

HAWAII ADMINISTRATIVE RULES

TITLE 8

DEPARTMENT OF EDUCATION

SUBTITLE 5

CHARTER SCHOOLS

CHAPTER 501

STATE PUBLIC CHARTER SCHOOL COMMISSION

RULES OF PRACTICE AND PROCEDURE

§8-501-1	Purpose
§8-501-2	Definitions
§8-501-3	Office and office hours
§8-501-4	Meetings, generally; conduct of meetings
§8-501-5	Government records
§8-501-6	Computation of time

§8-501-1 **Purpose.** This chapter governs the practice and procedure before the state public charter school commission under chapter 302D, HRS, and shall be construed to effectuate the purposes of that chapter and to secure the just and efficient determination of every proceeding. [Eff 11/30/14; comp] (Auth: HRS§302D-3.5) (Imp: HRS §91-2)

§8-501-2 **Definitions.** As used in this chapter:
"Board" means the board of education.
"Chairperson" means the chairperson of the state public charter school commission.

"Commission" means the state public charter school commission established pursuant to section 302D-3, Hawaii Revised Statutes, as a statewide authorizer.

"Executive director" means the executive director of the state public charter school commission.

"Government record" shall be as defined in section 92F-3, Hawaii Revised Statutes. [Eff 11/30/14; am and comp] (Auth: HRS §302D-3.5) (Imp: HRS §§91-2, 92F-3)

§8-501-3 **Office and office hours.** (a) The office of the commission is in Honolulu, Hawaii. All communications to the commission shall be addressed to the commission's office unless otherwise directed by the commission.

(b) The office of the commission shall be open from 7:45 a.m. to 4:30 p.m., each day of the week except Saturdays, Sundays, and holidays unless otherwise provided by statute or executive order. [Eff 11/30/14; comp] (Auth: HRS§302D-3.5) (Imp: HRS §91-2)

§8-501-4 **Meetings, generally; conduct of meetings.** (a) The commission may meet and exercise its power in any part of the State of Hawaii. All meetings shall be conducted in accordance with chapter 92, Hawaii Revised Statutes.

(b) The commission shall afford all interested persons an opportunity to submit data, views, arguments or present oral testimony on any agenda item in an open meeting. The commission may provide for the recordation of oral testimony presented.

(c) The commission may reasonably administer oral testimony so as to limit testimony of excessive duration or limit or prohibit any redundant, immaterial, impertinent, or scandalous testimony or to limit the amount of time for testimony per individual or per issue.

(d) The chairperson may remove any person who willfully disrupts a meeting. [Eff 11/30/14; comp] (Auth: HRS§302D-3.5) (Imp: HRS §§91-2, 92-3, 92-7)

§8-501-5 **Government records.** (a) All government records of the commission shall be available for inspection in the office of the commission during established office hours, unless public inspection of these records is prohibited by law.

(b) Government records printed or reproduced by the commission shall be given to any person requesting the same by paying twenty-five cents per page whether transmitted by hard copy or by electronic means. [Eff 11/30/14; comp] (Auth: HRS §92-21, HRS§302D-3.5) (Imp: HRS §§91-2, 92F-11)

§8-501-6 **Computation of time.** The time in which any act provided in this chapter or any rule, policy, or procedure of the commission is to be done is computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or holiday and then it is also excluded. Unless otherwise specified in these rules, when the prescribed period of time is less than seven days, Saturdays, Sundays, or legal holidays within the designated period shall be excluded in the computation. [Eff 11/30/14: comp] (Auth: SLH 2013, SB 244, §2) (Imp: HRS §91-2)

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CHAPTER 502

STATE PUBLIC CHARTER SCHOOL COMMISSION

PROCEEDINGS BEFORE THE COMMISSION

§8-502-1	General
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§8-502-4	Computation of time
§8-502-5	Continuance or extension of time
§8-502-6	Amendment of documents
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§8-502-8	Public information
§8-502-9	Commission decision
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§8-502-12	Consolidations

§8-502-1 **General.** The commission, on its own motion, or on petition of any interested person, group, organization, or agency may hold proceedings as it may deem necessary from time to time for the purpose of obtaining information necessary or helpful in the determination of its policies, the carrying out of its duties, or the formulation of its rules. The procedures of the commission, unless specifically prescribed by its administrative rules or by chapter 91, Hawaii Revised Statutes, shall be devised as in

the opinion of the commission will best serve the
purposes of the proceedings. [Eff
(Auth: HRS §302D-3.5) (Imp: HRS §§91-2, 91-6, 92-16,
302D-3.5)

§8-502-2 **Filing of documents.** (a) All pleadings, submittals, petitions, reports, exceptions, briefs, memoranda, and other papers required to be filed with the commission in any proceeding shall be filed with the commission chairperson. The papers may be sent by mail or hand-carried to the commission's office within the time limit, if any, for the filing. The date on which the paper is actually received by the commission shall be deemed to be the date of filing.

(b) All papers filed with the commission shall be written in ink, typewritten, mimeographed, or printed; shall be plainly legible; shall be on strong durable paper; not larger than 8 1/2" x 14" in size, except that tables, charts, and other documents may be larger, folded to the size of the documents to which they are attached.

(c) All papers shall be signed in ink by the party signing the papers or the party's duly authorized agent or attorney. The signature of the person signing the document constitutes a certification that the person has read the document; that to the best of the person's knowledge, information, and belief every statement contained in the instrument is true and no statements are misleading; and that it is not submitted for the purpose of delay.

(d) Unless otherwise specifically provided by a particular chapter or order of the commission, an original and nine copies of all papers shall be filed unless the papers are printed.

(e) The initial document filed by any person in any proceeding shall state on the first page thereof who may be served with any documents filed in the

proceeding. [Eff] (Auth: HRS §302D-3.5) (Imp: HRS §302D-3.5)

§8-502-3 **Docket.** The commission chairperson shall maintain a docket of all proceedings and each proceeding shall be assigned a number. [Eff] (Auth: HRS §302D-3.5) (Imp: HRS §302D-3.5)

§8-502-4 **Computation of time.** In computing any period of time prescribed by chapters 8-501 to 8-503, or order of the commission, the day of the act, event, or default, after which the designated period of time is to run, is not to be included unless it is a Saturday, Sunday, or legal holiday in the State, in which event the period runs until the next day which is neither a Saturday, Sunday, nor a holiday. Immediate Saturdays, Sundays, and holidays shall not be included in a computation when the period of time prescribed or allowed is ten days or less. A half holiday shall be considered as other days and not as a holiday. [Eff] (Auth: HRS §302D-3.5) (Imp: HRS §§1-29, 302D-3.5)

§8-502-5 **Continuance or extension of time.** Whenever a person or agency has a right or is required to take action within the period prescribed or allowed by chapters 8-501 to 8-503, by notice given thereunder or by an order, the commission or executive director, before the expiration of the prescribed period, with or without notice, may extend the period or, upon motion, permit the act to be done after the expiration of a specified period where the failure to act is clearly shown to be the result of excusable neglect. [Eff] (Auth: HRS §302D-3.5) (Imp: HRS §302D-3.5)

§8-502-6 **Amendment of documents.** If any document initiating or filed in a proceeding is not in substantial conformity with the applicable rules of the commission as to the contents thereof, or is otherwise insufficient, the commission, on its own motion, or on motion of any party, may strike or dismiss the document or require its amendment. If amended, the document shall be effective as of the date of the original filing. [Eff]
(Auth: HRS §302D-3.5) (Imp: HRS §302D-3.5)

§8-502-7 **Retention of documents by the commission.** All documents filed with or presented to the commission may be retained in the files of the commission. However, the commission may permit the withdrawal of original documents upon submission of properly authenticated copies to replace the documents. [Eff] (Auth: HRS §302D-3.5)
(Imp: HRS §302D-3.5)

§8-502-8 **Public information.** (a) Unless otherwise provided by statute, rule, or order of the commission, all information contained in any pleading, submittal, petition, statement, recommendation, report, or other document filed with the commission pursuant to the requirements of a statute or rule or order of the commission shall be available for inspection by the public.

(b) Confidential treatment may be requested where authorized by statute. For good cause shown, the commission shall grant the request.

(c) Matters of public record may be inspected in the office of the commission during regular office hours. Copies of matters of public record shall be furnished to any person upon request and upon payment of the actual cost thereof as set forth in section 8-501-5(b). [Eff] (Auth: HRS §302D-3.5) (Imp: HRS §302D-3.5)

§8-502-9 **Commission decision.** All final orders, opinions or rulings entered by the commission in a proceeding and rules adopted by the commission shall be certified and served upon the parties or persons participating in the proceeding by regular mail or personal delivery by the commission and shall be released for general publication. Copies of published materials shall be available for public inspection in the office of the commission or may be obtained upon request and upon payment of charges, if any. [Eff] (Auth: HRS §302D-3.5) (Imp: HRS §§91-2, 302D-3.5)

§8-502-10 **Counsel for the commission.** The attorney general or a designated representative serving in the attorney general's capacity as counsel for the commission, shall be a party to all proceedings governed by chapters 8-501 to 8-503. The attorney general or designated representative shall be designated as "Counsel for the Commission", and shall be served with copies of all papers and documents as are all other parties to the same proceeding. [Eff] (Auth: HRS §302D-3.5) (Imp: HRS §302D-3.5)

§8-502-11 **Substitution of parties.** Upon motion and for good cause shown, the commission may order substitution of parties, except that in case of death of a party, substitution may be ordered without the filing of a motion. [Eff] (Auth: HRS §302D-3.5) (Imp: HRS §302D-3.5)

§8-502-12 **Consolidations.** The commission, upon its own initiation or upon motion, may consolidate for hearing or for other purposes two or more proceedings which involve substantially the same parties, or

issues which are the same or closely related, if it finds that consolidation will be conducive to the proper dispatch of its business, will not unduly delay the proceedings, and will not impair the rights of any party to the proceedings. [Eff] (Auth: HRS §302D-3.5) (Imp: HRS §302D-3.5)

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CHAPTER 503

STATE PUBLIC CHARTER SCHOOL COMMISSION

RULES APPLICABLE TO RULEMAKING PROCEEDINGS

§8-503-1	Notice of proposed rulemaking
§8-503-2	Conduct of hearing
§8-503-3	Commission action
§8-503-4	Emergency rulemaking
§8-503-5	Petitions for adoption, amendment, or repeal of rules

§8-503-1 **Notice of proposed rulemaking.** (a)
When pursuant to a petition therefor, or upon its motion, the commission proposes to adopt, amend or repeal a rule, notice of proposed rulemaking shall be published at least once statewide and posted on the Internet as provided in section 91-2.6, Hawaii Revised Statutes. The notice shall also be mailed to all persons who filed a timely written request with the commission for advance notice of the commission's rulemaking proceedings. All notices shall be issued at least thirty days prior to the date set for public hearing. Where a written request for advance notice is filed by a person less than thirty days prior to the date set for public hearing, the notice shall be

mailed on the next business day and emailed to the person on the same business day upon receiving the written request.

(b) A notice of the proposed adoption, amendment, or repeal of a rule shall include all information required by statute. [Eff]
(Auth: HRS §302D-3.5) (Imp: HRS §§91-2, 302D-3.5)

§8-503-2 **Conduct of hearing.** (a) Unless otherwise specifically directed by the commission, all public hearings shall be held at Honolulu when the entire State or where two or more islands thereof are affected by the proposed adoption, amendment, or repeal of a rule. When a matter affects only an island or district other than Oahu, then the hearing shall be held on that island or in that district.

(b) Each hearing shall be presided over by a presiding officer who shall be a commission staff person as determined appropriate by the executive director or a member of the commission as approved by the commission's chairperson. The hearing shall be conducted in a way as to afford interested persons a reasonable opportunity to be heard on matters relevant to the issues involved and to obtain a clear and orderly record. The presiding officer shall have authority to administer oaths or affirmations and to take other actions that are necessary to the orderly conduct of the hearing.

(c) Each hearing shall be held at the date, time, and place set in the notice of hearing, but thereafter may be continued by the presiding officer from day to day at the same time and place or to a later date or to a different place without notice other than the announcement at the previous hearing.

(d) At the commencement of the hearing, the presiding officer shall read the notice of hearing and shall then outline briefly the procedure to be followed. Evidence shall then be received with respect to the proposed rulemaking in the order prescribed by the presiding officer.

(e) All interested persons, organizations or agencies shall be given a reasonable opportunity to offer evidence and submit data, views, or arguments with respect to the proposed rulemaking. Every witness before proceeding to testify, shall state the witness' name, address, and whom the witness represents, if any, at the hearing, and shall give other information respecting the witness' appearance as the presiding officer may request. The presiding officer shall confine the evidence to the questions before the hearing but shall not apply the technical rules of evidence. Every witness shall be subject to questioning by the presiding officer, other commission members, or the commission's attorney, but cross-examination by private persons shall not be permitted except with the express permission of the presiding officer.

(f) Persons, organizations, or agencies may also file with the commission within the time period specified in the notice of proposed rulemaking a written protest or other comments or recommendations in support of or in opposition to the proposed rulemaking. The period for filing may be extended by the commission by publishing a notice at least once statewide.

(g) Unless otherwise specifically ordered by the commission or the presiding officer, testimony given at the hearing shall be reported and shall be approved by the commission. 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 in evidence and made a part of the record. Unless the presiding officer finds that the furnishing of copies is impracticable, an original and nine copies of all exhibits shall be submitted. [Eff _____] (Auth: HRS §302D-3.5) (Imp: HRS §§91-9, 92-16, 302D-3.5)

§8-503-3 **Commission action.** At the final public hearing, the commission may make its decision or the presiding officer shall announce the date when the commission's decision shall be made. The commission shall consider all relevant comments and material of record before taking final action in a rulemaking proceeding. [Eff] (Auth: HRS §302D-3.5) (Imp: HRS §302D-3.5)

§8-503-4 **Emergency rulemaking.** Notwithstanding sections 8-503-1 through 8-503-4, if the commission finds that an imminent peril to public health, safety, or morals requires the 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. [Eff] (Auth: HRS §302D-3.5) (Imp: HRS §§91-3, 302D-3.5)

§8-503-5 **Petitions for adoption, amendment, or repeal of rules.** (a) Any interested person, organization, or agency may petition the commission 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 commission.

(b) Petitions for rulemaking shall conform to the requirements of section 8-502-2. A petition for rulemaking shall set forth the text of any proposed rule or amendment or specify the rule proposed to be repealed; shall state concisely the nature of petitioner's interest in the subject matter and petitioner's reasons for seeking the adoption, amendment, or repeal of the rule; and shall include

any facts, views, arguments, and data deemed relevant by the petitioner. A request for the adoption, amendment, or repeal of a rule which does not conform to the requirements set forth in this section may not be considered by the commission.

(c) Petitions for rulemaking shall be given a docket number and shall become matters of public record upon filing. The commission, within thirty days following the filing of the petition, shall either deny the Petition in writing or initiate public rulemaking proceedings as set forth in sections 8-503-1 to 8-503-4. No public hearing or other proceedings shall be held with respect to the determination whether to deny the petition or initiate public rulemaking proceedings. Where the commission determines that the petition does not disclose sufficient reasons to justify the institution of public rulemaking proceedings, or where the petition for rulemaking fails, in material respect, to comply with the requirements of these rules, the commission shall deny the petition and the petitioner shall be so notified together with the grounds for denial.

(d) The provisions of this section, however, shall not operate to prevent the commission, on its own motion, from acting on any matter disclosed in any petition. [Eff _____] (Auth: HRS §302D-3.5) (Imp: HRS §§91-6, 302D-3.5)