

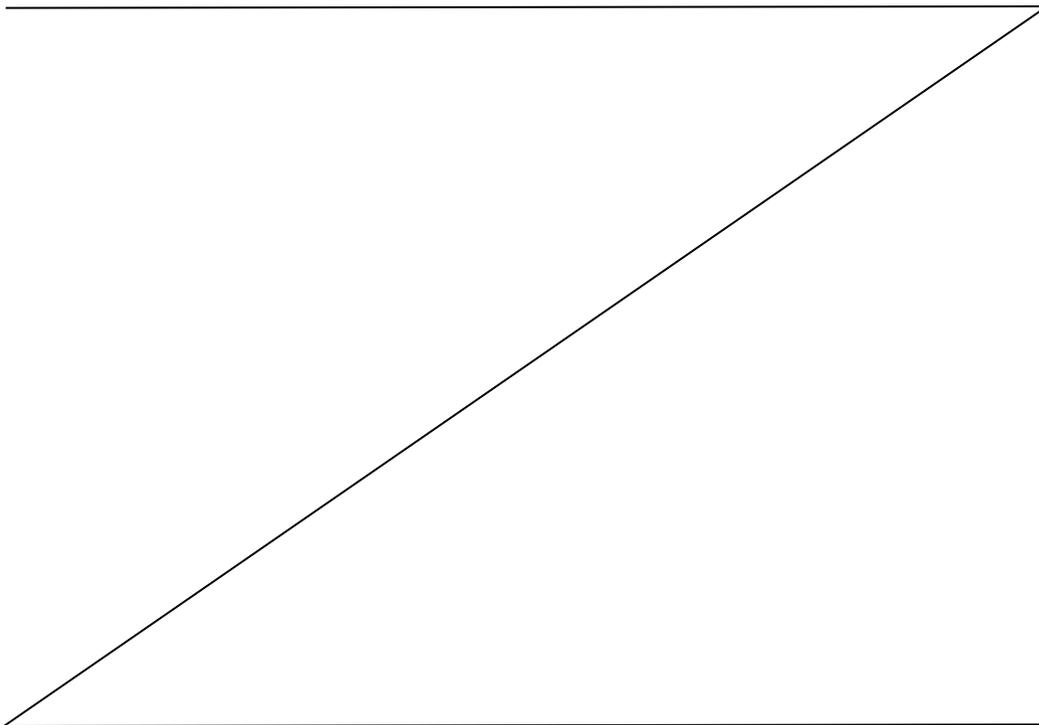
UNIVERSITY OF HAWAII

Repeal of Chapter 20-30 and  
Adoption of Chapter 20-30.1  
Hawaii Administrative Rules

( \_\_\_\_\_ )

1. Chapter 20-30, Hawaii Administrative Rules, entitled "Rules of Practice and Procedure", is repealed.

2. Chapter 20-30.1, Hawaii Administrative Rules, entitled "Rules of Practice and Procedure", is adopted to read as follows:



"HAWAII ADMINISTRATIVE RULES

TITLE 20

UNIVERSITY OF HAWAII

SUBTITLE 2

STATE BOARD FOR CAREER AND TECHNICAL EDUCATION

CHAPTER 30.1

RULES OF PRACTICE AND PROCEDURE

Subchapter 1 Rules of General Applicability

- §20-30.1-1 Administrative practice and procedure
- §20-30.1-2 Definitions

Subchapter 2 Rules Applicable to Contested Cases

- §20-30.1-3 General
- §20-30.1-4 Delegation of powers
- §20-30.1-5 Procedure
- §20-30.1-6 Rules of evidence; official notice
- §20-30.1-7 Examination of evidence
- §20-30.1-8 Decisions and orders
- §20-30.1-9 Consultation by officials

SUBCHAPTER 1

RULES OF GENERAL APPLICABILITY

§20-30.1-1 **Administrative practice and procedure.** The rules of practice and procedure for the State Board for Career and Technical Education shall be as provided in the rules of practice and procedure of the board of regents for the University of Hawaii within subchapter 2 (§§20-1.1-8 through 20-1.1-13), subchapter 3, and subchapter 4 of chapter 20-1.1, Hawaii Administrative Rules, which are incorporated by reference and made a part of this chapter. [Eff \_\_\_\_\_] (Auth: HRS §§91-2, 304A-302) (Imp: HRS §§91-2, 304A-302)

§20-30.1-2 **Definitions.** (a) As used in this chapter, unless the context specifically requires otherwise:

“Board” means the State board for career and technical education.

(b) Unless otherwise specifically stated, the terms used in rules promulgated by the board pursuant to powers granted by statute shall have the meaning defined by such statute.

(c) A rule which defines a term without express reference to the statute or to the rules or a portion thereof, defines such terms for all purposes as used both in the statute and in the rules, unless the context otherwise specifically requires.

(d) Use of gender and number. Words importing the singular number may extend and be applied to several persons or things and words importing the plural may include the singular. Words importing the masculine gender may be applied to the feminine and neuter gender. [Eff \_\_\_\_\_] (Auth: HRS §§91-2, 304A-302) (Imp: HRS §§91-2, 304A-301, 304A-302)

SUBCHAPTER 2

RULES APPLICABLE TO CONTESTED CASES

§20-30.1-3 **General.** (a) Procedures to be followed by the board shall, unless specifically prescribed in this chapter or by chapter 91, HRS, or other statutory provisions, be such as in the opinion of the board will best serve the purposes of such hearings. Cases shall be conducted fairly and impartially.

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

(c) The board may voluntarily withdraw or dismiss a case it brings, and any other party may voluntarily withdraw or dismiss a case upon order of the board and upon such terms and conditions that the board deems proper. [Eff ] (Auth: HRS §§91-2, 304A-302) (Imp: HRS §§91-9, 304A-301, 304A-302)

§20-30.1-4 **Delegation of powers.** The board shall have the power to delegate the power to hear contested cases. [Eff ] (Auth: HRS §§91-2, 304A-302) (Imp: HRS §§91-2, 304A-302)

§20-30.1-5 **Procedure.** (a) In any contested case, all parties shall be afforded an opportunity for hearing after reasonable notice.

- (b) The notice shall include a statement of:
- (1) The date, time, place, and nature of 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 board in support thereof; provided that, if the board 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 thereafter upon application a bill of particulars shall be furnished.
  - (5) The fact that any party may appear on their own behalf or may retain counsel if so desired.
- (c) Opportunities shall be afforded all parties to present evidence and argument on all issues involved.
- (d) 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.
- (e) For the purpose of decisions, the record 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 exceptions.
  - (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.
- (f) It shall not be necessary to transcribe the record unless requested for purposes of rehearing or court review.
- (g) No matters outside the record shall be

§20-30.1-5

considered by the board in making its decision except as provided in this chapter.

(h) Any contested cases provided for by rules established by the board shall, at a minimum, comply with the rules of procedure and evidence set forth in the rules of this subchapter. Any contested case hearing procedure required by federal or State law or regulation shall take precedence over the procedures established by this subchapter or by any rule established by the board. [Eff \_\_\_\_\_ ]  
(Auth: HRS §§91-2, 304A-302) (Imp: HRS §§91-2, 91-9, 304A-302)

§20-30.1-6 **Rules of evidence; official notice.**

(a) Any oral or documentary evidence may be received but the board or hearing officer shall as a matter of policy provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence and no sanction shall be imposed or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the reliable, probative and substantial evidence. The board or hearing officer shall give effect to the rules of privilege recognized by law.

(b) Documentary evidence may be received in the form of copies or 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.

(c) Every party shall have the right to conduct such cross-examination as may be required for a full and true disclosure of the facts, and shall have the right to submit rebuttal evidence.

(d) The board or hearing officer may take notice of judicially recognizable facts. In addition, they may take notice of generally recognized technical or scientific facts within the board's or hearing officer's specialized knowledge; but parties 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.

(e) Except as otherwise provided by law, the party initiating the proceeding shall have the burden of proof, including the burden of producing evidence as well as the burden of persuasion. The degree or quantum of proof shall be a preponderance of the evidence.

(f) Any documents filed in a contested case, other than evidence, shall conform to the requirements of the board's rules of practice and procedure. In addition, all such documents shall be written in ink, typewritten or printed, shall be plainly legible, shall be on strong durable paper, not larger than 8-1/2" x14" in size except that tables, charts, and other documents may be larger, folded to the size of the documents to which they are attached. [Eff

] (Auth: HRS §§91-2, 304A-302) (Imp: HRS §§91-2, 91-10, 304A-302)

§20-30.1-7 **Examination of evidence.** Whenever in a contested case the officials of the Board who are to render the final decision have not heard and examined all of the evidence, the decision, if adverse to a party to the proceeding other than the board itself, shall not be made until a proposal for decision containing a statement of reasons and including determination of each issue of fact or law necessary to the proposed decision has been served upon the parties, and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to the officials of the Board who are to render the decision, who shall personally consider the whole record or such portions thereof as may be cited by the parties. [Eff ] (Auth: HRS §§91-2, 304A-302) (Imp: HRS §§91-2, 91-11, 304A-302)

§20-30.1-8

§20-30.1-8 **Decisions and orders.** Every decision and order adverse to a party to the proceeding, rendered by the board in a contested case, shall be in writing or stated in the record and shall be accompanied by separate findings of fact and conclusions of law. If any party to the proceeding has filed proposed findings of fact, the board shall incorporate in its decision a ruling upon each proposed finding so presented. Parties to the proceeding shall be notified by delivering or mailing a certified copy of the decision and order and accompany findings and conclusions within a reasonable time to each party or to the party's attorney of record. [Eff \_\_\_\_\_] (Auth: HRS §§91-2, 304A-302) (Imp: HRS §§91-2, 91-12, 304A-302)

§20-30.1-9 **Consultation by officials.** No official of the board who renders a decision, or hearing officer who makes a recommended decision, in a contested case shall consult any person on any issue of fact except upon notice and opportunity for all parties to participate, save to the extent required for the disposition of ex parte matters authorized by law." [Eff \_\_\_\_\_] (Auth: HRS §§91-2, 304A-302) (Imp: HRS §§91-2, 91-13, 304A-302)

3. This simultaneous repeal of chapter 20-30 and adoption of chapter 20-30.1, 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 Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on \_\_\_\_\_ and filed with the Office of the Lieutenant Governor.

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RANDOLPH G. MOORE  
Chairperson, State Board for  
Career and Technical  
Education

APPROVED AS TO FORM:

University of Hawaii

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Deputy Attorney General