

CHAPTER 1

GENERAL PROVISIONS

PURPOSE

The purpose of this chapter is to provide information of general applicability to HHSC's Human Resources and Civil Service System Rules.

APPLICABILITY

HHSC's Human Resources and Civil Service System Rules contain rules that are applicable to all of HHSC's employees. Certain rules are limited in applicability to only certain types of employees—for example, civil service employees not covered by collective bargaining agreements. Each particular rule must be examined to determine the applicability of the rule to the various types of HHSC employees.

DEFINITIONS

“Administrative review” means a reevaluation of a recruitment/examination, classification, reclassification, or initial pricing decision in accordance with the provisions set forth in these rules, and in such procedures as may be established by the Vice President/Director of Human Resources (“VP/DHR”).

“Appointing authority” means the President/Chief Executive Officer, Regional Chief Executive Officer, hospital administrator or designee having the power to make appointments or changes in the status of employees.

“Chief executive” means the President/CEO of HHSC.

“Civil service employee” is an employee in a civil service position who has met all requirements for membership under section 76-27, HRS.

“Civil service position” is a position within HHSC that is not exempt from civil service law and that must be filled through civil service recruitment procedures based on merit.

“Civil service law” means chapter 76 of the Hawaii Revised Statutes, as amended. Unless the context of a specific rule or these definitions clearly indicate otherwise, all terms used in these Rules shall have the same meaning as in the civil service law.

“Class” or “class of work” means a group of positions that reflect sufficiently similar duties and responsibilities such that the same pay range may apply to each position allocated to the class.

“Classification” means the process of establishing an occupational framework and grouping positions on the basis of the kind and level of work and knowledge, skills, competencies and qualifications required.

“Director” means the Vice President/Director of Human Resources (“VP/DHR”).

“Employee” or “public employee” means any person holding a position in the service of HHSC, irrespective of status or type of appointment; provided that, if the context clearly applies only to an employee who is a member of the civil service, “employee” means a civil service employee; provided further that, if the context clearly applies only to an exempt employee, “employee” means an exempt employee.

“Examination” means any test or accepted personnel assessment technique used to measure the fitness and ability of applicants for employment which may include, but are not limited to: employment applications, background and suitability determinations, interviews, probationary periods, tests of physical fitness or ability, medical examinations, performance tests, and training and experience evaluations.

“Exclusive representative” means the employee organization certified by the Hawaii Labor Relations Board under section 89-8, HRS, as the collective bargaining agent to represent all employees in an appropriate bargaining unit without discrimination and without regard to employee organization membership.

“Excluded employee” means an employee who is not represented by a collective bargaining agent in an appropriate bargaining unit pursuant to section 89-6, HRS.

“Exempt employee” means a person who is appointed to and who occupies a position exempted from the civil service pursuant to sections 46-33, 76-16, 323F-8, HRS, or other applicable law.

“Included employee” means an employee who is represented by a collective bargaining agreement in an appropriate bargaining unit.

“Initial pricing” means the determination of the appropriate pay range and pay relationships for a new class based on appropriate factors.

“Initial probation period” means the probation period required of a person entering the state civil service that is the final test of the person’s fitness and ability for the position before acquiring membership in the civil service.

“Policies” means policies of the HHSC Human Resources Department that have gone through the consultation process with the exclusive bargaining representatives of HHSC’s employees (*e.g.*, harassment policy, equal employment opportunity policy).

“Probationary employee” means any employee, included or excluded, who has yet to complete a probationary period provided by Section 76-27 HRS or HHSC’s rules.

“Reclassification” means a change in the class to which a position is allocated based on a change in the significant duties and responsibilities of the position.

“Recruitment” means the process of locating and screening applicants for employment.

“Repricing” means changing an existing class from its present pay range to another pay range in the same salary schedule based on appropriate factors.

“Rules” means the HHSC Human Resources and Civil Service System Rules, contained in Chapters 1- 12 of this document.

“Salary schedule” means a table of pay rates and ranges.

“Suitability” means fitness for employment after consideration of such factors as physical and mental ability, character, criminal history record, licenses, and employment record.

“Temporary employee” means any employee whose appointment is for a limited period of time. Temporary employees may be serving under (1) civil service appointments where the appointment has a limitation date or (2) limited-term non-civil service appointments.

SCOPE OF RULES

These Rules shall not be deemed or interpreted to change any term in any of the collective bargaining agreements to which HHSC is a party.

INCORPORATION BY REFERENCE

HHSC’s Policies (as defined above), Leave Manual, and Civil Service Classification Manual are hereby incorporated by reference into these Rules.

PUBLIC INFORMATION

The public may request information about the Human Resources Department’s Rules and Policies by inquiring in person at the Corporate Office, 3675 Kilauea Avenue, Honolulu, Hawaii 96816, or by submitting a request in writing to the Vice President/Director of Human Resources at the same address.

The Rules and Policies of the Human Resources Department (including the Civil Service Classification Manual and Leave Manual) are on file and available for public inspection at the Corporate Office. Copies of the Rules and Policies are available to the public at a price to be fixed by HHSC Corporate Policy to cover mailing and publication costs. The Rules of the Human Resources Department will also be available on the HHSC website.

CHAPTER 2 EMPLOYMENT

PURPOSE

The purpose of this chapter is to establish and describe the Hawaii Health Systems Corporation's human resources employment program whose core is the civil service system based on the merit principle. The merit principle contemplates the selection of persons based on their fitness and ability for public employment and the retention of employees based on their demonstrated appropriate conduct and productive performance.

The HHSC human resources program shall be administrated in accordance with the following:

- (1) Equal opportunity for all in compliance with all laws prohibiting discrimination. No person shall be discriminated against in examination, appointment, reinstatement, reemployment, promotion, transfer, demotion, or removal, with respect to any position when the work may be efficiently performed by the person without hazard or danger to the health and safety of the person or others;
- (2) Impartial selection of individuals for public service by means of competitive tests which are fair, objective, and practical;
- (3) Incentives for competent employees within the service, whether financial or promotional opportunities and other performance based group and individual awards that encourage continuous improvement to achieve superior performance;
- (4) Reasonable job security for competent employees and discharge of unnecessary or inefficient employees with the right to grieve and appeal personnel actions through the:
 - (a) Contractual grievance procedure for employees covered by collective bargaining agreements; or
 - (b) Internal complaint procedures and the merit appeals board for covered non-union employees;
- (5) Equal pay for equal work shall apply between classes in the same bargaining unit among jurisdictions for those classes determined to be equal through systematic classification of positions based on objective criteria and adequate job evaluation unless it has been agreed in accordance with Chapter 89 to negotiate the repricing of classes; and
- (6) Harmonious and cooperative relations between HHSC and its employees including, employee organizations representing them, to develop and maintain a well-trained, efficient, and productive work force that utilizes advanced technology to ensure effective government operations and delivery of public services.

APPLICABILITY

This chapter applies to all HHSC employees to the extent indicated by the context of the paragraphs.

TYPES OF APPOINTMENTS

There are two basic types of appointments for employment with HHSC: civil service appointments and non-civil service appointments. Each is described below.

Civil Service Appointment

An employee is granted a civil service appointment when the appointment is the result of civil service recruitment procedures. A civil service appointment may be made to a temporary or permanent position in the civil service. An applicant who receives a civil service appointment does not become a member of the civil service until completing a probationary period and otherwise meeting the requirements of these Rules and section 76-27, HRS.

Non – Civil Service Appointment

Casual appointment – The appointing authority may make a non-civil service part-time or full-time temporary appointment of not more than eighty-nine (89) consecutive calendar days provided that:

- (1) The appointing authority certifies that the employee will perform duties characteristic of the class; and
- (2) The employee should be fully qualified by experience and ability to perform the duties of the position.

The casual appointment may be extended by the Vice President/Director of Human Resources (VP/DHR)/Designee with a break in service under the following conditions:

- (1) The appointing authority determines that there are no interested and available candidates to fill the vacancy or the appointing authority is unable to make a selection following the interview process; or
- (2) The appointing authority determines that it is impracticable to fill the position by civil service recruitment procedures and allow for completion of an initial probation period.

Exempt Appointments – The VP/DHR shall create positions exempted from civil service as permitted by sections 76-16, 46-33, 323F-8, HRS, or as may otherwise be permitted by law. The VP/DHR may also exempt a position temporarily when a position is pending establishment of a new class or may exempt a position permanently when the establishment of a class is impracticable. Exempt appointments also include positions that have a narrow limitation period that precludes completion of probation. The VP/DHR shall review on a periodic basis the exempt positions to determine whether such positions should

continue to be exempt and may revoke a previously authorized exemption when the particular position or services no longer meets the criteria or conditions for exemption.

RECRUITMENT FOR APPOINTMENTS

Civil Service. All positions in HHSC, with the exception of positions exempted under applicable statutes, shall be filled through civil service recruitment procedures based on merit. If a civil service appointment has a limitation date (not to exceed--NTE), all applicants for the position will be informed of the limitation date.

Exempt Service. The following provisions apply to the recruitment for exempt appointments:

- (1) All positions and persons in the exempt service are excluded from the requirements of selection by merit competition and from civil service status.
- (2) Except as provided by statute, the requirements of position classification and compensation may not be applicable.
- (3) Persons exempted from the civil service should be fully qualified by experience and ability to perform the duties of the position.
- (4) Where position classification is applicable, the applicant for the exempt class must meet the minimum qualification requirements for the class.
- (5) Compensation for those employees whose positions are converted from the exempt to civil service status shall be determined by the VP/DHR, in consultation with the applicable exclusive representative, as appropriate.
- (6) As determined by the VP/DHR, recruitment for exempt positions may be similar to civil service recruitment procedures, as applicable.

Standards. These recruitment procedures shall be administered in accordance with sections 76-1 and 78-1, HRS, and are used to determine, establish, and maintain the manner in which civil service positions and non-civil service positions are to be filled. The VP/DHR shall seek continuous improvements to streamline the recruitment process so that positions are filled in the most economic, efficient and expeditious manner as possible.

Citizenship and Residence. All employees in the service of HHSC shall be citizens, nationals, or permanent resident aliens of the United States or eligible under federal law for employment in the United States as well as residents of the State during their employment with HHSC. The VP/DHR may approve the hiring of an applicant without consideration of these requirements when services essential to the public interest require highly specialized technical, medical, administrative and/or scientific skills, knowledge and experience for critical-to-fill and labor shortage positions. However, prior to beginning work with HHSC, any such applicant must establish his or her right to work in the United States and at the time of the appointment certify that he or she intends to reside in the State of Hawaii during the course of the employment.

Evaluation of Training, Experience and HHSC Standards of Fitness. The training and experience portion of all applications will be screened and evaluated using standards set by the applicable class specifications and by the HHSC standards of fitness.

Application evaluation will determine the applicability and currency of the applicant's employment history; conformance with licensure, certification or credentialing requirements; the existence of any criminal convictions that would make an applicant ineligible for hire; and other suitability for employment criteria that the VP/DHR deems appropriate. Applications submitted to HHSC shall constitute official examination records.

The VP/DHR or designee may reject any application for employment because of, but not limited to, any one of the following reasons:

- (1) Failure to meet the minimum qualification requirements of the class specifications or other public employment requirements;
- (2) Deception, fraud, or providing false or misleading statements of material facts in the application or examination process;
- (3) Submission of defective or incomplete application;
- (4) Refusal or failure to furnish documents required to verify any statements made in the application;
- (5) Not having the required license, certification or credentialing requirements of the affected class;
- (6) Any record of misconduct or criminal conduct that bears a rational relationship to the duties and responsibilities of the affected class.

The VP/DHR or designee may appoint subject matter consultants to assist in the preparation and evaluation of applications and evaluation materials. Applicants who are not qualified for an applied position will be provided written notice of their non-qualification.

Interviews. Only those applicants who meet the minimum qualification standards of the class and HHSC standards of fitness will be considered for the interview process. However, only those applicants who meet the particular requirements of a position will be interviewed or if there are no particular requirements, then the respective Regional CEO will make the determination of the number of applicants who will be interviewed. Interviewers will evaluate and rank the applicants as applicable and will provide written justifications for the selection or non-selection of the interviewed applicants. All interviewed applicants will be provided written notice of their selection or non-selection.

Suitability for Employment. All applicants who are offered employment with HHSC shall demonstrate their suitability for employment by:

- (1) passing a pre-employment controlled substance drug test;
- (2) passing a pre-employment suitability check that may include local and national criminal history checks;
- (3) passing a pre-employment physical and medical history check.
- (4) receiving substantiated and appropriate reference checks.

Recruitment Incentives. Within limits set forth and as authorized by the VP/DHR, appointing authorities may pay for all or a portion of the travel and moving expenses to enhance the recruitment of persons applying for critical-to-fill and labor shortage positions. The VP/DHR may also approve of other recruitment incentives such as shortage differentials, hiring above the minimum or recruitment bonuses.

Internal Complaint Procedures: Administrative Review, Formal Complaint Process. An applicant not qualified for an applied position or not selected for a civil service position vacancy may request the following:

- (1) Administrative Review – Within twenty (20) calendar days from the date of the notice, a letter or HHSC form available at the various HR offices within the jurisdiction or HHSC website requesting an Administrative Review must be received by the appointing authority.
- (2) Formal Complaint Process, if the applicant is not satisfied with the decision of the Administrative Review – Within twenty (20) calendar days from the date the Administrative Review decision was sent via certified mail, the applicant must complete and submit a form to the President/CEO or Designee.
- (3) An appeal with the HHSC Merit Appeals Board – Within twenty (20) calendar days from the date the written decision from the Formal Complaint Process was sent via certified mail, an appeal must be completed and submitted to the HHSC Merit Appeals Board.

Applicants for non-civil service position openings are not entitled to the foregoing processes. See Chapter 11 of the Rules for detailed information regarding Administrative Review and appeals.

SELECT PRIORITY PROGRAM

In accordance with section 386-142, HRS, former employees who were released due to inability to work because of a work-related injury shall have re-employment rights until such time that the employee secures new employment. Re-employment of qualified persons from the select priority list will be done before any recruitment process is begun.

In order to be considered for re-employment, a written request shall be submitted by the employee to the Corporate Human Resources Office. Eligible employees who meet the minimum qualifications and physical requirements of the identified position will be referred to the vacant positions for consideration and shall be given first preference for re-employment provided that the placement of the employee into the identified position does not result in either a promotion or a higher based salary or a different type of appointment. If the appointing authority or designated representative finds that the employee is suitable and is capable of performing in that position, the employee shall be appointed to that position.

LAYOFF RIGHTS

Eligible civil service employees who have been laid off from HHSC have recall rights to certain positions. Those employees are entitled to priority recall before opening up the recruitment process. See Chapter 10 of these rules.

PROBATIONARY SERVICE AND OTHER REQUIREMENTS FOR MEMBERSHIP IN THE CIVIL SERVICE

Initial Probation Period.

- (1) The initial probation period shall be utilized as part of the examination process to determine the employee's fitness and ability for employment in the position and the civil service.
- (2) An employee who is granted a civil service appointment must serve an initial probation period.
- (3) An employee must meet the performance requirements of the position as measured by a formal performance appraisal in order to successfully complete the initial probation period.
- (4) The initial probation period shall be for a period of six (6) months provided the VP/DHR may establish a longer period for a class of work when such an extended probation is necessary to adequately train and evaluate the employee.
- (5) Upon written notification to the employee and before the expiration of the initial probation period, the appointing authority may extend the initial probation period for up to six (6) additional months because of the employee's absence during the period or because additional time is needed to evaluate the employee's performance. The VP/DHR's approval must be obtained if the initial probation period is extended beyond the additional six (6) months.
- (6) If an employee is terminated at HHSC's discretion during or at the end of the initial probation period or any extension thereof, the Internal Complaint Procedures will apply to the termination.

New Probation Period. An employee who is promoted or transferred to another position in the civil service may be required to successfully serve a new probation period as part of the examination process to determine the employee's fitness and ability for the new position. The employee shall be entitled to all the rights and privileges of a member of the civil service, except the right to appeal a release from the new position (as distinguished from discharge from the service) for inefficiency during the probationary period. If the employee is released for inefficiency, the employee shall be returned to the former position or a comparable position, unless an agreement has been reached for an included employee that precludes a return to the former position or a comparable position.

Appointment with a Limitation Date and Probationary Period. An employee serving an appointment with a limitation date may subsequently be appointed to the same position or a related position in the same class within the department when a permanent position is established or is vacated; provided that the employee was hired initially through civil service recruitment procedures and the period of service as a temporary appointee immediately preceded the appointment to the permanent position. The period of service performed as a temporary appointee may be credited toward the probationary period if the appointing authority certifies that the employee has been performing satisfactorily and that the duties the employee has been performing are essentially similar to those required of the probationary appointment. Upon such certification, the period of service performed as a temporary appointee shall be credited toward fulfilling the required probation period and the employee shall serve only the remainder of the probation period, if any.

CHAPTER 3 CLASSIFICATION AND COMPENSATION

PURPOSE

The purpose of this chapter is to provide for the development and maintenance of classification systems for the objective, consistent and timely classification of all positions and for the reasonable and consistent assignment of classes of positions to appropriate pay ranges.

APPLICABILITY

This chapter applies to all of HHSC's civil service employees and to appropriate non-civil service employees.

POSITION CLASSIFICATION SYSTEM

Development and Maintenance. The Vice President/Director of Human Resources (VP/DHR) shall establish, implement and maintain one or more classification systems covering all civil service positions and such non-civil service positions as may be appropriate. Information regarding HHSC's classification systems is contained in HHSC's civil service classification manual, which is incorporated herein by reference.

Establishment of Standards. The classification systems shall be constructed with the objective of achieving equal pay for equal work as provided in Section 76-1, HRS, and shall be consistent with merit system principles.

Appeal Rights for Classification Actions. The VP/DHR shall adopt guidelines that allow for the administrative review of classification, reclassification and initial pricing actions. The request for an administrative review shall be submitted within twenty (20) calendar days following the notice of the classification or reclassification actions to the Regional Chief Executive Officer, while pricing and creation of new classes' decisions, must be submitted to the Corporate HR Office. After the administrative review process for a classification or reclassification action, the claimant may file an appeal using the Formal Complaint Process, while appeals for initial pricing and creation of new classes actions may be taken to the HHSC Merit Appeals Board. Details of the Administrative Review and appeal processes are contained in Chapters 11 and 12 of these Rules.

COMPENSATION SYSTEM

Assignment of New Classes to Pay Ranges and/or Bands. The VP/DHR shall assign new classes to appropriate bands/ranges consistent with guidelines established in accordance with applicable law and HHSC's civil service classification manual.

Evaluation of Classes for Assignment to Pay Ranges/Bands.

- (1) Classes which are substantially equal shall be assigned to the same pay range.
- (2) Significant differences between classes in complexity, responsibility, qualification requirements and/or working conditions shall be reflected in the relative difference in assignment to pay ranges.

Repricing. HHSC shall periodically review the appropriate pricing of civil service classes in accordance with applicable law. The repricing of classes based on the results of the periodic review shall be at the discretion of HHSC.

CHAPTER 4 COMPENSATION ADJUSTMENTS AND INCENTIVES

PURPOSE

The purpose of this chapter is to provide a system for making compensation adjustments.

APPLICABILITY

This chapter applies to all HHSC employees to the extent indicated by the context of the paragraphs.

COMPENSATION ADJUSTMENTS

Included Employees. Compensation adjustments for employees covered by collective bargaining are based on the applicable collective bargaining agreements.

Excluded Employees. The Vice President/Director of Human Resources shall determine compensation adjustments for excluded employees in accordance with Chapter 89C, HRS, and the following:

- (1) Excluded exempt employees whose compensation is set at the discretion of the appointing authority shall continue to be adjusted at the discretion of the appointing authority from funds allowed for this purpose.
- (2) For excluded, non-managerial employees under the same classification systems as employees in collective bargaining units, adjustments shall not be less than those provided to counterpart collective bargaining unit employees.
- (3) For excluded, managerial employees, any adjustments should be to the extent practicable uniformly applied to the excluded employees within a homogeneous group to ensure fairness. This will not preclude variable adjustments based on performance or other job criteria and specific adjustments based on the nature of work performed or working conditions.
- (4) Any adjustments made for excluded employees shall be consistent with the merit principle.
- (5) In formulating adjustments to the compensation of excluded civil service employees, the VP/DHR shall:
 - (a) establish procedures that allow excluded civil service employees and employee organizations to provide input on the kinds of adjustments that are relevant and important for consideration;
 - (b) ensure that the adjustments are appropriate for what the employees do and the contribution they make taking into consideration the compensation/benefit packages provided to subordinates and under applicable collective bargaining agreements;
 - (c) confer with the human resources directors of other jurisdictions to ensure that the adjustments are consistent with Chapter 76, HRS.

OTHER COMPENSATION ADJUSTMENTS

In the event of a personnel action such as an included employee's transfer, promotion or demotion, any compensation adjustment shall be as provided in the applicable collective bargaining agreement(s); provided, however, that if there is no applicable collective bargaining agreement provision, the VP/DHR shall make any appropriate adjustment after meaningful discussion with the exclusive representative(s) consistent with the terms of the appropriate collective bargaining agreement(s).

In the event of an excluded employee's transfer, promotion, demotion or similar personnel action, any compensation adjustment shall be determined by the VP/DHR and shall be consistent with the provisions of Chapter 89C, HRS, and HHSC's rules.

INCENTIVE AND SERVICE AWARDS

HHSC may provide to its employees incentive and service awards in accordance with the provisions of section 78-29, HRS. Incentive and service awards may include the following:

Award Programs. The VP/DHR may establish incentive and service awards programs to recognize employees who contribute to the efficiency, economy, or other improvement of government operations or who perform exceptionally meritorious special acts or services in the public interest in connection with or related to their official employment. HHSC may allow each facility to establish supplemental incentive/service awards programs.

Cash Awards. HHSC may provide for cash awards to recognize suggestions, inventions, superior accomplishments, length of service, and other personal or group efforts. A cash award shall be in addition to the employee's regular compensation. The acceptance of a cash award shall constitute an agreement that use by HHSC of any idea, method or device for which the award is made shall not form the basis of a further claim upon HHSC by the employee(s) or the employee(s)' heirs and assigns.

Funds. Awards and expenses for HHSC may be paid from funds available to the facilities benefiting from or responsible for recognizing the employee's or group of employees' contribution, as determined by the President/CEO, Regional CEO or Facility Administrator, as applicable. All administrative decisions made on the issuance of awards under this section shall be final and binding.

OTHER BENEFITS AND COMPENSATION

HHSC may provide such other benefits or compensation as may be permitted or required by law.

CHAPTER 5
PHYSICAL AND MEDICAL EXAMINATIONS
HEALTH AND SAFETY

PURPOSE

The purpose of this chapter is to establish a program to ensure that persons selected for employment with HHSC are physically and medically qualified and that they maintain such qualifications throughout their employment with HHSC. To this end, such persons shall have a complete medical examination that includes a pre-employment drug screening. Also, on a continuing basis, health and safety issues will be monitored in a program to ensure a safe and productive work environment.

APPLICABILITY

Except for explicit exceptions applicable to temporary employees working less than six months, this chapter shall apply to all selected applicants for HHSC positions, including those selected for exempt positions. Continuing health and safety requirements are applicable to all employees.

GENERAL DESCRIPTION

All persons seeking employment with HHSC will be informed that, if selected for employment, they must undergo a pre-employment drug screening to ensure a drug-free work environment that is safe for our employees, medical staff, patients, and visitors to our facilities. HHSC will be responsible for paying for this drug testing. In addition, a full medical/physical examination is required after the applicant passes the drug screening. The costs for the medical examination will be the responsibility of the applicant.

PRE-EMPLOYMENT DRUG TESTING

Each applicant who is conditionally offered employment will undergo a pre-employment drug testing and the results will be available and evaluated before the individual proceeds with the pre-employment physical examination. Applicants will be expected to sign a statement indicating they understand that they will not be employed at HHSC if they test positive for illegal drugs, including but not limited to: marijuana, cocaine, opiates, amphetamines and phencyclidine. The drug testing will be done within a specified time period after the offer of employment is made and involves laboratory analysis of urine specimens that is conducted in accordance with applicable state and federal laws and regulations. Anyone testing positive for illegal drugs may request that a re-test of the previously collected sample be done through a different laboratory after consultation with the Medical Review Officer. This re-test will be paid by the applicant and will be reimbursed if the re-test produces negative results.

PRE-EMPLOYMENT PHYSICAL EXAMINATION

Each applicant who is conditionally offered employment and who tests negative from the pre-employment drug screening will then undergo a pre-employment physical examination. The results of the physical examination will be available and evaluated before the individual is allowed to begin work. If it becomes necessary to start the desired new hire before the physical is completed satisfactorily, the Letter of Understanding will state that continued employment is contingent upon the successful completion of the physical. The physical examination shall also provide for a complete medical history of the applicant. In addition, the examination for positions at the hospitals shall include a TB test and/or a chest x-ray.

Applicants seeking employment in those classes designated by HHSC as needing more stringent physical requirements will be required to go to the Physical Examination Contractor (PEC) for their pre-employment physical examination (at the new hire's expense). Applicants for all other classes of work can report to a physician of their choice.

PRE-EMPLOYMENT HEALTH EXAMINATION

Applicants who are conditionally offered employment in certain classes are also required to undergo pre-employment health evaluations, tests or vaccinations in addition to the physical examination(s) described above. Evaluations, tests or vaccinations may be conducted prior to the applicant's employment to establish the presence or absence of a particular medical condition or to protect against the condition. The results of this additional testing or the refusal to complete these tests may influence where the new hire is assigned within a facility or it may lead to a denial for employment. The following examinations or tests shall be performed on potential employees in identified classes, and the cost shall be borne by HHSC:

- (1) Hepatitis B Screening – Shall be provided to all selected applicants for classes who are potentially at high risk to Hepatitis B infection, including those who have occupational exposure to blood and body fluids. Vaccinations may be made available for these individuals.
- (2) Rubella Testing – Shall be provided to all female employees within childbearing age who will come in contact with patients at a facility.

CONTINUING HEALTH EVALUATIONS

On a continuing basis, the physical well-being of employees working in the facilities will be monitored and shall involve such requirements as annual TB tests, flu vaccinations, Hepatitis B vaccinations, annual health screening questionnaires, and medical re-evaluations of employees.

HEALTH AND SAFETY

The President/CEO or designee shall establish safety and health policies and guidelines designed to prevent accidents, deaths, illnesses, injuries, property damages through the elimination or reduction of unsafe practices and hazardous conditions and through reasonable workers' compensation guidelines to support accident prevention programs.

CHAPTER 6 LEAVES OF ABSENCES

PURPOSE

The purpose of this chapter is to summarize leave provisions that have been established for HHSC employees that allows them to be reasonably excused from work for a variety of reasons.

APPLICABILITY

This chapter is applicable to all HHSC employees except employees working less than twenty (20) hours per week and/or temporary employees working less than ninety (90) days.

LEAVES OF ABSENCES

Employees covered by collective bargaining agreements shall be eligible for the leave benefits that have been negotiated through collective bargaining. Employees excluded from bargaining shall receive similar leaves as provided under sections 89C-3 and 89C-4, HRS, as applicable. See Leave Manual for all employees excluded from collective bargaining agreements. Employees working less than twenty (20) hours per week and/or temporary employees working less than ninety (90) days are not eligible for time off benefits.

Leave Sharing Program. HHSC has a leave-sharing program that allows employees of HHSC to donate accumulated vacation leave credits to fellow employees who have a serious personal illness or injury or who have a family member who has a serious personal illness or injury.

To be eligible to receive leave credits, an employee must, at a minimum, have:

- (1) No less than six months of service with HHSC;
- (2) Exhausted or be about to exhaust all vacation leave, sick leave, and compensatory time credits; provided that sick leave need not be exhausted when the illness or injury involves a family member;
- (3) A personal illness or injury or a family member's illness or injury certified by a competent medical examiner as being serious and the cause of the recipient's inability to work; provided that the illness or injury is not covered under chapter 386, HRS, or, if covered, all benefits under chapter 386 have been exhausted; and
- (4) No disciplinary record of sick leave abuse within the past two years.

Additional information regarding this program may be found in the Leave Manual.

Family Leave. State family leave entitlement and administration will be in accordance with Chapter 398, Hawaii Revised Statutes while federal family leave entitlement and administration will be in accordance with the Family and Medical Leave Act of 1993.

Miscellaneous Leaves. Other leaves mandated by law will be administered in accordance with the respective laws.

CHAPTER 7 EMPLOYEE DEVELOPMENT

PURPOSE

The Vice President/Director of Human Resources (VP/DHR) shall develop and administer an employee development and training program to meet stated needs of all HHSC facilities. In addition, the VP/DHR shall foster and develop, in cooperation with the Regional CEOs, facility administrators, Regional HR Directors and others, programs for the improvement of employee efficiency.

APPLICABILITY

This chapter shall apply to all employees of HHSC and shall be in accordance with the applicable provisions of the collective bargaining agreements.

TRAINING PROGRAMS

The VP/DHR shall issue training regulations and standards; shall determine HHSC-wide training needs and priorities; shall advise and assist facilities in the development and operation of the facilities' training programs, which may include in-service training needs. Such programs will be continually monitored to ensure improvement in the area of training and employee efficiency. When necessary to meet specific needs, the VP/DHR may establish training agreements, internship, apprenticeship and other formal training programs. Training of employees by a private or public agency other than HHSC may be authorized if the Regional CEO or designee has determined that adequate training through HHSC is not reasonably available.

CHAPTER 8 EMPLOYEE APPRAISALS

PURPOSE

The purpose of this chapter is to establish and maintain performance appraisal systems to evaluate the performance of civil service employees, to meet Joint Commission on Accreditation of Healthcare Organizations (JCAHO) requirements, and to improve employees' performance.

APPLICABILITY

This chapter applies to civil service employees—both those included within bargaining units and those excluded from bargaining units and to exempt employees. This chapter does not apply to initial probationary employees.

PERFORMANCE APPRAISAL SYSTEMS FOR CIVIL SERVICE EMPLOYEES

HHSC's performance appraisal systems shall be the basis for evaluating whether employees in the civil service meet the performance requirements of their respective positions. Performance requirements include any qualification required for the position such as a license.

HHSC's President and CEO, the Regional CEOs/Facility Administrators or their designees may release an employee from the employee's position or discharge an employee from service if the employee fails to meet the performance requirements of the employee's position under the following conditions:

- (1) The evaluation process and its consequences were discussed with the employee;
- (2) The employee was made aware of the employee's current job description and job-related performance requirements;
- (3) The evaluation procedures were observed, including providing the employee the opportunity to meet, discuss, and rebut the performance evaluation and apprising the employee of the consequences of failure to meet performance requirements;
- (4) The evaluation was fair and objective;
- (5) The employee was provided performance feedback during the evaluation period and, as appropriate, the employee was offered in-service remedial training in order for the employee to improve and meet performance requirements;
- (6) The evaluation was applied without discrimination; and
- (7) Prior to the end of the evaluation period that the employee was being considered for discharge due to failure to meet performance requirements, the feasibility of transferring or demoting the employee to another position for which the employee qualifies was considered.

Any civil service employee who fails to meet performance requirements shall have the right to grieve the decision under

- (1) a collective bargaining grievance procedure that culminates in a final and binding decision by a performance judge pursuant to section 89-10.8, HRS, for covered employees within a bargaining unit; or
- (2) the HHSC Internal Complaint Procedure that culminates in a final and binding decision by the Merit Appeals Board under Chapter 12 of these Rules and section 76-14, HRS, for employees excluded from the bargaining process.

The performance judge or the merit appeals board, as the case may be, shall use the seven conditions listed above as tests in reaching a decision on whether the employer's disciplinary action, based on a failure by the employee to meet performance requirements of the employee's position, was with or without merit.

EXEMPT EMPLOYEE EVALUATIONS

The VP/DHR may establish a performance evaluation system to cover exempt employees through Section 76-16, HRS, or any other law or these rules.

CHAPTER 9 DISCIPLINE AND DISCHARGE

PURPOSE

The purpose of this chapter is to describe disciplinary actions, up to and including discharge from employment with HHSC.

APPLICABILITY

This chapter shall apply to excluded exempt and excluded civil service employees of HHSC, as specified by the provisions below. This chapter shall not apply to civil service employees covered by a collective bargaining agreement or to exempt employees who are included within a bargaining unit and covered by the explicit terms of a collective bargaining agreement's discipline provisions.

DISCIPLINARY ACTIONS

For all employees covered by this chapter, disciplinary actions may include but not limited to oral reprimands, written reprimands, suspensions, demotions, and/or discharges.

For excluded exempt: An employee is subject to disciplinary action at the discretion of HHSC. Before implementing discipline of any such employee, HHSC will inform the employee of the unacceptable performance or conduct that is the basis for the disciplinary action(s).

For excluded civil service employees: An employee is subject to disciplinary action for such reasons, but not limited to: (1) if he or she fails to meet the performance requirements of the employee's position (see Chapter 8 of these Rules), (2) if he or she violates HHSC's Code of Conduct (included within HHSC's policies), and/or (3) if the efficiency of HHSC's services is promoted by the disciplinary action(s) taken against the employee.

REVIEW OF DISCIPLINE

Excluded civil service employees who are disciplined under this chapter shall have the right to file a complaint and appeal as provided in Chapters 11 and 12. Excluded exempt employees shall have the right to file a complaint and appeal to the President/Chief Executive Officer or Regional CEO, as appropriate.

CHAPTER 10

RESIGNATION, NON-DISCIPLINARY SEPARATION, AND LAYOFF

PURPOSE

The purpose of this chapter is to provide for procedures for non-disciplinary separation of employees from employment with HHSC and to describe layoff rights for non-probationary, non-temporary civil service employees who are not covered by collective bargaining agreements.

APPLICABILITY

This chapter shall apply to HHSC's initial probationary employees, excluded civil service employees, and exempt employees in HHSC. This chapter shall not apply to employees covered by collective bargaining agreements where the provisions of such agreements conflict with this chapter.

RESIGNATIONS

For excluded civil service employees, excluded exempt or initial probationary employees: Resignations shall be in writing. In addition, absent unusual circumstances, an employee who does not report to work for fifteen days without notifying the appointing authority of the employee's employment intentions will be deemed to have resigned as of the employee's last day worked. No resignation will be accepted if the resignation is submitted while an investigation is pending against the employee or to escape disciplinary action, or for other reasons allowed by these rules. If the employee does not report for work without authorization, but, within fifteen days following the last day the employee reported for work, expresses a desire to continue employment, the employee shall not be deemed to have resigned. The appointing authority may take appropriate disciplinary action, including discharge, in consideration of the reasons for the employee's absence.

A written resignation submitted by any employee may be withdrawn only with the consent of the appointing authority.

NON-DISCIPLINARY SEPARATIONS

In addition to discharges under Chapter 9, employees may be separated for lack of work, lack of funds, or for other legitimate reasons that promote the efficiency of HHSC services. Employees, including those in the civil service, whose appointments have a limitation date ("NTE" employees) shall be released at the end of their appointments. NTE employees have no layoff rights and shall not be placed on any recall list.

LAYOFF RIGHTS FOR EXCLUDED, NON-PROBATIONARY, NON-TEMPORARY CIVIL SERVICE EMPLOYEES

Layoff rights are applicable to excluded civil service employees who are neither temporary nor initial probationary and who are identified to be laid off. Exempt (both included and excluded) employees, initial probationary employees, and/or temporary employees do not have layoff rights. Layoff rights include displacement and recall rights as determined by an eligible employee's job classification and retention points. Retention points shall be computed on the basis of one point for each full month of continuous civil service employment. An excluded employee with layoff rights can displace (bump) any excluded employee with fewer retention points who has a job within the same or comparable job classification as the employee asserting his or her layoff rights. When an employee with layoff rights cannot be placed in another position, the employee will be laid off and the employee's name shall be placed on the recall list. Laid-off employees with layoff rights shall be listed on the recall list with priority for recall determined by job classification and retention points.

CHAPTER 11 INTERNAL COMPLAINTS PROCEDURES

PURPOSE

The purpose of this chapter is to establish uniform procedures for HHSC's handling of complaints and appeals related to the personnel actions described herein.

APPLICABILITY

HHSC's Internal Complaint Procedure shall apply to matters within the jurisdiction of the Merit Appeals Board in accordance with section 76-14, HRS, with the following exceptions:

- (1) Complaints, including disciplinary actions from exempt employees;
- (2) Complaints from applicants for exempt positions; or
- (3) Matters subject to the collective bargaining grievance procedure.

INTERNAL COMPLAINT PROCEDURE

General Provisions. HHSC's Internal Complaint Procedure (sub-section 76-42(a), HRS) shall apply to all matters within the jurisdiction of the Merit Appeals Board. This procedure consists of an informal "Administrative Review" process and a Formal Complaint process that may culminate with a decision by the HHSC Merit Appeals Board. An "Administrative Review" constitutes the informal review process. If the complaint cannot be resolved informally at this level, a Formal Complaint may then be filed through the HHSC Formal Complaint Process. This entire process must be exhausted before the complaint can be appealed to the HHSC Merit Appeals Board pursuant to the provisions of Chapter 12, HHSC Merit Appeals Board

Administrative Review Process. An eligible applicant or employee who is adversely affected by a decision or action may utilize the Administrative Review process to informally resolve complaints such as, but not limited to the following issues:

- (1) Recruitment/examination decisions (such as an applicant's non-selection or non qualification for a civil service position, or termination of an initial probationary appointment);
- (2) Classification or reclassification except for initial pricing and creation of new classes;
- (3) Disciplinary actions;
- (4) Decisions regarding an employee's failure to meet performance standards; or
- (5) Termination actions (including decisions under section 76-30, HRS), but excluding HHSC's identification of employees subject to layoff;
- (6) An alleged violation, misapplication or misinterpretation of a personnel statute, rule or written policy.

An eligible complainant must initiate the Administrative Review process within twenty (20) calendar days from the date of the initial notice of a personnel action or after the alleged violation first became known or should have become known to the employee involved. The complainant shall send a letter or complete a form prescribed by the HHSC requesting an informal review to the Regional Chief Executive Officer (CEO) or the Vice President/Director of Human Resources (VP/DHR). Forms are available on the HHSC website or the various Human Resources offices within the jurisdiction. The Regional CEO or the VP/DHR may direct the review to the appropriate administrator or HR Director who was responsible for the action.

For classification/reclassification actions, the Administrative Review will be handled informally by the appointing authority or designee (usually, the Regional HR Office). For actions involving initial pricing and creation of new classes, the Administrative Review will be the responsibility of the Corporate HR Office.

For disciplinary actions or for performance standards decisions, the Administrative Review will be handled by the complainant's appointing authority or designee (usually the Regional HR Office). For complaints alleging violation or misinterpretation of a personnel statute, rule or policy, the review will be done by either the Regional HR Office or the Corporate HR Office, depending on the subject matter.

The Administrative Review process will culminate in a written decision to sustain, amend, or remedy the original decision or action. This written decision will be provided to the complainant. If the eligible complainant is not satisfied with the decision, the HHSC Formal Complaint Process can then be pursued.

HHSC Formal Complaint Process. The following rules apply to all complaints subject to the Internal Complaints Procedure's HHSC's Formal Complaint Process (section 76-42, HRS):

- (1) In presenting a complaint, the complainant shall be assured freedom from coercion, discrimination, or reprisal.
- (2) The complainant shall have the right to be represented by a person or persons of the complainant's own choosing at any stage in the presentation of the complaint. The complainant must inform the Corporate HR Office of the name, title, address and phone number of the complainant's representative at the time the Formal Complaint is submitted. If this information is not available at the time or if a change is needed on information already submitted, then the change(s) must be submitted as soon as practicable. The Corporation will not be held responsible for complainant's failure to provide updated information on the complainant's representative.
- (3) If it is discovered after the filing of the complaint that the subject matter is not within the jurisdiction of the Merit Appeals Board, the complainant shall be notified accordingly and complainant shall be referred to the appropriate agency or department, if known.

- (4) If the complainant is not an HHSC employee, proceedings on the complaint shall, as far as practicable, be conducted during office hours at times convenient to the complainant.
- (5) If the complainant is an eligible HHSC employee, proceedings on the complaint shall, as far as practicable, be conducted during the employee's work hours. If the employee has a shift other than the day shift, the hearing will be held during normal business hours and the appointing authority will attempt to accommodate the employee by adjusting the employee's work schedule or by some other means.
- (6) A complaint will not be accepted or allowed to continue within the complaint procedures if established timelines are not met.
- (7) All written decisions/notices shall be mailed to the complainant or complainant's authorized representative to the address supplied by the complainant or shown on the complaint form. A written decision sent via the U.S. mail shall fulfill the notice requirement of HHSC. HHSC shall not be responsible for lost mail, mail sent to an invalid address or mail that is not retrieved by the complainant or authorized representative.

The complainant shall file a Formal Complaint, on a form available at the various HR offices within the jurisdiction, to the President/Chief Executive Officer (P/CEO). This Formal Complaint must be made within 20 calendar days from the date of the sent informal Administrative Review decision. The P/CEO or designee shall contact the complainant and schedule a meeting with the complainant and any authorized representative. A video teleconference or teleconference call may be substituted for an in-person meeting. Within twenty (20) calendar days of the close of the meeting, the P/CEO or designee shall render a written decision. The P/CEO's decision may sustain, amend or remedy the original action or decision, and this written decision will be provided to the complainant.

An eligible complainant may then appeal the decision to the Merit Appeals Board pursuant to the procedures described in Chapter 12, HHSC Merit Appeals Board. The complainant must submit the appeal on the form attached to the letter responding to the complainant's request for a Formal Complaint to the Merit Appeals Board. The appeal must be received within twenty (20) calendar days from the date the President/CEO's decision was sent via certified mail.

CHAPTER 12

HHSC MERIT APPEALS BOARD

Scope of Jurisdiction. Pursuant to sections 76-14, 76-47, 76-50, 76-51, HRS, and other applicable laws, HHSC has established a Merit Appeals Board that shall have exclusive jurisdiction over timely appeals from the Internal Complaints Procedure described in Chapter 11. The entire complaint procedures must be exhausted before an appeal may be filed with the Merit Appeals Board. The Merit Appeals Board does not have jurisdiction over matters of policy, methodology, or administration, which are left for determination by the HHSC's Board of Directors, President and CEO, Regional CEO or designee of the foregoing as appropriate.

If the complaint is not satisfactorily resolved following the final Internal Complaints Procedure decision, the complainant may file an appeal to the HHSC Merit Appeals Board. The complainant shall use a form prescribed by the HHSC (see attached form in the index) and file the appeal within twenty (20) calendar days from the date the Internal Complaints Procedure decision was sent via certified mail.

The address of the Merit Appeals Board is as follows:

Hawaii Health Systems Corporation
Merit Appeals Board
3675 Kilauea Avenue
Honolulu, Hawaii 96816

If the appeal is not within the jurisdiction of the Merit Appeals Board, but of some other administrative agency or appellate body, the complainant is responsible for the timely filing of a claim or an appeal with the appropriate agency regardless of whether the complainant used the Internal Complaint Procedures.

Composition of Board. HHSC shall establish the three (3)-person Merit Appeals Board pursuant to sub-section 76-47, HRS. In addition, there shall be up to two (2) alternates in the event any of the members are not able to meet. The members of the appeals board shall be persons that can objectively apply the merit principle to HHSC employment. The HHSC Board of Directors will appoint the Merit Appeals Board members from a list provided by the President and Chief Executive Officer. Recommendations for nominees will be solicited from all interested parties. The appeals board members and alternates shall be appointed for four (4)-year terms and may be re-appointed without limitation. The chairperson shall be designated through a majority decision of the appeals board members.

Adoption of Merit Appeals Board Procedures. The President and Chief Executive Officer shall adopt, amend or repeal the rules of practice and procedure governing the Merit Appeals Board.

Rejection or Abatement of Appeal. The Merit Appeals Board shall dismiss an appeal or abate proceedings on an appeal, without considering the merits of the appeal, in the following circumstances:

- (1) The appeal shall be dismissed if the Merit Appeals Board lacks jurisdiction over the matter being appealed.
- (2) The appeal shall be dismissed if the complainant failed to exhaust the HHSC Internal Complaints Procedures before filing the appeal;
- (3) The appeal shall be dismissed if the complainant is not covered by the applicability provisions listed in Chapter 11;
- (4) The appeal shall be held in abeyance and/or shall not be processed if there is controversy any controversy regarding the Merit Appeals Board's authority to hear the appeal, until such time as the controversy is resolved by the Hawaii Labor Relations Board;
- (5) The appeal shall be dismissed if the complaint or appeal is not filed timely or for failure to comply with other provisions of this Chapter;
- (6) The appeal shall be dismissed if the action complained of is subject to the jurisdiction of another appellate body or administrative agency or to a grievance procedure under a collective bargaining agreement;
- (7) The appeal shall be dismissed with prejudice if complainant fails to appear at the scheduled time and place, unless good cause is shown for the failure to appear.

Open Meetings. The official business of the Merit Appeals Board shall be conducted in meetings open to the public, except as provided in chapter 92, HRS.

Subpoenas, Oaths. The Merit Appeals Board shall have such powers as may be provided by law with respect to compelling the attendance of witnesses and administering oaths to witnesses, and as to all matters within the scope of its authority. Any hearings officer who may be appointed by the Merit Appeals Board shall have similar powers.

Appeals from HHSC's Formal Complaint Process Decisions. The following shall apply:

- (1) All materials and documents including those used to make the Formal Complaint process decision, shall be provided to the Merit Appeals board and to the complainant;
- (2) Both the complainant and the relevant HHSC designee may have a representative of choice to present statements in support of their respective positions, to present evidence and to examine and cross-examine witnesses;
- (3) At the hearing, technical rules of evidence shall not apply and the proceedings recorded stenographically or by machine;
- (4) For the purpose of hearing the appeals fairly and expeditiously, the Merit Appeals Board may at any time appoint a competent and qualified disinterested person to act as its hearings officer. The hearings officer shall hear the matter in the same manner as if it were before the Merit Appeals

Board and, upon the conclusion of the hearing, shall report the findings of fact, conclusions and recommendations based thereon to the Merit Appeals Board. The Merit Appeals Board shall render the final decision and may adopt, reject or modify the recommendations of the hearings officer;

- (5) If the Merit Appeals Board finds that the reasons for the employer's action are not substantiated in any material respect, the Merit Appeals Board shall find for the complainant and provide for the appropriate action requested by the complainant or may provide modification for the suggested course of action. If the Merit Appeals Board finds that the reasons for the employer's action are substantiated in whole or in part, the Merit Appeals Board shall sustain the action of the employer, provided that the Merit Appeals Board may modify the action of the employer if it finds the circumstances of the case so require;
- (6) In any case of suspension or discharge where the Merit Appeals Board finds such disciplinary action was improper, the Merit Appeals Board may set aside, reduce or modify the action taken by the employer. If the employer's action is changed, the Merit Appeals Board may award back pay to compensate the employee, wholly or partially, for any wages lost because of the employer's action. For a case involving a violation of a personnel rule, policy or statute, the Merit Appeals Board does not have the authority to add to, subtract from, disregard, alter, or modify the language. The Merit Appeals Board is limited to deciding whether the employer has violated any terms of the rule, policy or statute and the appropriate recourse of the violation;
- (7) The Merit Appeals Board shall use the seven conditions specified in Chapter 8 of these Rules and sub-section 76-41(b), HRS, as tests in reaching a decision as to whether the employer's determination that the complainant failed to meet performance requirements of the complainant's position, was with or without merit. If the discharge is rescinded, the Board may provide for an extension of the evaluation process;
- (8) The Merit Appeals Board will have access to legal counsel from the State Attorney General's Office to provide advice and guidance on legal issues;
- (9) The final decision of the Merit Appeals Board shall be in writing, shall specify the reasons for the action taken, and shall be transmitted to the employer and the appellant within thirty (30) calendar days from the conclusion of the hearing.

Appeal Expenses. The Merit Appeals Board, as it deems equitable and appropriate, may order that the parties share specific expenses incurred as a result of an appeal, including, but not limited to, expenses for transcription costs and for the services, including travel and per diem costs, provided by persons other than Merit Appeals Board members.

Mediation. Whenever the Merit Appeals Board determines that mediation may result in a satisfactory resolution of an appeal, may narrow the issues on appeal, or otherwise expedite a decision, the Merit Appeals Board may require the parties to submit the issues to mediation, which shall not be subject to chapter 92, HRS. Mediation may be provided by any member or members of the Merit Appeals Board or by a public or

nonprofit agency that offers mediation or similar services for resolving or narrowing differences among the parties.

Filing a Grievance. In the event an eligible complainant chooses the grievance route rather than the Merit Appeals Board via the Internal Complaints Procedures and the grievance is allowed to proceed, the complainant will not be allowed to utilize the Merit Appeals Process.

The Decision of the Board. The Merit Appeals Board shall make decisions provided a quorum of at least two (2) of the three (3) members are available for discussion. In the event a quorum is not met, an alternate will be called. The decision will require a majority consensus, or at least two (2) of the three (3) members (regular or alternate) agreeing on the decision. The findings and decisions of the Board shall be final on all appeals, unless an appeal is taken as provided in chapter 91, HRS.