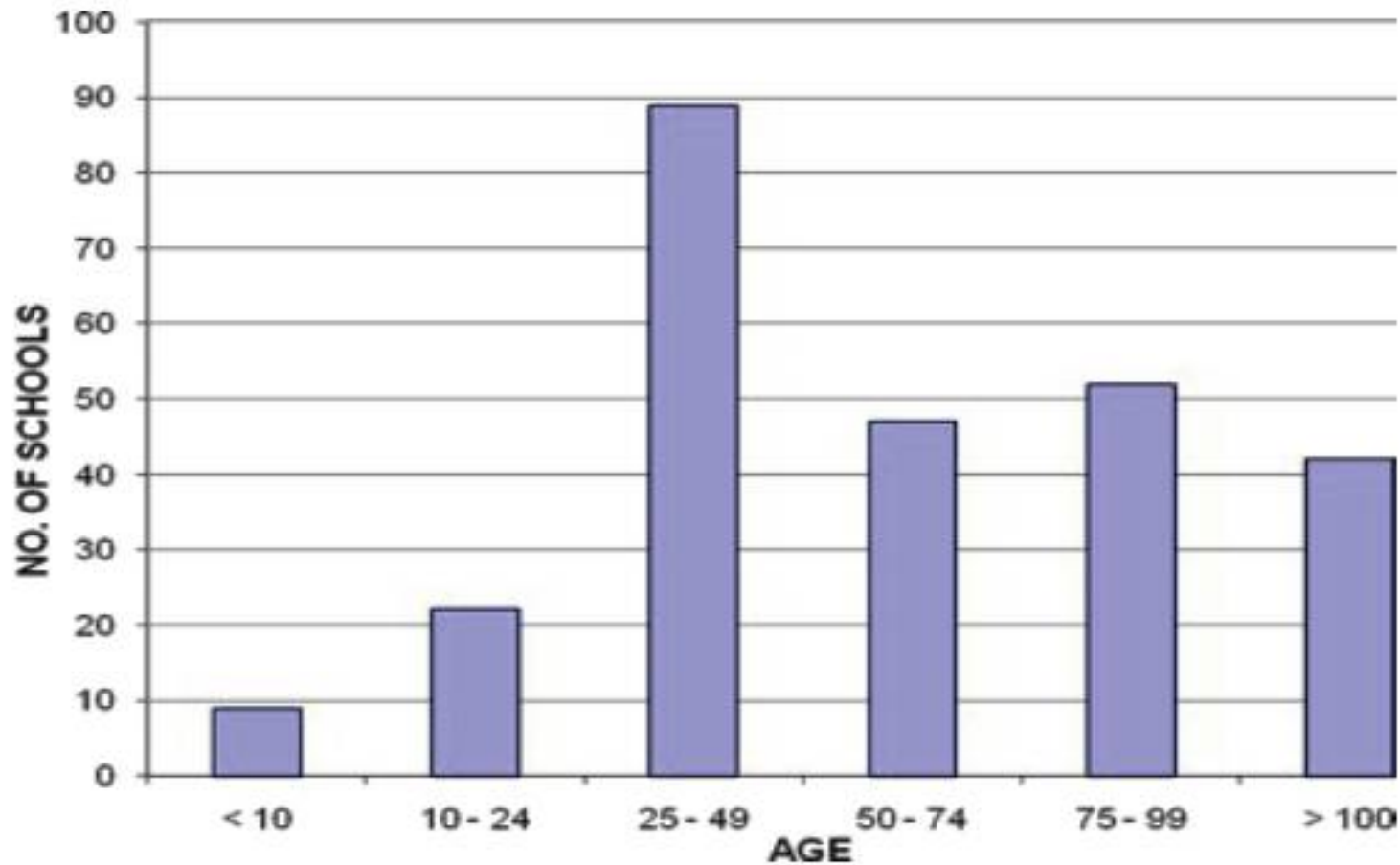
Overview and Strategic Framework June 2023

DRAFT DISCUSSION PURPOSES ONLY

State of DOE Facilities

- ▶ 12th largest school district in US -- 182,000 students
- ▶ 261 school campuses
- ▶ 4,425 individual buildings
- ▶ 20.7 million square feet of building space
- ▶ \$7.0 billion replacement value
- ▶ Uninspiring school design
- ▶ Situated on large acreages of land

Average School Age: 61 Years



Recent School Site Area Averages

HRS §302A-1602

- ▶ Elementary School -- 12.5 acres
- ▶ Middle School -- 16.5 acres
- ▶ High School -- 49.0 acres

*Historic schools constructed during 1997 to 2007

Foundational Questions

- ▶ How do we modernize our public school facilities?
- ▶ What is a 21st Century School?
- ▶ How do we pay for them?
- ▶ How do other states fund new school construction?

Researched & Policy-based Approach

- ▶ Reviewed Hawai`i's land use and construction laws
- ▶ National research on public land trusts and funding mechanisms
- ▶ National school site & thought leaders -- CA, AZ, WA, CO, TN, TX, NY, VA, DC
- ▶ Council for Educational Facilities Planners
- ▶ Planners, architects, developers, school superintendents, bankers

National Experts



Colorado Governor Roy Romer



Balfour Beatty
Construction

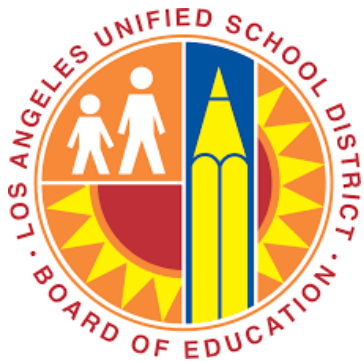
21st CENTURY
SCHOOL FUND
IMPROVING URBAN PUBLIC
SCHOOL FACILITIES



FORESTCITY



School Sites & Land Trusts



Department of
Education



Discover a World of Opportunity™



Public Finance Roundtable

Morgan Stanley

Goldman
Sachs

J.P.Morgan

 RBC
Capital
Markets

Bank of America[®]



BMO 

BMO Capital Markets

Land Use Studies

- ▶ The Halstrom Group
 - Evaluation of 238 Schools
 - Zoning, assessed value
 - Land value: \$4.5 billion
- ▶ Jones Lang Lasalle
 - Review revenue models for targeted Hawai`i schools




Jim Halstrom



Legislative Leadership

- ▶ **Act 309 (SLH 2012).** Ensures that revenues generated go into a Special Fund dedicated for 21st Century Schools;
- ▶ **Act 155 (SLH 2013).** Identifies three pilot projects for 21st Century School development;
- ▶ **Act 210 (SLH 2018).** Transfers public school lands to the DOE, and authorizes the development of public school lands to advance public education;
- ▶ **Act 72 (SLH 2020).** Omnibus legislation that established the School Facilities Authority to utilize and develop public school lands.



ACT 72 (SLH 2020) Relating to School Facilities Agency

- ▶ Establishes a new agency responsible for new school construction e.g., 21st Century Schools
- ▶ Use and development of public school lands
- ▶ Executive director appointed; Five member board
- ▶ Repair & maintenance remains at DOE
- ▶ Enter into public-private partnerships; authority to issue bonds
- ▶ ACT 155 -- pilot projects

SFA Six-Part Strategy



I. Leverage Underutilized Lands

- ▶ Identify and utilize vacant or underutilized lands
- ▶ Explore joint-use of parcels, long-term leases, land swaps
- ▶ All uses for commercial, residential, public or other purposes must be COMPATIBLE with school and community needs

II. Engage in Public Private Partnerships

- ▶ Partner with private sector to build schools and joint use of parcels
- ▶ Utilize public and private resources
- ▶ Public land, financing, tax credits, expertise, resources
- ▶ Blueprint: Military Housing Privatization Initiative

III. Engage the Community

- ▶ Schools as part of the community, rather than a separate activity
- ▶ Collaborative learning and use of facilities and resources
- ▶ Active planning amongst students, teachers, community, business and government stakeholders

IV. Legal & Policy Reform

- ▶ Empower SFA to develop land for educational purposes
- ▶ Transfer lands to DOE
- ▶ Create a public school land trust to better manage and develop lands
- ▶ Enable the SFA to engage in Public-private-partnerships

V. Develop a Financing Mechanism

- ▶ Utilize public and private revenue and debt financing tools
- ▶ Provide incentives to build, maintain and manage school facilities
- ▶ Joint-development agreements to share costs of school and community facilities
- ▶ Tax credits and business incentives

VI. Develop Long-Range Systemic Plan

- ▶ Systemic approach is essential
- ▶ Land Use Development & Financing Plan
- ▶ Need to address equity issues in the allocation of resources and building of schools
- ▶ All schools and all neighborhoods need to be addressed

VII. Short Term Actions

- ▶ Basic operations, staffing & set-up
 - *Access & collaboration with DOE
- ▶ Administrative Rules and procedures
- ▶ Pre-School Construction -- \$200M
- ▶ Act 155 – Select pilot projects
- ▶ Transfer of Lands
- ▶ Affordable Housing Mandate -- \$50M
- ▶ Strategic Planning Outline – September 2023
- ▶ School Facilities Summit – October 2023



MAHALO!

DEPARTMENT OF EDUCATION

Adoption of Chapter 8-600
Hawaii Administrative Rules

XXX XX, 2023

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

"HAWAII ADMINISTRATIVE RULES

TITLE 8

DEPARTMENT OF EDUCATION

SCHOOL FACILITIES AUTHORITY

CHAPTER 600

Subchapter 1 Rules of General Applicability

§8-600-1	Definitions
§8-600-2	Government records
§8-600-3	Time computation
§8-600-4	Rulemaking procedure
§8-600-5	Petition for declaratory ruling
§8-600-6	Severability

Subchapter 2 School Facilities Authority Board

§8-600-7	Meetings
§8-600-8	Submittals and requests of a petitioner
§8-600-9	Quorum
§8-600-10	Minutes

§8-600-1

§8-600-11 Authentication of board action
§8-600-12 Executive director
§8-600-13 Delegation of administrative duties

SUBCHAPTER 1

RULES OF GENERAL APPLICABILITY

§8-600-1 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.

"Department" means the department of education.

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

[Eff] (Auth: HRS §302A-1703) (Imp: HRS §302A-1703)

§8-600-2 Government records. The term "government records" has the same meaning as is defined in section 92F-3, HRS, and includes rules, written statements of policy or interpretation formulated, adopted, or used by the board in its functions, all decisions, orders, minutes of board meetings, and records of any docket on file with the board. Disclosure of these government records is subject to chapter 92F, HRS. [Eff]

(Auth: HRS §§91-2, 302A-1703) (Imp: HRS §§91-2, 92-21, 302A-1703)

§8-600-3 Time computation. (a) In computing any period of time prescribed or allowed by these rules, order of the authority, 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.

(b) Upon written request to the executive director, additional time will be granted to take actions or to file documents or other papers required or allowed by these rules where good cause is clearly shown. [Eff _____] (Auth: HRS §91-2) (Imp: HRS §91-2)

§8-600-4 Rulemaking procedure. (a) The board may initiate the rulemaking procedure upon its own motion or in response to a petition for the adoption, amendment, or repeal of any rule, which is designed to implement, interpret, or prescribe law, policy, organization, procedure, or practice requirements of the board.

(b) Any person or agency may submit a petition to the board for the adoption, amendment, or repeal of any rule. The petition shall:

- (1) Set forth the text of any proposed rule or amendment or specify the rule proposed to be repealed;

- (2) State concisely 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
- (3) Include any facts, views, arguments, and data deemed relevant by the petitioner.

A request for the adoption, amendment, or repeal of a rule that fails in any material respect to comply with the requirements set forth in this section may not be considered by the board. Within thirty days following the filing of a petition for rulemaking, the board shall review and consider the petition. The board may deny the petition or initiate rulemaking proceedings set forth in this section. The authority shall notify the petitioner in writing within thirty days of the board action.

(c) If the board finds that an imminent peril to public health, safety, or morals requires adoption, amendment, or repeal of a rule upon less than thirty days' notice of hearing, and states in writing its reason for the finding, it may proceed without prior notice or hearing or upon abbreviated notice and hearing as it finds practicable to adopt an emergency rule to be effective for a period of not longer than one hundred twenty days without renewal.

(d) When the board proposes to adopt, amend, or repeal a rule, notice of proposed rulemaking shall be published at least once statewide at least thirty days prior to the date set for public hearing.

(e) The authority shall appoint a duly qualified hearing officer to preside over the public hearing. The hearing shall be conducted in a way as to afford interested persons a reasonable opportunity to present evidence and to be heard on matters relevant to the issues. The presiding officer shall have authority to take all actions which are necessary to the orderly conduct of the hearing.

(f) All supporting written statements and data offered in evidence at the hearing, and which are

deemed by the presiding officer to be authentic and relevant, shall be received and made a part of the record, and shall be reported to the board. Unless otherwise specifically ordered by the board, testimony given at the hearing shall not be reported verbatim.

(g) Following the final public hearing, the board shall consider all relevant comments and material of record and shall take final action in a rulemaking proceeding. [Eff _____] (Auth: HRS §§91-2, 91-6) (Imp: HRS §§91-3, 91-6)

§8-600-5 Petition for declaratory ruling. (a)

Any person or agency may submit a petition to the board to issue a declaratory ruling as to the applicability of any statutory authority and include a complete statement of the facts prompting the petition, together with full disclosure of the petitioner's interest.

(b) Upon receipt of the petition, the board may require the petitioner to file additional data or a memorandum of legal authorities in support of the position taken by the petitioner.

(c) Without notice or hearing, the board may dismiss a petition for declaratory ruling which fails in material respect to comply with the requirements of this chapter.

(d) 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 board may order such proceeding set down for hearing. Any petitioner or party in interest who desires a hearing on a petition for declaratory ruling, shall set forth in detail:

- (1) 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

- (2) To the extent that such request for hearing is dependent upon factual assertion, affidavits establishing such fact shall accompany such request.

(e) Notwithstanding the other provisions of this chapter, the board may, on its own motion or upon request but without notice of hearing, issue a declaratory order to terminate a controversy or to remove uncertainty. [Eff _____] (Auth: HRS §91-8) (Imp: HRS §91-8)

§8-600-6 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) (Imp: HRS §91-2)

SUBCHAPTER 2

SCHOOL FACILITIES AUTHORITY BOARD

§8-600-7 Meetings. (a) The board may meet and exercise its powers in any part of the state. All meetings of the board shall be open to the public, except that the board may meet in executive session as permitted under chapter 92, HRS, from which the public may be excluded.

(b) The board shall use the current edition of Robert's Rules of Order, Newly Revised, to conduct its meetings, provided that use of this parliamentary procedure does not conflict with chapter 91, HRS, or these rules.

(c) A schedule of the regular meetings to be held in the coming year will be prepared and submitted to the board at its regular December meeting.

(d) Special meetings shall be held at such times and places as the board may determine, or may be called by the chairperson at such time and place as the chairperson may determine, and must be called by the chairperson upon written request of three or more members of the board filed with the executive director. Notice of any special meeting must be given to each member of the Authority board at least seventy-two (72) hours prior to the date of such special meeting. At such special meeting no business shall be considered other than as designated in the notice pursuant to section 92-7, HRS.

(e) The board may hold an emergency meeting that complies with the requirements set forth in section 92-7, HRS, and under the conditions specified in section 92-8, HRS.

(f) Every meeting of the board shall be open to the public, unless otherwise closed pursuant to sections 92-4 and 92-5, HRS. Any person shall be afforded an opportunity to present written or oral testimony on any item on the meeting agenda. The chairperson may impose a time limit on testimony to ensure an orderly and efficient meeting. [Eff] (Auth: HRS §§92-3, 92-7, 92-8) (Imp: HRS §§92-7, 92-8)

§8-600-8 Submittals and requests of a petitioner. (a) All submittals and requests requiring action by the board shall be made in writing and filed with the authority at least fourteen days before the date of a scheduled meeting.

(b) Up to five calendar days before a meeting or proceeding, a petitioner may file an affidavit alleging that one or more of the board members has a personal bias or prejudice. Every such affidavit

§8-600-8

shall state the facts and reasons for the belief that bias or prejudice exists. Any board member against whom the affidavit is filed may not answer the affidavit in which case the majority of remaining board members shall decide whether that board member should be disqualified from the meeting or proceeding. [Eff] (Auth: HRS §91-2) (Imp: HRS §91-2)

§8-600-9 Quorum. Unless otherwise provided by law, a majority of all the members to which the board is entitled constitutes a quorum to transact business, and the concurrence of a majority of all the members to which the board is entitled also shall be necessary to make a board decision valid. [Eff] (Auth: HRS §92-15) (Imp: HRS §92-15)

§8-600-10 Minutes. The board shall keep written minutes of all meetings. Unless otherwise required by law, neither a full transcript nor a recording of the meeting shall be required. The written minutes shall give a true reflection of the matters discussed at the meeting and the views of the participants. The minutes shall be submitted for approval at the next regular meeting of the board. All approved minutes shall be available for inspection by any interested person. [Eff] (Auth: HRS §92-9) (Imp: HRS §92-9)

§8-600-11 Authentication of board action. All actions, decisions, and orders of the board requiring authentication shall be signed by the chairperson, or in the chairperson's absence by the vice-chairperson.

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, 2023, and filed with the Office of the Lieutenant Governor.

Chad K. Farias
Executive Director
School Facilities Authority

APPROVED AS TO FORM:

Deputy Attorney General

DEPARTMENT OF EDUCATION

Adoption of Chapter 8-600,
Hawaii Administrative Rules

XXX XX, 2023

SUMMARY

Chapter 8-600, Hawaii Administrative Rules,
entitled "School Facilities Authority", is adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 8

DEPARTMENT OF EDUCATION

SCHOOL FACILITIES AUTHORITY

Chapter 600

Subchapter 1 Rules of General Applicability

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§8-600-2	Government records
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Subchapter 2 School Facilities Authority Board

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[Eff _____] (Auth: HRS §302A-1703) (Imp: HRS §302A-1703)

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- (3) Include any facts, views, arguments, and data deemed relevant by the petitioner.

A request for the adoption, amendment, or repeal of a rule that fails in any material respect to comply with the requirements set forth in this section may not be considered by the board. Within thirty days following the filing of a petition for rulemaking, the board

shall review and consider the petition. The board may deny the petition or initiate rulemaking proceedings set forth in this section. The authority shall notify the petitioner in writing within thirty days of the board action.

(c) If the board finds that an imminent peril to public health, safety, or morals requires adoption, amendment, or repeal of a rule upon less than thirty days' notice of hearing, and states in writing its reason for the finding, it may proceed without prior notice or hearing or upon abbreviated notice and hearing as it finds practicable to adopt an emergency rule to be effective for a period of not longer than one hundred twenty days without renewal.

(d) When the board proposes to adopt, amend or repeal a rule, notice of proposed rulemaking shall be published at least once statewide at least thirty days prior to the date set for public hearing.

(e) The authority shall appoint a duly qualified hearing officer to preside over the public hearing. The hearing shall be conducted in a way as to afford interested persons a reasonable opportunity to present evidence and to be heard on matters relevant to the issues. The presiding officer shall have authority to take all actions which are necessary to the orderly conduct of the hearing.

(f) All supporting written statements and data offered in evidence at the hearing, and which are deemed by the presiding officer to be authentic and relevant, shall be received and made a part of the record, and shall be reported to the board. Unless otherwise specifically ordered by the board, testimony given at the hearing shall not be reported verbatim.

(g) Following the final public hearing, the board shall consider all relevant comments and material of record and shall take final action in a rulemaking proceeding. [Eff _____] (Auth: HRS §§91-2, 91-6) (Imp: HRS §§91-3, 91-6)

§8-600-5 Petition for declaratory ruling. (a)

Any person or agency may submit a petition to the board to issue a declaratory ruling as to the applicability of any statutory authority and include a complete statement of the facts prompting the petition, together with full disclosure of the petitioner's interest.

(b) Upon receipt of the petition, the board may require the petitioner to file additional data or a memorandum of legal authorities in support of the position taken by the petitioner.

(c) Without notice or hearing, the board may dismiss a petition for declaratory ruling which fails in material respect to comply with the requirements of this chapter.

(d) 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 board may order such proceeding set down for hearing. Any petitioner or party in interest who desires a hearing on a petition for declaratory ruling, shall set forth in detail:

- (1) 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
- (2) To the extent that such request for hearing is dependent upon factual assertion, affidavits establishing such fact shall accompany such request.

(e) Notwithstanding the other provisions of this chapter, the board may, on its own motion or upon request but without notice of hearing, issue a declaratory order to terminate a controversy or to remove uncertainty. [Eff _____] (Auth: HRS §91-8) (Imp: HRS §91-8)

§8-600-6 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) (Imp: HRS §91-2)

SUBCHAPTER 2

SCHOOL FACILITIES AUTHORITY BOARD

§8-600-7 Meetings. (a) The board may meet and exercise its powers in any part of the state. All meetings of the board shall be open to the public, except that the board may meet in executive session as permitted under chapter 92, HRS, from which the public may be excluded.

(b) The board shall use the current edition of Robert's Rules of Order, Newly Revised, to conduct its meetings, provided that use of this parliamentary procedure does not conflict with chapter 91, HRS, or these rules.

(c) A schedule of the regular meetings to be held in the coming year will be prepared and submitted to the board at its regular December meeting.

(d) Special meetings shall be held at such times and places as the board may determine, or may be called by the chairperson at such time and place as the chairperson may determine, and must be called by the chairperson upon written request of three or more members of the board filed with the executive director. Notice of any special meeting must be given to each member of the Authority board at least seventy-two (72) hours prior to the date of such special meeting. At such special meeting no business shall be considered other than as designated in the notice pursuant to section 92-7, HRS.

(e) The board may hold an emergency meeting that complies with the requirements set forth in section

92-7, HRS, and under the conditions specified in section 92-8, HRS.

(f) Every meeting of the board shall be open to the public, unless otherwise closed pursuant to sections 92-4 and 92-5, HRS. Any person shall be afforded an opportunity to present written or oral testimony on any item on the meeting agenda. The chairperson may impose a time limit on testimony to ensure an orderly and efficient meeting. [Eff] (Auth: HRS §§92-3, 92-7, 92-8) (Imp: HRS §§92-7, 92-8)

§8-600-8 Submittals and requests of a petitioner. (a) All submittals and requests requiring action by the board shall be made in writing and filed with the authority at least fourteen days before the date of a scheduled meeting.

(b) Up to five calendar days before a meeting or proceeding, a petitioner may file an affidavit alleging that one or more of the board members has a personal bias or prejudice. Every such affidavit shall state the facts and reasons for the belief that bias or prejudice exists. Any board member against whom the affidavit is filed may not answer the affidavit in which case the majority of remaining board members shall decide whether that board member should be disqualified from the meeting or proceeding. [Eff] (Auth: HRS §91-2) (Imp: HRS §91-2)

§8-600-9 Quorum. Unless otherwise provided by law, a majority of all the members to which the board is entitled constitutes a quorum to transact business, and the concurrence of a majority of all the members to which the board is entitled also shall be necessary to make a board decision valid. [Eff] (Auth: HRS §92-15) (Imp: HRS §92-15)

§8-600-10

§8-600-10 Minutes. The board shall keep written minutes of all meetings. Unless otherwise required by law, neither a full transcript nor a recording of the meeting shall be required. The written minutes shall give a true reflection of the matters discussed at the meeting and the views of the participants. The minutes shall be submitted for approval at the next regular meeting of the board. All approved minutes shall be available for inspection by any interested person. [Eff _____] (Auth: HRS §92-9) (Imp: HRS §92-9)

§8-600-11 Authentication of board action. All actions, decisions, and orders of the board requiring authentication shall be signed by the chairperson, or in the chairperson's absence by the vice-chairperson. [Eff _____] (Auth: HRS §91-2) (Imp: HRS §91-2)

§8-600-12 Executive director. (a) An executive director shall be appointed by the board in accordance with subpart C of part VI, chapter 302A, HRS. The salary of the executive director shall be set by the board.

(b) The executive director serves as the authority's chief executive officer and chief procurement officer.

(c) The executive director shall prepare the agenda for all board meetings in consultation with the chairperson.

(d) The executive director shall hire personnel and contract with consultants necessary to fulfill the purposes of the authority and shall report hires and contracts to the board. [Eff _____] (Auth: HRS §302A-1702) (Imp: HRS §302A-1702)

§8-600-13 Delegation of administrative duties. (a)

The board may delegate to the executive director any power or authority vested in the board as it deems reasonable and proper for the effective administration of the authority, except any power or authority expressly reserved to the board by statute or rule.

(b) The board may appoint a hearing officer to conduct a proceeding for a declaratory ruling as provided in these rules and pursuant to the requirements of chapter 91, HRS. [Eff]
(Auth: HRS §302A-1703) (Imp: HRS §302A-1703)

DEPARTMENT OF EDUCATION

Chapter 8-600, Hawaii Administrative Rules, on the Summary Page dated XXX XX, 2023, was adopted on XXX XX, 2023, following a public hearing held on XXX XX, 2023, after public notice was given in the Honolulu Star-Advertiser, The Garden Island, The Maui News, Hawaii Tribune-Herald, and West Hawaii Today on XXX XX, 2023.

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

CHAD K. FARIAS
Executive Director
School Facilities Authority

APPROVED:

JOSH GREEN, M.D.
GOVERNOR, STATE OF HAWAII

Date: _____

APPROVED AS TO FORM:

Deputy Attorney General

File

