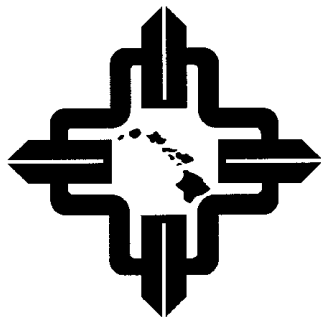




**HAWAII HEALTH SYSTEMS
C O R P O R A T I O N**

"Quality Healthcare For All"

HHSC HUMAN RESOURCES RULES

February 2025

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CHAPTER 1 GENERAL PROVISIONS

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- 1-3 Applicability
- 1-4 Definitions
- 1-5 Scope of Rules
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1-1 Background Information.

Hawaii Health Systems Corporation System (HHSC) was established as a separate State of Hawaii jurisdiction by Act 262, effective July 1, 1996. The Act provided HHSC with a status “coequal to the Executive Branch of the State, the Counties and Judiciary for the purposes of: (1) developing a position classification plan; (2) formulating personnel rules; and (3) administering the HHSC personnel system, including classification, reclassification, allocation, and reallocation of a particular position.”

On July 3, 1998, HHSC assumed all of the responsibilities of the Classification, Compensation, and Review (CCR) Division, Department of Human Resources and Development. Included in these responsibilities is the bargaining unit determination of positions. Notification to the union regarding the inclusion, exclusion, and/or transfer of positions in bargaining units that was formerly conducted by CCR is now conducted by HHSC.

On July 1, 1999, Act 229 granted HHSC position control authority, which included the ability to establish and create new positions without Legislative approval. Act 229 or section 76-121, Hawaii Revised Statutes (HRS), as amended, provides that HHSC shall adopt a position classification plan, formulate personnel rules, and administer the corporation’s personnel system. As such, HHSC is required and has the authority to develop and maintain a personnel system separate and coequal with the Executive Branch of the State and with the counties. HHSC has established its own civil service jurisdiction with the adoption of its personnel rules and regulations subject to Chapters 76, 77, and 89, HRS, and appropriate collective bargaining agreements.

On July 1, 2001, Act 253, SLH 2000 otherwise known as the Civil Service Modernization Act, amended Chapters 76 and 89, and abolished Chapter 77, HRS, which authorized the State, counties, and other public jurisdictions to reform employment and use experimental modernization projects as means to modernize and streamline operations. Pursuant to this Act, HHSC has developed its own classification and compensation structure that is flexible and effective in the recruitment and retention of employees.

On July 1, 2007, Act 290 authorized the establishment of regional system boards under HHSC and established powers, duties, rights and obligations of HHSC and regional system boards. Section 323F-8, HRS, further stated that effective January 1, 2009 each regional chief executive officer may appoint, exempt from Chapters 76 and 89, HRS, hospital administrators, assistant administrators, directors of nursing, medical directors, and staff physicians, to facilitate the management of facilities within the corporation.

On July 1, 2009, Act 182 amended Chapter 89, HRS, to designate negotiating authority to the HHSC or any of the regional boards, as a sole employer negotiator for HHSC.

The corporation may request a criminal history record check of persons who are employed or seeking employment with HHSC. Section 323F-8.5, HRS, states that each regional chief executive officer may also appoint, as necessary, other personnel exempt from Chapters 76 and 89, HRS, to work directly for the regional chief executive officer for the regional system and for the corresponding regional system board.

1-2 Purpose.

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

1-3 Applicability.

HHSC's Human Resources 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.

1-4 Definitions.

"Administrative review" means an informal reevaluation of a recruitment/examination, classification, reclassification, or certain employment actions affecting civil service employees who are excluded from collective bargaining coverage in accordance with the provisions set forth in these rules, and in such procedures as may be established by the Vice President and Chief Human Resources Officer (VP&CHRO).

"Appointing authority" means the President and Chief Executive Officer (PCEO) in the case of the Corporation, or the Regional Chief Executive Officer (RCEO) in the case of a Region, or their respective designee.

"Basic rate of pay" means the hourly, daily, monthly, or annual rate of pay used to determine an employee's compensation in accordance with appropriate salary schedules and applicable rules. The rate of pay shall not include additional or extra compensation granted such as, but not limited to, differential for overtime, stand-by duty, temporary hazard pay, compression differentials, temporary differentials, and shortage differentials.

"Civil service appointment" means an appointment to a civil service position through the civil service recruitment procedures.

"Civil service employee" means an employee who has met all requirements for membership under section 76-27, HRS.

"Civil service position" means 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.

"Civil service recruitment procedures" mean the procedures for the competitive process by which an applicant is deemed qualified for a civil service appointment.

“Civil service system” means the merit system. See merit system.

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

“Class specification” means the official document providing a formalized summary depicting the duties, responsibilities, level of difficulty and authority, and minimum qualification requirements of a class.

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

“Compensation plan” means the pay plan consisting of the assignment of classes in the classification systems to ranges in the appropriate salary schedules.

“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.

“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.

“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.

“Exempt employee” means a person who is appointed to and who occupies a position exempted from the civil service pursuant to sections 76-16, 323F-8, and 323F-8.5 HRS, or other applicable law.

“Exempt or non-civil service position” means a position within HHSC that is exempt from civil service law pursuant to sections 323F-8, 323F-8.5, and 76-16, HRS.

“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 probationary period” means the probationary 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.

“Job description” means a written description and official record of the duties and responsibilities assigned to a specific position. The job description with the class specification are the principal documents used in a classification study.

“Merit principle” means 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.

“Merit system” means the system based on merit principles within the meaning of section 76-1, HRS.

“Minimum qualification” means the minimum experience, education, licensing, and other special requirements essential for performance in a class of work or a position.

“New class” means a class not previously existing in the classification/compensation plan. A new class is created only when one or more positions under study are so different from others that they cannot be reasonably allocated to any existing classes.

“New probationary period” means a probationary period required of a member of the civil service.

“Non-civil service appointment” means an appointment to civil service position made not through the civil service recruitment procedures.

“Pay range” means the group of salary rates from minimum to maximum to which a class may be assigned as set forth in each salary schedule. The maximum rate in the pay range determines whether another pay range is higher or lower.

“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).

“Position” means a specific job, whether occupied or vacant, consisting of all the duties and responsibilities assigned or delegated requiring the full-time or part-time employment of one (1) person.

“Pricing” means the process of assigning classes to pay ranges based on appropriate factors.

“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 HR rules.

“Reallocation” means the movement of a position from one class to another class. The assignment may result in a higher salary range or a lower salary range. May result from significant changes in the assignment of work, new or additional knowledge, skills or abilities, increase/decrease in supervisory responsibilities, increase/decrease in complexity of the duties and responsibilities, etc.

“Recruitment” means the process of attracting, sourcing, screening, selecting, and engaging applicants for employment.

“Reorganization” means a change to an organization that affects its structure and functional responsibilities.

“Repricing” means changing or reassigning the pay range of an existing class to another pay range in the same salary schedule based on appropriate factors.

“Rules” means the HHSC Human Resources Rules, contained in Chapters 1 - 13 of this document.

“Salary schedule” means the rates of compensation for all steps/grades under a salary structure.

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

“Standards of fitness” means standards that refer to honesty/integrity, satisfactory employment, separation from employment, satisfactory references, background checks, licensing verification, and other criteria or characteristics to ensure fitness for employment.

“Temporary assignment” means the assignment by a competent authority and the assumption, without a formal change in position, of all or a major portion of the significant duties and responsibilities of another position.

1-5 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.

1-6 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 and Chief Human Resources Officer (VP&CHRO) at the same address.

The Rules and Policies of the Human Resources Department 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

- 2-1 Purpose
- 2-2 Applicability
- 2-3 General Provisions
- 2-4 Appointment Through the Merit System
- 2-5 Standards
- 2-6 Discretion Filling Vacancies

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- 2-7 Citizenship and Residence
- 2-8 Announcement of Recruitment and Examination
- 2-9 Scope of Examinations
- 2-10 Disqualification of Applicants
- 2-11 Interviews
- 2-12 Suitability for Employment
- 2-13 Internal Complaint Procedures

Subchapter 2 - Types of Appointment in Civil Service & Non-Civil Service Positions

- 2-14 Civil Service Appointment
- 2-15 Non-Civil Service Appointment

Subchapter 3 - Probationary Service and Other Requirements for Membership in the Civil Service

- 2-16 Initial Probationary Period
- 2-17 New Probationary Period

Subchapter 4 - Exempt Service

- 2-18 General Provisions

Subchapter 5 – Incentives

- 2-19 Recruitment Incentives
- 2-20 Authority

2-1 Purpose.

To establish a system of recruitment and selection of employees in accordance with merit-based civil service laws which will attract, select, and retain best qualified individuals to provide competent, efficient, loyal, and ethical service to the public in accordance with the needs of the service as provided in Chapters 76, 78, 89C, and 323F HRS.

2-2 Applicability.

Applies to civil service employees and non-civil service employees.

2-3 General Provisions.

HHSC's human resources program shall be developed and administrated by the VP&CHRO consistent with the merit principles and the principles of equal employment opportunity and in accordance with Chapters 76, 78, and 323F, HRS.

2-4 Appointment Through the Merit System.

- (A) The VP&CHRO may establish standards with respect to education, training, experience, licensing and certification, knowledge, skills, abilities, suitability, physical and mental fitness, and other requirements which applicants must meet.
- (B) The VP&CHRO or as delegated shall be responsible for attracting and recruiting the best qualified applicants available and for determining the qualifications, fitness, and suitability of applicants.
- (C) Qualified candidates shall be placed on an appropriate list in the manner prescribed and established by these rules.
- (D) A person selected from an appropriate list or through a civil service recruitment procedure, for other than temporary appointments, will be given a probationary appointment and shall be required to serve an initial or new probationary period under the conditions prescribed in these rules.
- (E) The VP&CHRO or as delegated may determine the types, duration, and conditions of appointments in the merit system and may prescribe the appropriate methods for replacing persons holding these appointments.
- (F) A probationary employee shall acquire membership in civil service upon satisfactory completion of the probationary period.
- (G) No person shall be appointed, employed, promoted, transferred, or voluntarily demoted in the merit system, or perform the duties of any position until the person passes the examination prescribed by the VP&CHRO or unless specifically exempted.

2-5 Standards.

- (A) These recruitment and examination 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, non-civil service positions, and exempt service positions are to be filled.
- (B) The VP&CHRO shall seek continuous improvements to streamline the recruitment and examination process so that positions are filled in the most economic, efficient, and expeditious manner as possible.

2-6 Discretion in Filling Vacancies.

The VP&CHRO or as delegated may fill any vacant position in the civil service by appointment from an appropriate list, or other means as provided for by rules or law.

SUBCHAPTER 1 RECRUITMENT AND EXAMINATION

2-7 Citizenship and Residence.

- (A) All persons seeking employment with HHSC shall be citizens, nationals, or permanent resident aliens of the United States or eligible under federal law for unrestricted employment in the United States as well as residents of the State during their employment with HHSC.
- (B) The VP&CHRO or as delegated may approve the appointment of persons without consideration of these requirements when services essential to the public interest require highly specialized technical and scientific skills or knowledge for critical-to-fill and labor shortage positions.

2-8 Announcement of Recruitment and Examination.

Whenever there is a need for qualified applicants, the VP&CHRO or as delegated shall conduct a recruitment and examination announcement in the manner and for the period deemed reasonable and appropriate.

2-9 Scope of Examinations.

- (A) Application evaluation may include determination and review of applicability and currency of the applicant's employment history, conformance with licensure, certification or credentialing requirements, the existence of any criminal convictions and sanctions that would make an applicant ineligible for hire, medical or physical examination including pre-employment drug testing, reference checks, and any other suitability for employment criteria that the VP&CHRO or as delegated deems appropriate.
- (B) Background checks will be conducted in accordance with HHSC Policy No. HR 0024A and HHSC Procedure No. HR 0024B.
- (C) The VP&CHRO or as delegated may appoint subject matter consultants to assist in the preparation and evaluation of applications and evaluation materials.
- (D) Applications and other supplemental documents submitted to HHSC shall constitute official examination records.

2-10 Disqualification of Applicants.

- (A) The VP&CHRO or as delegated may reject any application for employment for 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) Conviction of a penal offense, which bears a rational relationship to the duties and responsibilities of the relevant position;
 - (7) Debarment or excluded from participation in federal healthcare programs;
 - (8) Any record of misconduct, which is detrimental to the proper performance of the duties and responsibilities of the class or position;
 - (9) Failure to meet physical/medical requirements to perform the essential job functions of the class or position;
 - (10) Failure to meet state/federal regulatory registry checks such as, but not limited to, Adult Protective Services, Child Abuse and Neglect and Sex Offender Registry checks;
 - (11) Conviction of any act, attempt, or conspiracy to overthrow the state or the federal government by force or violence; or
 - (12) Other reason(s) as determined by the VP&CHRO or as delegated.
- (B) Applicants who are not qualified for an applied position will be provided written notice of their non-qualification.
- (C) The VP&CHRO or as delegated may conduct investigations to determine an applicant's or appointee's qualifications and suitability for employment in the civil service. If the investigation discloses that the applicant is ineligible for the position, the VP&CHRO or as delegated shall take appropriate corrective action,

which may include disqualification of the application, removing the applicant's name from the appropriate list, rescinding the offer of employment or terminating the appointee's appointment, or any combination thereof.

2-11 Interviews.

- (A) Applicants who meet the minimum qualification standards of the class and HHSC standards of fitness may be considered for the interview process. The appointing authority will make the determination of the number of applicants who will be interviewed based on an equitable and fair process. Interviewers will evaluate and rank the applicants as applicable and 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.
- (B) Referral of candidates shall be as follows:
 - (1) Select Priority List
 - (a) 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.
 - (b) Re-employment of qualified persons from the select priority list shall be completed before conducting any recruitment process.
 - (c) In order to be considered for re-employment, a written request shall be submitted by the employee to the Corporate Human Resources Office.
 - (d) 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.
 - (e) 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.
 - (2) Recall List
Eligible civil service employees who have been laid off from HHSC have recall rights to certain positions as provided by its respective collective bargaining agreements.
 - (3) Job Postings/Vacancy Announcement
Eligible candidates who meet the minimum qualification requirements of the position shall be referred to vacant positions for consideration.
- (C) Veterans are entitled to preference over non-veterans in hiring. The preference shall be applied after the interview process in accordance with the hiring requirements as prescribed by VP&CHRO or designee.

2-12 Suitability for Employment.

All applicants who are offered employment with HHSC shall demonstrate their suitability for employment by clearing the following pre-employment requirements, unless determined otherwise by the VP&CHRO or designee:

- (A) Controlled substance drug test;
- (B) Suitability check that may include state and national criminal history record check and check against published exclusion and sanction lists;

- (C) Medical or physical examination;
- (D) Reference checks; and
- (E) Any other requirements as allowed by applicable law.

2-13 Internal Complaint Procedures.

An applicant not qualified for a position they applied for or not selected for a civil service position vacancy may request review through the Internal Complaint and HHSC Merit Appeals Board processes described in Chapters 12 and 13 of these Rules.

SUBCHAPTER 2

TYPES OF APPOINTMENTS IN CIVIL & NON-CIVIL SERVICE POSITIONS

2-14 Civil Service Appointment.

- (A) An employee is granted a civil service appointment when the appointment is the result of civil service recruitment procedures.
- (B) A civil service appointment may be made to a temporary or permanent position in the civil service or permanent civil service position being filled on a temporary basis, notwithstanding that the position may be temporarily or permanently exempt from the civil service classification system. The appointing authority shall inform all applicants referred under civil service recruitment of the appointment limitation date or the position status of temporarily or permanently exempted from the civil service classification system.
- (C) An applicant who receives a civil service appointment shall not become a member of the civil service until successfully completing a probationary period.
- (D) Type(s) of civil service appointments include:
 - (1) Permanent appointment
 - (a) A permanent appointment may be granted to an employee through the following:
 1. Successfully complete a probationary period in a civil service appointed position.
 2. Movement to a vacant permanent position and the employee is not required to serve a new probationary period.
 3. Appointment to an exempt position that is converted to civil service through HHSC or legislative action and as authorized by statute.
 4. Placement of employees displaced by a layoff as prescribed by the applicable collective bargaining agreements.
 5. Other legitimate reasons as approved by the VP&CHRO and/or allowed by statute.
 - (2) Temporary appointment
 - (a) A temporary appointment may be made for the specific period of time needed to complete the temporary work with a not to exceed date.
 - (b) The temporary appointment may be extended by the VP&CHRO, RCEO or as delegated provided it is necessary to complete the job for which the employee was originally employed.
 - (c) A civil service member employee who is appointed to a temporary appointment shall, upon release from the appointment, be returned to the position, which the employee last held a

permanent appointment unless converted to a permanent appointment in the position in which the temporary appointment is held.

- (d) A civil service member employee who elects to continue in a temporary appointment through an extension of that temporary appointment shall have return rights to the employee's last held permanent appointment; provided that:
 - 1. Prior to the start of the extension of the temporary appointment, the employee submits a written request and receives written approval for the employee's return rights from the VP&CHRO or RCEO that has control over such employee's last held permanent appointment.
 - 2. If the VP&CHRO or RCEO does not provide written approval for the employee's return rights, the employee shall return to the employee's last held permanent position or forfeit their return rights, become a temporary member and be terminated from the service at the end of the extension of the temporary appointment.
 - 3. Written approval of a request for an employee's return rights is required for each extension of a temporary appointment.
- (e) Service that is acquired in a civil service appointment is creditable toward meeting the requirements of an initial probationary period.
- (3) The VP&CHRO may establish other types of civil service appointments deemed necessary to meet operational needs of the organization, and/or allowed by statute.

2-15 Non-Civil Service Appointment.

- (A) The VP&CHRO or as delegated may grant a non-civil service appointment in order to meet immediate operational needs.
- (B) Type(s) of non-civil service appointment include:
 - (1) Casual hire appointment or appointment of not more than eighty-nine (89) consecutive calendar days.
 - (a) Casual hire appointment, or appointment of not more than eighty-nine (89) consecutive calendar days, may be made without utilizing civil service recruitment and selection procedures provided the recruitment and selection were conducted in a fair, equitable and non-discriminatory manner.
 - (b) Casual hire appointment, or appointment of not more than eighty-nine (89) consecutive calendar days, may be made without regard to the minimum qualification requirements of the position, except that the employee must meet the public employment and suitability requirements, possess the required license, certification, or registration as required by applicable statutes or regulations, and must have the fitness and ability to perform the duties of the position.
 - (c) The VP&CHRO or as delegated certifies that the employee will perform the duties and characteristics of the class.
 - (d) The casual hire appointment, or appointment of not more than eighty-nine (89) consecutive calendar days, may be extended by

the VP&CHRO or as delegated with a break in service under the following conditions:

1. The VP&CHRO or as delegated determines that there are no interested and available candidates to fill the vacancy or is unable to make a selection following the interview process; or
 2. The VP&CHRO or as delegated determines that it is impracticable to fill the position by civil service recruitment procedures and allow for completions of an initial probationary period.
- (e) A break in service of at least one workday is required when consecutive eighty-nine (89) day non-civil service appointment is extended.
- (C) An employee who is granted a non-civil service appointment is not eligible for membership in the civil service.
- (D) Service that is acquired in a non-civil service appointment is not creditable toward meeting the requirements of an initial probationary period.
- (E) The VP&CHRO may establish other types of non-civil service appointments deemed necessary to meet operational needs of the organization, and/or allowed by statute.

SUBCHAPTER 3 PROBATIONARY SERVICE AND OTHER REQUIREMENTS FOR MEMBERSHIP IN THE CIVIL SERVICE

2-16 Initial Probationary Period.

- (A) The initial probationary 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.
- (B) An employee serving a civil service appointment acquires membership in the civil service upon successful completion of the initial probationary period or as provided in section 76-27, HRS.
- (C) An employee must meet the performance requirements of the position as measured by a formal performance appraisal in order to successfully complete the initial probationary period.
- (D) The initial probationary period shall be for a period of six (6) months provided the VP&CHRO, or their designee, may establish a longer period for a class of work when such an extended probation is necessary to adequately train and evaluate the employee.
- (E) Upon written notification to the employee and before the expiration of the initial probationary period, the VP&CHRO, or their designee, may extend the initial probationary period for up to six (6) additional months due to the employee's absence during the period or additional time is needed to evaluate the employee's performance. The VP&CHRO or as delegated approval must be obtained if the initial probationary period is extended beyond the additional six (6) months.
- (1) An employee who is terminated at HHSC's discretion during or at the end of the initial probationary period or any extension thereof shall have rights to the Internal Complaint Procedures described in Chapters 12 and 13 of these Rules.

- (F) The period of temporary service in a civil service appointment may be credited towards fulfilling the initial probationary period for the same or related position in the class of work within the department and the employee shall serve only the remainder of the probation, if any, provided:
 - (1) The period of temporary service immediately preceded the new appointment to the same or related position; and
 - (2) The VP&CHRO or as delegated certifies that the employee was performing satisfactorily and the employee's duties are essentially similar to the duties to be performed during the initial probationary period for the same or related position.

2-17 New Probationary Period.

- (A) A new probationary period shall be used to determine an employee's fitness and ability to perform the duties of a different position.
- (B) An employee who is promoted, transferred or demoted to another position in the civil service may be required to successfully serve a new probationary period as a part of the examination process to determine the employee's fitness and ability for the new position.
- (C) An employee whose position is transferred or moved to another unit or facility due to a departmental or administrative action in the civil service may be required to successfully serve a new probationary period.
- (D) The VP&CHRO or as delegated has the discretion to require a new probationary appointment if deemed necessary to determine the employee's fitness and ability for the new position.
- (E) The new probationary period shall be for a period of six (6) months except that the VP&CHRO, or their designee, may establish a longer new probationary period for a class of work when a longer period is necessary to adequately train and evaluate the employee.
- (F) Upon written notification to the employee and before the expiration of the new probationary period, the VP&CHRO or as delegated may extend the new probationary period for up to six (6) additional months due to the employee's absence during the period or additional time is needed to evaluate the employee's performance. The VP&CHRO or as delegated approval must be obtained if the new probationary period is extended beyond the additional six (6) months.
- (G) An employee who is serving a new probationary period shall be entitled to all the rights and privileges of a member of the civil service, except the right to appeal a discharge from the new position (as distinguished from discharge from the service) for inefficiency, and the employee shall be returned to the former position or a comparable position. The employee shall be treated as though the employee had remained in the former or comparable position continuously.
- (H) Upon written request, an employee who held a civil service appointment without an end date (permanent appointment) in a former position may be returned to the employee's position or comparable position prior to the expiration of the new probationary period, provided the employee receives written approval from the VP&CHRO or as delegated to which the employee will return. The VP&CHRO or as delegated has the discretion to approve or disapprove the return.
- (I) Upon return to the former position, the employee shall be treated as though the employee had remained in the former or comparable position continuously.
- (J) An employee shall have return rights to a position in which the employee has a permanent position, provided the employee has not forfeited their return rights.

SUBCHAPTER 4 EXEMPT SERVICE

2-18 General Provisions.

- (A) All positions and persons in the exempt service are exempt from the civil service recruitment procedures based on merit principles and processes of Chapter 76, HRS and Subchapters 1, 2, and 3 of these Rules.
- (B) Persons exempted from the civil service should be fully qualified by experience and ability to perform the duties and responsibilities of the exempt position.
 - (1) Persons exempted from the civil service must possess the required license, certification, registration, or other qualification as required by applicable statutes or regulations.
- (C) Unless otherwise specified by law, exempt employees shall be subject to the public requirements of Chapter 78, HRS, and other suitability requirements for employment as described in this chapter.
- (D) An exempt employee is not eligible for membership in the civil service or representation by a collective bargaining agent pursuant to section 89-6(f), HRS.
- (E) Exempt employees are considered to be “at will” employees and may be terminated at any time, subject to all applicable contractual provisions and federal and state employment laws. Depending on the exempt positions, appointments of exempt employees may be for a temporary or indefinite duration.

SUBCHAPTER 5 INCENTIVES

2-19 Recruitment Incentives.

- (A) Within limits set forth by policy and as authorized by the VP&CHRO, appointing authorities may pay for all or a portion of travel and transportation expenses or otherwise provide a monetary incentive where necessary to enhance recruitment for critical-to-fill positions or positions subject to a labor shortage.
- (B) The PCEO and RCEO, or their respective designees, may authorize Transfer/Relocation Assistance for eligible employees in accordance with HHSC Policy No. HR 0005A and HHSC Procedure No. HR 0005B.
- (C) The VP&CHRO or as delegated may establish or approve other recruitment incentives such as differentials including, but not limited to, shortage differentials, hiring above the minimum or maximum, sign-on or hiring bonuses, educational or training tuition reimbursements, and other recruitment incentives where the same are deemed necessary to enhance recruitment for critical-to-fill positions or positions subject to a labor shortage.

2-20 Authority.

Chapter 76, HRS, Civil Service Law
Chapter 78, HRS, Public Service
Chapter 89C, HRS, Public Officers and Employees Excluded from Collective Bargaining
Chapter 321, HRS, Department of Health
Chapter 323F, HRS, Hawaii Health Systems Corporation
Chapter 378, HRS, Employment Practices
Chapter 386, HRS, Workers' Compensation Law
Chapter 831, HRS, Uniform Act on Status of Convicted Persons
Chapter 846, HRS, Hawaii Criminal Justice Data Center, Civil Identification
HRS § 76-12, General powers and duties of director
HRS § 76-13, Specific duties and powers of director
HRS § 76-14, Merit appeals board; duties, and jurisdiction
HRS § 76-15, Examination consultants
HRS § 76-16, Civil Service and exemptions
HRS § 76-18, Examinations
HRS § 76-22.5, Recruitment
HRS § 76-23.5, Recruitment incentives
HRS § 76-28.5, Temporary employment in state positions
HRS § 76-29, Person ineligible for appointment
HRS § 76-42, Internal complaint procedures
HRS § 76-103, Veteran's preference
HRS § 78-2.6, Prospective employees; suitability for public employment
HRS § 78-2.7, Criminal history record checks
Title 42 U.S. Code § 1320a-7
Social Security Act §1128 and §1156
HHSC Policy No. HR 0005A, Transfer/Relocation Assistance
HHSC Procedure No. HR 0005B, Transfer/Relocation Assistance
HHSC Policy No. HR 0024A, Background Checks
HHSC Procedure No. HR 0024B, Background Checks

CHAPTER 3 CLASSIFICATION AND COMPENSATION SYSTEM

- 3-1 Purpose
- 3-2 Applicability

Subchapter 1 - Classification System

- 3-3 Development and Maintenance
- 3-4 Establishment of Standards
- 3-5 Forms and Procedures
- 3-6 Classification of Positions
- 3-7 Job Descriptions
- 3-8 Effective Dates of Classification Actions
- 3-9 Delegation of Authority
- 3-10 Administrative Review of Classification Actions

Subchapter 2 - Compensation System

- 3-11 Assignment of New Classes to Pay Ranges
- 3-12 Evaluation of Classes for Assignment to Pay Ranges
- 3-13 Repricing
- 3-14 Authority

3-1 Purpose.

To develop and maintain systems within HHSC for the objective, consistent, and timely classification of all civil service positions and for the reasonable and consistent assignment of classes of positions to appropriate pay ranges. The system so established shall be based on merit and contribute to the attraction and retention of public employees by compensating them on an equitable basis, or any portions thereof may be extended to non-civil service positions as required by law or for the good of the service.

3-2 Applicability.

Applies to all of HHSC's civil service positions and to appropriate non-civil service positions.

SUBCHAPTER 1 CLASSIFICATION SYSTEM

3-3 Development and Maintenance.

The VP&CHRO shall establish, implement, and maintain one or more classification systems covering all civil service positions, not otherwise exempted by rules. 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.

3-4 Establishment of Standards.

- (A) The VP&CHRO shall establish standards for the development and maintenance of the classification system relative to job descriptions, class specifications and other related matters.
- (B) The VP&CHRO shall establish, revise or abolish classes in order to maintain the classification systems.

3-5 Forms and Procedures.

The VP&CHRO shall develop forms and establish procedures for the development and maintenance of the classification systems.

- (A) Corporate Human Resources (HR) shall be responsible to maintain the official position files.
- (B) Corporate HR may conduct periodic audits from time to time to ensure proper management of the classification system and principles.
- (C) Regions/facility shall maintain copies of all classification action documents for each position assigned to their respective facilities.

3-6 Classification of Positions.

(A) The VP&CHRO shall:

- (1) Place any position subject to this rule in an appropriate class; and
 - (2) Change any position from one class to another class, whenever warranted by significant change in position duties and responsibilities or class definition or to correct an error.
- (B) Each position shall be placed in a class consistent with the nature and level of its duties, responsibilities, and minimum qualification requirements.
 - (C) The VP&CHRO may establish standards and procedures and delegate to the Regions, authority to establish or reallocate/update positions into existing classes.
 - (D) The VP&CHRO may rescind or otherwise correct any action taken, as appropriate, and may withdraw the authority when it is determined that continued delegation is not in the best interest of HHSC.
 - (E) The VP&CHRO may approve the temporary reallocation of a position because of emergency, unusual, unique, or other special conditions. If there is an incumbent in the position, they must meet the minimum qualification requirements for the class to which the position is being reallocated. A temporary reallocation is the movement of a position from one class to a higher salary range, a lower salary range, or the same salary range in another class on the basis of significant changes in work authorized by the appointing authority lasting for a period not to exceed one year. A temporary reallocation may be extended beyond one year with prior approval of the appointing authority. When the conditions no longer apply, the appointing authority shall promptly discontinue the temporary reallocation and notify the VP&CHRO of the discontinuance and the position shall revert to its former classification status.

3-7 Job Descriptions.

The duties and responsibilities assigned to a position shall be accurately reflected in an official job description. Revised job descriptions shall be submitted on a timely basis if significant changes in the duties and responsibilities of a position are made.

3-8 Effective Dates of Classification Actions.

The effective dates of classification actions shall be as follows:

- (A) The effective date of the initial allocation of a new position shall be the date action is officially taken, unless otherwise provided by statute.
- (B) The effective date of a reallocation action on an existing position shall be the first -day of the pay period immediately following the date the request for reallocation was approved by the appointing authority. An effective date earlier than the date

of receipt may be authorized at the discretion of the appointing authority with data in sufficient detail to support the request.

- (1) The effective date of a reallocation downward of a filled position shall be the first day of the pay period immediately following the date action is officially taken provided that appropriate notice was provided to the employee.
- (2) The effective date of a reallocation based on changes due to reorganization shall be no earlier than the first day of the pay period immediately following the date the reorganization was officially approved.
- (3) The effective date of a reallocation, when the review is initiated by the VP&CHRO or as delegated, shall be the first day of the pay period immediately following the deadline date set by the appointing authority for submission of current job descriptions, or such other date as the appointing authority may deem equitable.
- (4) The beginning and ending effective dates of a temporary reallocation shall conform to the dates the temporary duties and responsibilities are actually assigned and assumed, and subsequently removed, as certified by the appointing authority and approved by the VP&CHRO or as delegated.
- (5) The effective date of a reallocation may be adjusted by the VP&CHRO or as delegated, when appropriate justification is provided.

3-9 Delegation of Authority.

The VP&CHRO may delegate to the region's authority to act in human resource classification systems matters in accordance with policies, rules, procedures, and standards issued by the VP&CHRO.

- (A) Each RCEO or as delegated shall ensure that the duties and responsibilities assigned to the organization's positions are accurately reflected in an official job description. Updated job descriptions shall be submitted on a timely basis when significant changes in the duties and responsibilities of a position are made.
- (B) RCEOs and employees shall not use the classification process to evade the principles of the merit system and effect personnel changes for which other personnel processes exist.
- (C) Non-delegated classification actions will be determined at the discretion of the VP&CHRO.

3-10 Internal Complaint Process for Classification Actions.

An employee of the position, the employee's designated representative, or the manager/supervisor may request a review of classification actions in accordance with Chapters 12 and 13 of these Rules.

SUBCHAPTER 2 COMPENSATION SYSTEM

3-11 Assignment of New Classes to Pay Ranges.

The VP&CHRO shall assign new classes to pay ranges in the appropriate salary schedules, consistent with policies and standards established in accordance with statute.

3-12 Evaluation of Classes for Assignment to Pay Ranges.

The assignment of classes to pay ranges shall be in accordance with policies and standards established in conformance with statute and the following principles:

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

3-13 Repricing.

HHSC shall periodically review the appropriate pricing of civil service classes in accordance with applicable law.

3-14 Authority.

Chapter 76, HRS, Civil Service Law
Chapter 89, HRS, Collective Bargaining in Public Employment
Chapter 323F, HRS, Hawaii Health Systems Corporation
HRS § 76-13.5, Classification
HRS § 76-14, Merit appeals board; duties, and jurisdiction
HRS § 76-42, Internal complaint procedures

CHAPTER 4 EXEMPTION FROM CIVIL SERVICE

- 4-1 Purpose
- 4-2 Applicability
- 4-3 General Provisions
- 4-4 Authority to Exempt
- 4-5 Compensation for Exempt, Excluded Employees
- 4-6 Authority

4-1 Purpose.
To address exemptions from civil service relating to positions and employees in HHSC.

4-2 Applicability.
Applies to all of HHSC's non-civil service positions and employees.

4-3 General Provisions.

- (A) The exempt service consists of those positions and persons in such positions which are by statute exempted from all or part of the provisions of the civil service and other pertinent laws of the State.
- (B) All positions and persons in the exempt service are excluded from the requirements of selection by merit competition and from civil service status but should be qualified by experience and ability to perform the duties of the position.
- (C) Except as provided by statute, the requirements of position classification and compensation rules may not be applicable.

4-4 Authority to Exempt.

- (A) The VP&CHRO, PCEO of HHSC, RCEO, or their designees may exempt positions or personal services in accordance with statute upon finding that the conditions and requirements of the statute are met.
- (B) The VP&CHRO shall establish standards and procedures to be used in determining and documenting the exemption of positions.
- (C) The VP&CHRO shall revoke a previously authorized exemption when the particular position or services no longer meet the statutory criteria or conditions for exemption.

4-5 Compensation for Exempt, Excluded Employees.
HHSC shall comply with all HHSC human resources rules, personnel policies, Executive Orders, and applicable State laws and regulations as they relate to compensation for exempt, excluded employees.

4-6 Authority.
Chapter 76, HRS, Civil Service Law
Chapter 323F, HRS, Hawaii Health Systems Corporation
HHSC Exempt Excluded Compensation Policy and Procedure
HRS § 76-16, Civil service and exemptions
HRS § 323F-8, Chief executive officer; exempt positions
HRS § 323F-8.5, Regional chief executive officer; exempt position

CHAPTER 5 PAY ADMINISTRATION

- 5-1 Purpose
- 5-2 Applicability
- 5-3 General Provisions

Subchapter 1 - Employees in Civil Service

- 5-4 Compensation Adjustments upon Appointment
- 5-5 Compensation Adjustments upon Promotion
- 5-6 Compensation Adjustments upon Demotion
- 5-7 Compensation Adjustments upon Transfer
- 5-8 Compensation Adjustments upon Reallocation
- 5-9 Compensation Adjustments upon Repricing of Classes
- 5-10 Temporary Assignment
- 5-11 Temporary Differential Pay
- 5-12 Compression Differential Pay
- 5-13 Compensation Adjustments Related to Changes in Bargaining Unit Assignments

Subchapter 2 - Excluded Civil Service Employees

- 5-14 Compensation Adjustments for Excluded Civil Service Employees
- 5-15 Authority

5-1 Purpose.

To provide a system for administering compensation adjustments for personnel actions that are not addressed elsewhere to ensure compensation adjustments are applied uniformly.

5-2 Applicability.

Applies to employees in civil service – both included within bargaining units and those excluded from bargaining units, and exempt employees.

5-3 General Provisions.

- (A) Compensation adjustments for employees covered by collective bargaining are based on the applicable collective bargaining agreements.
- (B) Compensation adjustments for movements between bargaining units or not otherwise covered by applicable collective bargaining agreements shall be in accordance with these rules, or directives, by the PCEO or as delegated.
- (C) Compensation adjustments not expressly provided for, but necessitated by authorized personnel movements shall be made by the VP&CHRO or as delegated, provided that the adjustments are consistent with the general intent and provisions of Chapter 89C, HRS, collective bargaining agreements, or policies.
- (D) Where there is a conflict with this rule and the pay provisions in the collective bargaining agreement, the latter shall prevail.
- (E) When the effective date of more than one personnel action coincide, compensation adjustments shall be made in accordance with the appropriate collective bargaining agreement. For all other employees, compensation adjustments shall be made in the following order:
 - (1) Step movement or Development-Career Plan as appropriate;
 - (2) Negotiated wage increase;

- (3) Changeover to a new pay schedule;
 - (4) Repricing (not to include initial pricing);
 - (5) Promotion;
 - (6) Reallocation; and
 - (7) Other personnel actions.
- (F) A leave of absence without pay shall end upon the day before the first working day an employee properly reports for duty, and an employee shall be entitled to receive compensation as of the first working day the employee properly reports for duty. Each calendar day from the beginning to the end of an employee's leave of absence without pay shall be charged as leave without pay; provided that, an employee who is granted a leave of absence without pay and who returns to duty after being absent from work for only one working day or less shall be charged for one day of leave of absence without pay or less, as applicable, even though one or more scheduled or normal non-working days or a holiday may have preceded the employee's return to duty.
- (G) A new hire shall be compensated for services rendered as of the first day the employee reports to duty.
- (H) An employee who separates from the service without having worked on all scheduled working days for that month shall be compensated up to the employee's last day of work.
- (I) An employee who separates from the service after having worked on all scheduled working days for that month shall receive a full month's compensation.
- (J) An employee who suffers a personal injury arising out of and in the course of employment and covered under Chapter 386, HRS, shall be credited for a full day's work on the day of the injury regardless of the time the employee is injured.
- (K) An employee who suffers an injury caused by the employee's negligence, willful intention to injure the employee or others, or by the employee's intoxication or because of the influence of non-prescribed controlled substances, shall not have the day of the injury credited as a day of work.
- (L) An employee who initially was properly compensated following a promotion, the adoption of a new pay schedule, a temporary assignment, pricing or repricing, or any other personnel action affecting pay, shall not be required to make reimbursement when it is found subsequently that an overpayment in salary occurred due to the retroactive feature of a position classification action. However, the proper pay adjustment shall be made as of the first pay period following the date of the notice of action by the VP&CHRO or as delegated.
- (M) When an employee with a temporary differential or a compression differential receives an upward compensation adjustment due to a promotion, reallocation, or repricing, the reduction or termination of the differentials shall be made in the following order:
- (1) Temporary differential; and
 - (2) Compression differential.

SUBCHAPTER 1 EMPLOYEES IN CIVIL SERVICE

5-4 Compensation Adjustments upon Appointment.

- (A) All initial appointments shall be made at the first step or minimum rate of the appropriate pay range, except as provided by Chapter 2-19, Recruitment Incentives.

- (B) The compensation of a civil service employee of another jurisdiction moving to HHSC, other than through an exchange, shall be in accordance with the rules governing promotion, transfer, or voluntary demotion as appropriate.

5-5 Compensation Adjustments upon Promotion.

- (A) The basic rate of pay in the higher pay range for a civil service employee who is promoted shall be determined in the following manner:
 - (1) If the promotion is to other than a schedule with single rate pay ranges or a different salary schedule with equal rates of compensation at the corresponding salary ranges and steps, the employee shall be compensated at the lowest step in the higher pay range which rate exceeds the employee's basic rate of pay by five (5) percent. If there is no step in the higher pay range which exceeds the employee's basic rate of pay by at least five (5) percent, the employee shall be compensated at the maximum step in the higher pay range, or at the employee's basic rate of pay, whichever is greater.
 - (2) If the promotion is to a salary schedule with single pay rate pay ranges, the employee shall be compensated at the single rate in the higher pay range.
 - (3) If the promotion is to a different salary schedule with equal rates of compensation at the corresponding salary ranges and steps, the employee shall be compensated as follows:
 - (a) For promotions involving a movement of three (3) or less pay ranges, the employee shall be compensated at the corresponding step in the higher pay range.
 - (b) For promotions involving a movement of more than three (3) pay ranges, the employee shall be compensated at the step in the higher pay range which is equal to the rate of promotions involving three (3) pay ranges. If such rate falls below the minimum step, the employee shall be compensated at the minimum step of the higher pay range.
- (B) A civil service employee who is released from a position while serving a temporary appointment or new probation and is returned to the position the employee last held a permanent appointment shall be compensated as though the employee had remained in the former position continuously.
- (C) A new probationary employee who is promoted shall have the compensation adjustment made based on the rate that the employee was receiving in the position in which the employee last held a permanent appointment.

5-6 Compensation Adjustments upon Demotion.

- (A) A civil service employee who is granted a voluntary demotion shall be compensated as follows:
 - (1) If the voluntary demotion is to other than a salary schedule with single rate pay ranges or a different salary schedule with equal rates of compensation at corresponding pay ranges and steps, the employee shall be compensated at the highest step in the lower pay range which rate is not greater than ninety-five (95) percent of the employee's basic rate of pay. If there is no step in the lower pay range which rate is not greater than ninety-five (95) percent of the employee's basic rate of pay, the employee shall be compensated at the minimum step.

- (2) If the voluntary demotion is to a salary schedule with single rate pay ranges, the employee shall be compensated at the single rate in the lower pay range.
- (3) If the voluntary demotion is to a different salary schedule with equal rates of compensation at corresponding pay ranges and steps, the employee shall be compensated as follows:
 - (a) For voluntary demotions involving a movement of three (3) or less pay ranges, the employee shall be compensated at the corresponding step in the lower pay range.
 - (b) For voluntary demotions involving a movement of more than three (3) pay ranges, the employee shall be compensated at the step in the lower pay range which is equal to the rate of voluntary demotions involving three (3) pay ranges. If such rate falls above the maximum step of the lower pay range, the employee shall be compensated at the maximum step of the lower pay range.
- (4) Upon return to the position in which the employee last held a permanent appointment, a civil service employee who is granted a voluntary demotion on a temporary appointment basis or who is released from a new probationary appointment following a demotion shall be compensated as though the employee had remained in the former position continuously.
- (5) An employee who is serving a new probationary period when a voluntary demotion occurs, shall have a compensation adjustment made based upon the rate the employee was receiving in the position in which the employee last held a permanent appointment.
- (B) A civil service employee who receives an involuntary or disciplinary demotion shall have the employee's basic rate of pay reduced by one of the following methods:
 - (1) If the demotion is to other than a salary schedule with single pay ranges, the employee's basic rate of pay shall be reduced to the corresponding step in the lower pay range or to any lower step deemed appropriate by the appointing authority. When there is no corresponding step in the lower pay range, the employee's basic rate of pay shall be reduced to the highest step in the lower pay range which rate is not greater than ninety-five (95) percent of the employee's basic rate of pay. At the discretion of the appointing authority, the employee's compensation may be further reduced to a step with a rate which is less than ninety-five (95) percent of the employee's existing basic rate of pay. In no event shall an employee be compensated below the minimum rate in the lower pay range.
 - (2) If the demotion is to a salary schedule with single rate pay ranges, the employee shall be compensated at the single rate in the lower pay range.
 - (3) Upon release from a disciplinary demotion, an employee shall be compensated as though they had remained in the employee's former position continuously.
- (C) A civil service employee or an employee serving an initial probationary appointment who receives a demotion due to an injury or illness received while performing the employee's assigned duties and responsibilities shall retain the employee's existing basic rate of pay; provided that:
 - (1) If the employee's existing basic rate of pay falls between two steps in the lower pay range, the employee shall be compensated at the next lower

- step and shall be eligible for temporary differential pay (herein referred to as "TD pay").
- (2) If the employee's existing basic rate of pay falls above the maximum step or the single rate of a salary schedule with single rate pay ranges in the lower pay range, the employee shall be compensated at the maximum step or the single rate, as applicable, and shall be eligible for TD pay.
 - (3) If the employee's existing basic rate of pay falls below the minimum step or the single rate of a salary schedule with single rate pay ranges, the employee shall be compensated at the minimum step or the single rate, as applicable.
- (D) A civil service employee who receives a disability demotion other than as a result of an injury or illness received while performing the employee's assigned duties and responsibilities shall be compensated as provided below:
- (1) An employee who has fifteen (15) or more years of service in HHSC shall retain the employee's existing basic rate of pay; provided that:
 - (a) If the employee's existing basic rate of pay falls between two steps in the lower pay range, the employee shall be compensated at the next lower step and shall be eligible for TD pay.
 - (b) If the employee's existing basic rate of pay falls above the maximum step or the single rate of a salary schedule with single rate pay ranges in the lower pay range, the employee shall be compensated at the maximum step or the single rate, as applicable, and shall be eligible for TD pay.
 - (c) If the employee's existing basic rate of pay falls below the minimum step or the single rate of a salary schedule with single rate pay ranges, the employee shall be compensated at the minimum step or the single rate, as applicable.
 - (2) An employee with at least five (5) years but less than fifteen (15) years of service in HHSC shall retain the employee's existing basic rate of pay for a period beyond the effective date of the demotion as provided below:

<u>Years of Service</u>	<u>Months of Compensation Retention</u>
5	12
6	14
7	16
8	18
9	20
10	22
11	24
12	26
13	28
14	30

- (a) If the employee's existing basic rate of pay falls between two steps in the lower pay range, the employee shall be compensated at the next lower step and shall be eligible for TD pay.
- (b) If the employee's existing basic rate of pay falls above the maximum step of the single rate of a salary schedule with single rate pay ranges in the lower pay range, the employee shall be compensated at the maximum step or the single rate as applicable, and shall be eligible for TD pay.

- (c) If the employee's existing basic rate of pay falls below the minimum step or the single rate of a salary schedule with single rate pay ranges, the employee shall be compensated at the minimum step or the single rate, as applicable.
- (3) The basic compensation of a civil service employee with less than five (5) years of service in HHSC or a civil service employee whose retention period as prescribed above in (D)(2) has expired, shall be adjusted to the highest step in the lower pay range not exceeding the employee's existing basic rate of pay.
- (E) A civil service employee who receives a demotion to avoid being laid off or due to a reorganization shall continue at the employee's existing basic rate of pay; provided that:
 - (1) If the employee's existing basic rate of pay falls between two steps in the lower pay range, the employee shall be compensated at the next lower step and shall be eligible for TD pay.
 - (2) If the employee's existing basic rate of pay falls above the maximum step or the single rate of a schedule with single rate pay ranges in the lower pay range, the employee shall be compensated at the maximum step or the single rate, as applicable, and shall be eligible for TD pay.
 - (3) If the employee's existing basic rate of pay falls below the minimum step or the single rate of a schedule with single rate pay ranges, the employee shall be compensated at the minimum step or the single rate, as applicable.

5-7 Compensation Adjustments upon Transfer.

A civil service employee who is transferred shall continue at the employee's existing basic rate of pay; provided that:

- (A) If the employee's existing basic rate of pay falls between two steps of the pay range, the employee shall be compensated at the next lower step. An employee whose compensation is so decreased shall be entitled to retain the difference between the employee's existing basic rate of pay and the adjusted basic rate of pay, and the amount retained shall be considered as TD pay.
- (B) If the employee's basic rate of pay falls above the maximum step or the single rate of a schedule with single rate pay ranges, the employee shall be compensated at the maximum step or the single rate, as applicable. An employee whose compensation is so decreased shall be entitled to retain the difference between the employee's existing basic rate of pay and the adjusted basic rate of pay, and the amount retained shall be considered as TD pay.
- (C) If the employee's existing basic rate of pay falls below the minimum step or the single rate of a salary schedule with single rate pay ranges, the employee shall be compensated at the minimum step or the single rate, as applicable.

5-8 Compensation Adjustments upon Reallocation.

- (A) A civil service employee occupying a position which is reallocated upward, whether permanently or temporarily, shall be compensated as though a promotion had been made.
- (B) Whenever the reallocation as prescribed in subsection (A) above is retroactive in its effect, employees who occupied or occupy the position within the period covered by the retroactive date, and who performed the duties of and met the minimum qualifications for the position at the higher class, as determined by the

- VP&CHRO or as delegated, shall be entitled to receive retroactive pay adjustments for the period of appointment to the position.
- (C) Pay adjustments as provided by subsection (A) and (B) above shall not apply to a casual hire appointment (89-day non-civil service).
 - (D) The compensation of an employee occupying a position reallocated downward, whether permanently or temporarily, shall be determined in the following manner:
 - (1) An employee retained in a position reallocated downward shall continue to receive the employee's existing basic rate of pay; provided that:
 - (a) If the employee's existing basic rate of pay falls between two steps in the lower pay range, the employee shall be compensated at the next lower step and shall be eligible for TD pay.
 - (b) If the employee's existing basic rate of pay falls above the maximum step, the Excluded Managerial (herein referred to as "EM") maximum rate, or the single rate of a compressed salary schedule with single rate pay ranges in the lower pay range, the employee shall be compensated at the maximum step, or the single rate as applicable, and shall be eligible for TD pay.
 - (c) If the employee's existing basic rate of pay falls below the minimum step, the EM minimum step, the EM minimum rate, or the single rate of a compressed salary schedule with single rate pay ranges, the employee shall be compensated at the minimum step, the EM minimum rate, or the single rate, as applicable.
 - (E) Upon return of the employee's position's original classification after a temporary reallocation upward or downward, the employee shall be compensated at the rate the employee would have received were it not for the temporary reallocation.

5-9 Compensation Adjustments upon Repricing of Classes.

- (A) An employee whose position is in a class which is repriced to a higher pay range shall be compensated as though a promotion had been made.
- (B) The pay rate for employees whose positions are in classes which are repriced to lower pay ranges shall be retained; provided that:
 - (1) If the employee's existing basic rate of pay falls between two steps in the lower pay range, the employee shall be compensated at the next lower step and shall be eligible for TD pay.
 - (2) If the employee's existing basic rate of pay falls above the maximum step, the EM maximum rate, or the single rate of a compressed salary schedule with single rate pay ranges in the lower pay range, the employee shall be compensated at the maximum step, the EM maximum rate, or the single rate, as applicable, and shall be eligible for TD pay.
 - (3) If the employee's existing basic rate of pay falls below the minimum rate, or the single rate of a compressed salary schedule with single rate pay ranges, the employee shall be compensated at the minimum step, the EM minimum rate, or the single rate, as applicable.

5-10 Temporary Assignment.

- (A) Compensation for temporary assignment shall be allowed under any one of the following circumstances:
 - (1) The incumbent of the position is temporarily not available to perform the duties of the employee's position.
 - (2) The incumbent of the position is also serving on a temporary assignment.

- (3) A vacant position is being recruited for or the selected applicant has not yet reported for duty. The temporary assignment shall not exceed one hundred twenty (120) working days; if circumstances warrant additional periods of temporary assignment, the VP&CHRO or as delegated may grant temporary assignment beyond the initial period of one hundred twenty (120) working days; provided that each additional period does not exceed sixty (60) working days.
- (B) Compensation for temporary assignment shall be as follows:
 - (1) Except as provided in subsection (C) below, the basic rate of pay of an employee who performs temporary assignment involving a higher position or higher rate of pay shall be adjusted as though a promotion had been made; except that, any TD which the employee is receiving shall not be added to the basic rate of pay, but shall be retained by the employee while performing the temporary assignment.
 - (2) An employee who performs a temporary assignment involving a position in the same or lower rate of pay shall continue to be compensated at the employee's existing basic rate of pay, prior to the temporary assignment; provided that if the employee's existing basic rate of pay falls below the minimum step or the EM minimum rate, the employee shall be compensated at the minimum step or the EM minimum rate.
 - (3) An employee who performs a temporary assignment to a position for which an adjusted entry rate has been prescribed by the VP&CHRO or as delegated, and whose basic rate of pay when adjusted under subsection (B)(1), is below the adjusted entry rate, shall be entitled to an additional amount of compensation. The additional amount of compensation shall be the difference between the employee's basic rate of pay and the adjusted entry rate prescribed by the VP&CHRO or as delegated. This difference, to be referred to as a temporary assignment differential (TAD), shall not be considered as part of the employee's base pay and shall end upon the completion of the temporary assignment.
- (C) Compensation adjustments shall not be provided for the following:
 - (1) An employee whose position includes assuming the duties and responsibilities of the employee's superior in the absence of the superior and which assignment is recognized in the employee's position classification and pricing.
 - (2) An employee who performs duties in accordance with the terms of a formal training agreement entered into with the employee's RCEO or as delegated and approved by the VP&CHRO or as delegated.

5-11 Temporary Differential Pay.

- (A) An employee shall be eligible for Temporary Differential ("TD") pay in the event of a demotion due to injury or illness, a demotion to avoid layoff, a demotion due to reorganization, a transfer, a reallocation, or a repricing action, which results in a lower basic rate of pay. The amount of TD pay shall be the difference between the employee's existing basic rate of pay and the employee's new basic rate of pay.
- (B) The TD pay shall not be considered part of an employee's basic rate of pay.
- (C) The TD pay shall be reduced by an amount equal to any adjustment in the employee's basic rate of pay due to promotion, upward reallocation, or repricing upward actions. When the adjustment due to these actions is greater than or equal to the TD pay, the TD pay shall be terminated.

- (D) When an employee with TD pay is demoted or transferred, or whose position is reallocated to a class in the same or lower pay range, the TD shall be continued in the new pay range.

5-12 Compression Differential Pay.

- (1) An employee who was compensated at a basic rate of pay not on the salary schedule their position was assigned to, was placed on a step which rate did not exceed their basic rate of pay when the salary schedule was compressed to lesser steps and received the dollar difference as a Compression Differential ("CD").
- (2) When an employee with a CD is promoted, demoted, or transferred, or whose position is reallocated to a class outside of the bargaining unit, the CD is added to the existing basic rate of pay for the purposes of computing the employee's pay adjustment and is no longer carried with the employee as a differential.
- (3) When an employee with a CD is demoted, or transferred, or whose position is reallocated to a class in the same or lower pay range within the same bargaining unit, the CD shall be continued in the new pay range.
- (4) When a permanent employee is released from a new probationary or temporary appointment and returns to the position which the employee last held permanent appointment, the CD shall be restored as though the employee had remained in the former position continuously.

5-13 Compensation Adjustments Related to Changes in Bargaining Unit Assignments.

Whenever a position is moved from one bargaining unit to another without a change in classification or pay range assignment, the employee occupying the position shall continue to receive the employee's existing basic rate of pay; provided that:

- (A) If the employee's existing basic rate of pay falls between two steps of the pay range, the employee shall be compensated at the next lower step. An employee whose compensation is so decreased shall be entitled to retain the difference between the employee's existing basic rate of pay and the adjusted basic rate of pay, and the amount retained shall be considered as TD pay.
- (B) If the employee's existing basic rate of pay falls above the maximum step, the EM maximum rate, or the single rate of a compressed salary schedule with single rate pay ranges, the employee shall be compensated at the maximum step, the EM maximum rate, or the single rate, as applicable. An employee whose compensation is so decreased shall be entitled to retain the difference between the employee's existing basic rate of pay and the adjusted basic rate of pay, and the amount retained shall be considered as TD pay.
- (C) If the employee's basic rate of pay falls below the minimum step, the EM minimum rate, or the single pay rate of a compressed schedule with single rate pay ranges, the employee shall be compensated at the minimum step, the EM minimum rate, or the single rate, as applicable.

**SUBCHAPTER 2
EXCLUDED CIVIL SERVICE EMPLOYEES**

5-14 Compensation Adjustments for Excluded Civil Service Employees.

- (A) Any compensation adjustments for excluded civil service employees shall be consistent with the merit principles and shall not diminish any rights provided under Chapter 76, HRS.

- (B) For excluded employees under the same classification systems as employees within collective bargaining agreements, adjustments shall not be less than those provided under collective bargaining agreements for employees hired on a comparable basis.
- (C) For employees in positions in the excluded managerial compensation plan, adjustments shall not be less than those provided under collective bargaining to officers and employees in the professional and scientific bargaining unit. This shall not preclude additional variable adjustments based on performance or other job criteria and specific adjustments warranted based on the nature of work performed.
- (D) The VP&CHRO shall ensure that adjustments for excluded civil service employees result in compensation and benefit packages that are appropriate for what they do and the contribution they make in consideration of the compensation and benefit packages provided under collective bargaining agreements for counterparts and subordinates with HHSC.

5-15 Authority.

Chapter 76, HRS, Civil Service Law

Chapter 89, HRS, Collective Bargaining

Chapter 89C, HRS, Public Officers and Employees Excluded From Collective Bargaining

Chapter 323F, HRS, Hawaii Health Systems Corporation

Chapter 386, HRS, Workers' Compensation Law

CHAPTER 6 HEALTH AND SAFETY

- 6-1 Purpose
- 6-2 Applicability
- 6-3 General Provisions
- 6-4 Pre-employment Drug Testing
- 6-5 Pre-employment Medical or Physical Examination
- 6-6 Pre-employment Health Evaluations
- 6-7 Continuing Health Evaluation
- 6-8 Health and Safety
- 6-9 Authority

6-1 Purpose.

To ensure applicants and employees meet the health and physical requirements for the efficient performance of their duties with or without reasonable accommodation and to develop a safe and healthy environment for employees by establishing, maintaining and properly supervising an active safety and health program tailored to meet the needs of HHSC.

6-2 Applicability.

This chapter shall apply to all persons seeking employment with HHSC. Continuing health and safety requirements are applicable to all employees.

6-3 General Provisions.

All persons seeking employment with HHSC may undergo pre-employment requirements which may include, but not limited to, pre-employment drug testing, pre-employment medical or physical examination or pre-employment health evaluations.

The PCEO or designee may exclude or waive certain classes or positions from these pre-employment requirements.

6-4 Pre-employment Drug Testing.

To ensure a drug-free work environment that is safe for employees, medical staff, patients, and visitors to facilities, each applicant who is conditionally offered employment shall be tested for controlled substances, including but not limited to: marijuana, cocaine, opiates, amphetamines (including crystal methamphetamine), phencyclidine (PCP), barbiturates, propoxyphene, methaqualone, benzodiazepines, and methadone. HHSC will be responsible for paying for this drug testing. 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 controlled substance may request that a re-test of the previously collected sample be analyzed through a different laboratory after consultation with the Medical Review Officer, contracted with or employed by HHSC, within a prescribed period. This re-test will be paid by the applicant and will be reimbursed if the re-test produces negative results.

The PCEO or designee may exclude or waive certain classes or positions from these pre-employment drug test requirements.

- 6-5 Pre-employment Medical or Physical Examination.
Each applicant who is conditionally offered employment may undergo a pre-employment medical or physical examination. The costs for the medical examination shall be the responsibility of the applicant. Examinations shall be conducted in accordance with the hiring requirements as prescribed by VP&CHRO or designee..
- The PCEO or designee may exclude or waive certain classes or positions from the medical or physical requirements.
- 6-6 Pre-employment Health Evaluations.
Applicants who are conditionally offered employment may also be required to undergo pre-employment health evaluations, tests or vaccinations or other requirements as required by the law. 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 based on the job requirements. 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. Evaluations, tests, or vaccinations may include, but is not limited to, TB testing, Hepatitis B Screening, Rubella Testing or other testing that may be deemed necessary.
- The PCEO or designee may exclude or waive certain classes or positions from these pre-employment health examination requirements.
- 6-7 Continuing Health Evaluations.
On a continuing basis, the physical well-being of employees working in the facilities will be monitored and may involve such requirements as, but not limited to, annual TB tests, flu vaccinations, Hepatitis B vaccinations, annual health screening questionnaires, and other health evaluations as determined necessary by the region or facility in accordance with the state and federal laws, statutes and regulatory requirements.
- 6-8 Health and Safety.
The PCEO or designee shall establish safety and health policies and procedures 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 policies and procedures to support accident prevention programs.
- 6-9 Authority.
Chapter 76, HRS, Civil Service Law
Chapter 78, HRS, Public Service
HRS § 76-18 Examinations.
HRS § 78-2.6 Prospective employees; suitability for public employment

CHAPTER 7 LEAVES OF ABSENCES

- 7-1 Purpose
- 7-2 Applicability
- 7-3 Leaves with Pay
- 7-4 Leaves without Pay
- 7-5 Leave Sharing Program
- 7-6 Family Leave
- 7-7 Miscellaneous Leaves
- 7-8 Authority

7-1 Purpose.

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.

7-2 Applicability.

Applies to all HHSC employees except employees whose full-time equivalency is less than fifty (50) percent and/or employees whose appointment is less than ninety (90) days.

7-3 Leaves with Pay.

- (A) Employees covered by collective bargaining agreements shall be eligible for the paid leave benefits that have been negotiated through collective bargaining.
- (B) Employees excluded from collective bargaining shall receive similar leaves as provided under sections 89C-3 and 89C-4, HRS, as applicable.
- (C) Employees whose full-time equivalency is less than fifty (50) percent and/or employees whose appointment is less than ninety (90) days are not eligible for paid leave benefits.

7-4 Leaves without Pay.

- (A) Employees covered by collective bargaining agreements shall be eligible for leaves of absences without pay that have been negotiated through collective bargaining.
- (B) Employees excluded from collective bargaining shall receive similar leaves as provided under sections 89C-3 and 89C-4, HRS, as applicable.

7-5 Leave Sharing Program.

- (A) HHSC's leave sharing program allows employees of HHSC to donate accumulated vacation leave credits to another HHSC employee who has a serious personal illness or injury or who has a family member who has a serious personal illness or injury. The program allows employees who are not entitled to vacation leave to donate accumulated sick leave credits.
- (B) To be eligible to receive leave credits, an employee must, at a minimum, have:
 - (1) No less than six (6) 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 (2) years.
- (C) To be eligible to donate shared leave credits, an employee must meet the following conditions:
 - (1) Has not asked for nor accepted anything of value in exchange for the donation; and
 - (2) Has a vacation leave balance, after a donation is made, of not less than ten (10) days.
- (D) The VP&CHRO shall ensure that there are procedures governing donors, recipients, and an approval process that ensures fair treatment and freedom from coercion of employees and imposes no undue hardship on HHSC's operations.

7-6 Family Leave.

State family leave entitlement and administration will be in accordance with Chapter 398, HRS, while federal family leave entitlement and administration will be in accordance with the Family and Medical Leave Act of 1993 and HHSC Policy No. HR 0012A and HHSC Procedure No. HR 0012B.

7-7 Miscellaneous Leaves.

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

7-8 Authority.

Chapter 76, HRS, Civil Service Law
 Chapter 78, HRS, Public Service
 Chapter 89, HRS, Collective Bargaining
 Chapter 89C, HRS, Public Officers and Employees Excluded From Collective Bargaining
 Chapter 323F, HRS, Hawaii Health Systems Corporation
 Chapter 386, HRS, Workers' Compensation Law
 HRS § 78-23, Leaves of absence
 HRS § 78-26, Leave sharing program
 HRS § 89C-3, Adjustments for excluded civil service employees.
 HRS § 89C-4, Adjustments for excluded employees exempt from civil service.
 HHSC Policy No. 0012A, Family Leave
 HHSC Procedure No. 0012B, Family Leave

CHAPTER 8 EMPLOYEE DEVELOPMENT AND INCENTIVES

- 8-1 Purpose
- 8-2 Applicability

Subchapter 1 - Employee Development

- 8-3 General Provisions
- 8-4 Training Programs

Subchapter 2 - Incentives

- 8-5 Incentive and Service Awards
- 8-6 Other Incentives, Benefits and Compensation
- 8-7 Authority

- 8-1 Purpose.
To develop rules for in-service training programs and activities in accordance with section 78-28, HRS, and establish incentive and service award programs in accordance with the provisions of section 78-29, HRS.
- 8-2 Applicability.
Applies to all employees of HHSC and shall be in accordance with this rule or the applicable provisions of the collective bargaining agreements.

SUBCHAPTER 1 EMPLOYEE DEVELOPMENT

- 8-3 General Provisions.
 - (A) The VP&CHRO shall administer and develop a system-wide employee development and training plan.
 - (1) Develop and conduct training courses to meet stated needs of all HHSC facilities.
 - (2) Coordinate training activities of all facilities of HHSC with related activities conducted by educational institutions, other governmental jurisdictions and the community. The training may include various programs authorized by statute or by these rules.
 - (B) The RCEO or as delegated shall be responsible for developing, and conducting in-service training activities for their respective region/facility to meet the needs of each facility.
 - (C) The VP&CHRO or as delegated shall foster and assist, in cooperation with the RCEOs, facility administrators, RCHROs and others, training programs to meet the unique needs of each facility as needed.
- 8-4 Training Programs.
 - (A) The VP&CHRO shall issue training regulations and standards which may include but not limited to the following:
 - (1) Determine HHSC-wide training needs and priorities.
 - (2) Advise and assist facilities in the development and operation of the facilities' training programs.

- (B) When necessary to meet specific needs, the VP&CHRO or as delegated may establish training agreements, internship, apprenticeship, and other formal training programs.
- (C) Training of employees by a private or public agency other than HHSC may be authorized if the RCEO or as delegated has determined that adequate training through HHSC is not reasonably available.
- (D) Whenever practicable, employees may be permitted to participate in approved training activities during work hours.

SUBCHAPTER 2 INCENTIVES

8-5 Incentive and Service Awards.

- (A) The VP&CHRO may establish incentive and service award programs to recognize employees who contribute to the efficiency, economy, or other improvements 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 region/facility to establish supplemental incentive/service award programs.
- (B) The PCEO, RCEO or as delegated 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 employees or the employees' heirs and assigns.
- (C) 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 PCEO, RCEO or as delegated, as applicable. All administrative decisions made on the issuance of awards under this section shall be final and binding.

8-6 Other Incentives, Benefits and Compensation.

- (A) HHSC may provide other benefits or compensation as may be required or permitted by law. Permissible, but not required, benefits or compensation shall be provided at the discretion of the appointing authority.
- (B) In addition to the recruitment incentives stated in Chapter 2 of these rules, HHSC may also establish and manage other incentive programs to enhance employee engagement and retention in a position critical to the mission of the organization, region or the facility. Such incentives may include, but not be limited to, retention bonuses, shortage differentials, annual incentive plan and other incentive programs that may be deemed necessary by the appointing authority.

8-7 Authority.

Chapter 78, HRS, Public Service
 Chapter 323F, HRS, Hawaii Health Systems Corporation
 HRS § 78-28, In-service training programs
 HRS § 78-29, Incentive and service awards

CHAPTER 9 EMPLOYEE PERFORMANCE

- 9-1 Purpose
- 9-2 Applicability
- 9-3 Performance Appraisal System for Employees in Civil Service
- 9-4 Performance Appraisal System for Exempt Employees
- 9-5 Authority

9-1 Purpose.

To establish and maintain performance appraisal systems for the purpose of evaluating the performance of employees in the civil service and improving employees' performance. HHSC supports the professional development of employees and provides opportunity to encourage collaboration between supervisors/managers and employees in aligning goals and performance with the mission and values of HHSC.

9-2 Applicability.

Applies to employees in civil service, both included within bargaining units and those excluded from bargaining units, and exempt employees.

9-3 Performance Appraisal System for Employees in Civil Service.

- (A) HHSC's performance appraisal system shall be the basis for evaluating whether employees in the civil service meet the performance requirements of their respective positions as required in section 76-27, HRS.
- (B) The performance evaluation system may be used to:
 - (1) Strengthen supervisor/employee relationships;
 - (2) Recognize employee accomplishments and good work;
 - (3) Identify job standards and keep employees and supervisors aware of them;
 - (4) Improve individual performance; and
 - (5) Identify training needs.
- (C) Each supervisor shall appraise the employee and submit a written evaluation to them:
 - (1) At the end of their initial or new probationary period; and/or
 - (2) At the end of their annual period for civil service employees.
- (D) When an employee's performance is substandard, the employee shall be afforded an opportunity to bring their performance to a satisfactory level within a reasonable amount of time at the discretion of the VP&CHRO, RCEO, or as delegated.
- (E) HHSC's PCEO, RCEOs/Facility Administrators or as delegated 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 following the seven (7) steps from section 76-41, HRS:
 - (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.
- (F) Any employee, with the exception of employee serving an initial probationary period, 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 Procedures that culminates in a final and binding decision by the Merit Appeals Board under Chapter 13 of these Rules and section 76-14, HRS, for employees excluded from the bargaining process.
- (G) An employee in their initial probationary period who fails to meet performance requirements shall have the right to:
- (1) The HHSC Internal Complaint Procedures that culminates in a final and binding decision by the Merit Appeals Board under Chapter 13 of these Rules and section 76-27, HRS.
- (H) The performance judge or the Merit Appeals Board, as the case may be, shall use the seven (7) steps in subsection (E) as tests in reaching a decision on whether the employer's action, based on a failure by the employee to meet performance requirements of the employee's position, was with or without merit.

9-4 Performance Appraisal System for Exempt Employees.

- (A) The VP&CHRO shall establish a performance evaluation system to cover exempt employees through section 76-16 and Chapter 323F of the HRS, or any other law or these rules.
- (B) The performance evaluation forms for the PCEO and RCEOs are subject to discussion and modification by their respective Boards for each evaluation rating period.
- (C) The PCEO, RCEO, or their designees, shall determine individual performance objectives and goals for exempt, excluded employees under their respective supervision. The PCEO and RCEOs shall provide recommendations on objectives and goals to their respective Boards.

9-5 Authority.

Chapter 76, HRS, Civil Service Law
 Chapter 89, HRS, Collective Bargaining in Public Employment
 Chapter 323F, HRS, Hawaii Health Systems Corporation
 HRS § 76-14 HRS, Merit appeals board; duties, and jurisdiction
 HRS § 76-27 HRS, Merit appeals board; duties, and jurisdiction
 HRS § 76-41, Performance appraisal systems; failure to meet performance requirements.
 HRS § 76-46 HRS, Merit appeals board; duties, and jurisdiction

CHAPTER 10 SEPARATION FROM SERVICE

- 10-1 Purpose
- 10-2 Applicability
- 10-3 Definitions

Subchapter 1 - Resignation

- 10-4 Notice of Resignation
- 10-5 Failure to Report to Duty; Resignation
- 10-6 Resignation Submitted During an Investigation
- 10-7 Resignation Submitted Following Notice of Discharge
- 10-8 Withdrawal of Resignation

Subchapter 2 - Discharge

- 10-9 Authority for a Discharge

Subchapter 3 - Layoff

- 10-10 Layoff and Placement Rights
- 10-11 Authority

10-1 Purpose.

To provide for orderly, uniform and fair application of actions for the separation of employees from employment with HHSC.

10-2 Applicability.

Applies to all HHSC employees unless otherwise specified. If there is a conflict between this rule and an applicable collective bargaining agreement, the collective bargaining agreement shall govern.

10-3 Definitions.

Definitions applicable to this specific chapter are:

“Appointing Authority” means the President and Chief Executive Officer (PCEO), Regional Chief Executive Office (RCEO), or designee having the power to make appointments or changes in the status of employees.

“Discharge” means an action taken by the Appointing Authority to involuntarily separate an employee from HHSC service. A discharge may be for administrative reasons or for misconduct.

“Resignation” means an action taken by an employee to sever their employment relationship with HHSC.

SUBCHAPTER 1 RESIGNATION

10-4 Notice of Resignation.

- (A) When an employee elects to resign, the employee shall notify the Appointing Authority in writing at least fifteen (15) calendar days before the date of the

separation, unless the Appointing Authority waives this requirement, or due to circumstance specified under section 10-5.

10-5 Failure to Report to Duty; Resignation.

- (A) An employee who does not report to work for fifteen (15) calendar 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.
- (B) If the employee expresses a desire to continue employment within fifteen (15) calendar days from the last day the employee reported for work, the employee shall not be deemed to have resigned. The Appointing Authority may consider appropriate disciplinary action, including discharge, in consideration of the reasons for the employee's absence.

10-6 Resignation Submitted During an Investigation.

When an employee submits a written resignation while being the subject of an investigation pertaining to an alleged impropriety on the employee's part, the Appointing Authority shall determine whether to:

- (A) Discontinue the investigation and accept the resignation, provided that the requirements of section 10-4 have been met;
- (B) Continue the investigation and accept the resignation on the condition that it may be changed to a discharge, depending upon the outcome of the investigation; or
- (C) Reject the resignation:
 - (1) If the resignation is submitted while an investigation is pending against the employee and the Appointing Authority determines resignation is not appropriate in the circumstances;
 - (2) If the resignation is submitted to escape disciplinary action and the Appointing Authority determines resignation is not appropriate in the circumstances; or
 - (3) For other reasons allowed by these Rules.

10-7 Resignation Submitted Following Notice of Discharge.

If an employee submits a written resignation after receiving notice of discharge, the Appointing Authority shall determine whether to:

- (A) Accept the resignation, provided that notwithstanding section 10-4, the effective date is on or before the date the discharge would have taken place; or
- (B) Reject the resignation and effect the discharge.

10-8 Withdrawal of Resignation.

A resignation shall be binding on the employee upon the submission of the notice of resignation. The resignation may be withdrawn only with the consent of the Appointing Authority.

SUBCHAPTER 2 DISCHARGE

10-9 Authority for a Discharge.

- (A) An employee may be discharged for administrative reasons or for misconduct. The authority for a discharge action may be pursuant to a statute, a provision of the employee's collective bargaining agreement, or other valid employment reason.

- (B) In addition, employees may be discharged 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 (Not-to-Exceed "NTE" employees) shall be released at the end of their appointments.

SUBCHAPTER 3 LAYOFF

10-10 Layoff and Placement Rights.

- (A) Layoffs shall be made in accordance with layoff or reduction-in force provisions of the respective collective bargaining agreement. Whenever there are provisions in a collective bargaining agreement that conflict with this section, the terms of the agreement shall prevail.
- (B) When a layoff is necessary, employees with permanent appointments in civil service positions shall have layoff rights. NTE employees have no layoff rights and shall not be placed on any recall list.
- (C) Exempt (both included and excluded) employees, employees in their initial probationary period, and/or temporary employees do not have layoff rights.
- (D) Layoff rights include displacement and recall rights as determined by an eligible employee's job classification and retention points.
- (E) Retention points shall be computed on the basis of one point for each full month of continuous civil service employment with HHSC.
- (F) 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.
- (G) 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.
- (H) Laid-off employees with layoff rights shall be listed on the recall list with priority for recall determined by job classification and retention points.

10-11 Authority.

Chapter 76, HRS, Civil Service Law
HRS § 76-30, Tenure; resignations
HRS § 76-43, Layoff
HRS § 76-46, Discharges; demotions

CHAPTER 11 DISCIPLINE

- 11-1 Purpose
- 11-2 Applicability
- 11-3 Disciplinary Actions
- 11-4 Review of Discipline
- 11-5 Authority

- 11-1 Purpose.
To describe disciplinary actions, up to and including discharge from employment with HHSC.
- 11-2 Applicability.
Applies to exempt and excluded civil service employees, as specified by the provisions below. This chapter shall not apply to civil service employees covered by a collective bargaining agreement.
- 11-3 Disciplinary Actions.
Disciplinary actions may include but not limited to, oral reprimands, written reprimands, suspensions, demotions, transfers, and/or discharges.
 - (A) An exempt 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).
 - (B) An excluded civil service employee is subject to disciplinary action for cause, for any of, but not limited to, the following reasons:
 - (1) Failure to meet the performance requirements of the employee's position as provided in Chapter 9;
 - (2) Violation of 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.
- 11-4 Review of Discipline.
 - (A) Exempt employees shall have the right to file a complaint and appeal to the PCEO or RCEO, as appropriate.
 - (B) Excluded civil service employees who are disciplined under this chapter shall have the right to file a complaint and appeal as provided in Chapters 12 and 13.
- 11-5 Authority.
Chapter 76, HRS, Civil Service Law
Chapter 323F, HRS, Hawaii Health Systems Corporation
HRS § 76-14, Merit appeals board; duties, and jurisdiction
HRS § 76-41, Performance appraisal systems; failure to meet performance requirements
HRS § 76-42, Internal complaint procedures

CHAPTER 12 INTERNAL COMPLAINT

- 12-1 Purpose
- 12-2 Applicability
- 12-3 General Provisions
- 12-4 Administrative Review
- 12-5 HHSC Formal Complaint
- 12-6 Authority

12-1 Purpose.
To establish uniform procedures for HHSC's handling of complaints and appeals related to the personnel actions described herein.

12-2 Applicability.
Applies to matters within the jurisdiction of the Merit Appeals Board in accordance with section 76-14, HRS, with the following exceptions:
(A) Complaints, including disciplinary actions, from exempt employees;
(B) Complaints from applicants for exempt positions; or
(C) Matters subject to the collective bargaining grievance procedure.

Exempt employees shall not have the right to file a complaint through this chapter. Their complaints and appeals shall be routed to the PCEO or RCEO, as appropriate.

12-3 General Provisions.
(A) The Internal Complaint Procedures consists of an informal "Administrative Review" 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. This entire process must be exhausted before the complaint can be appealed to the HHSC Merit Appeals Board pursuant to the provisions of Chapter 13, HHSC Merit Appeals Board.
(B) In presenting a complaint, the complainant shall be assured freedom from coercion, discrimination, or reprisal.
(C) 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 applicable HR Office of the name, title, address and phone number of the complainant's representative at the time the 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. HHSC will not be held responsible for complainant's failure to provide updated information on the complainant's representative.
(D) 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 the complainant shall be referred to the appropriate agency or department, if known.
(1) In particular, complaints concerning matters that are subject to collective bargaining grievance procedures shall be returned to the complainant. If the complainant disputes whether the complaint involves matters subject to collective bargaining grievance procedures, the complainant may submit the

matter to Hawaii Labor Relations Board pursuant to the board's rules of practice and procedure.

- (E) 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.
- (F) If the complainant is an 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.
- (G) A complaint will not be accepted or allowed to continue within the complaint procedures if established timelines are not met.
- (H) 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.

12-4 Administrative Review.

- (A) 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 for civil service employees who are excluded from collective bargaining coverage;
 - (4) Decisions regarding the failure to meet performance standards of a civil service employee excluded from collective bargaining coverage;
 - (5) Termination actions for civil service employees who are excluded from collective bargaining coverage (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.
- (B) 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 eligible applicant or 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 (RCEO) or the Vice President and Chief Human Resources Officer (VP&CHRO). Forms are available on the HHSC website or at the various Regional Human Resources offices. The RCEO or the VP&CHRO may direct the review to the appropriate administrator or Regional Chief Human Resources Officer (RCHRO) who was responsible for the action.
- (C) For classification/reclassification actions, the Administrative Review will be handled by the appointing authority or designee (usually, the Regional HR Office) as follows:

- (1) An Administrative Review may be requested by an employee of the position, the employee's designated representative, or the manager/supervisor.
 - (2) An Administrative Review consists of a re-evaluation of a classification action and is therefore confined to the duties and responsibilities assigned to the position at the time the job description was prepared, and which were the basis for the classification action. Subsequent changes in duties and responsibilities cannot be the basis for administrative review, but must be reported on an updated job description and submitted for another classification action.
 - (3) In accordance with Section 12-4(B) of these Rules, requests for an Administrative Review shall be submitted within twenty (20) calendar days following the notice of the classification or reclassification actions to the RCEO or as delegated, while pricing and creation of new classes' decisions must be submitted to the Corporate HR Office.
 - (4) The RCEO or as delegated shall take any action deemed appropriate, which may include rescinding the earlier action and taking a different classification action.
- (D) For actions involving initial pricing, which include creation of new classes, the Administrative Review will be the responsibility of the Corporate HR Office. The request for the Administrative Review will be considered as the Formal Complaint and will follow the Formal Complaint process.
 - (E) 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.
 - (F) 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.

12-5 HHSC Formal Complaint.

- (A) The complainant shall file a Formal Complaint, on a form available at the various HR offices within the jurisdiction, to the President and Chief Executive Officer (PCEO). This Formal Complaint must be made within twenty (20) calendar days from the date of the sent informal Administrative Review decision.
- (B) The PCEO 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.
- (C) Within twenty (20) calendar days of the close of the meeting, the PCEO or designee shall provide an initial response to the complainant. A final written decision to follow within a reasonable time. The PCEO's decision may sustain, amend or remedy the original action or decision, and this written decision will be provided to the complainant.
- (D) An eligible complainant may then appeal the decision to the Merit Appeals Board pursuant to the procedures described in Chapter 13, 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 PCEO's decision was sent via certified mail.

12-6 Authority.

Chapter 76, HRS, Civil Service Law

HRS § 76-13.5, Classification

HRS § 76-14, Merit appeals board; duties, and jurisdiction

HRS § 76-41, Performance appraisal systems; failure to meet performance requirements.

CHAPTER 13

HHSC MERIT APPEALS BOARD

- 13-1 Purpose
- 13-2 Scope of Jurisdiction
- 13-3 Composition of Board
- 13-4 Adoption of Merit Appeals Board Procedures
- 13-5 Rejection or Abatement of Appeal
- 13-6 Open Meetings
- 13-7 Subpoenas, Oaths
- 13-8 Appeals from HHSC's Formal Complaint Decisions
- 13-9 Appeal Expenses
- 13-10 Mediation
- 13-11 Filing a Grievance
- 13-12 The Decision of the Board
- 13-13 Authority

- 13-1 Purpose.
Establishment of the HHSC Merit Appeals Board pursuant to sections 76-14, 76-47, 76-50, 76-51, HRS.

- 13-2 Scope of Jurisdiction.
- (A) The HHSC Merit Appeals Board shall have exclusive jurisdiction over timely appeals from the Internal Complaint Procedures described in Chapter 12. 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 (PCEO), Regional CEO (RCEO) or designee of the foregoing as appropriate.
 - (B) If the complaint is not satisfactorily resolved following the final Internal Complaint Procedure decision, the complainant may file an appeal to the HHSC Merit Appeals Board. The complainant shall use a form prescribed by the HHSC and file the appeal within twenty (20) calendar days from the date the Internal Complaint 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

- (C) 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.
- 13-3 Composition of Board.
- (A) The Merit Appeals Board shall consist of a three (3) person board. 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.
- (B) The HHSC Board of Directors will appoint the Merit Appeals Board members from a list provided by the PCEO. Recommendations for nominees will be solicited from all interested parties.
 - (C) The appeals board members and alternates shall be appointed for four (4) year terms and may be re-appointed without limitation.
 - (D) The chairperson shall be designated through a majority decision of the appeals board members.
- 13-4 Adoption of Merit Appeals Board Procedures.
The PCEO shall adopt, amend or repeal the rules of practice and procedure governing the Merit Appeals Board.
- 13-5 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:
- (A) The appeal shall be dismissed if the Merit Appeals Board lacks jurisdiction over the matter being appealed;
 - (B) The appeal shall be dismissed if the complainant failed to exhaust the HHSC Internal Complaint Procedures before filing the appeal;
 - (C) The appeal shall be dismissed if the complainant is not covered by the applicability provisions listed in Chapter 12;
 - (D) The appeal shall be held in abeyance and/or shall not be processed if there is 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;
 - (E) 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;
 - (F) 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;
 - (G) 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.
- 13-6 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.
- 13-7 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.
- 13-8 Appeals from HHSC's Formal Complaint Decisions.
(A) 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;

- (B) 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;
- (C) At the hearing, technical rules of evidence shall not apply and the proceedings recorded stenographically or by machine;
- (D) 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;
- (E) 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;
- (F) 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;
- (G) The Merit Appeals Board shall use the seven (7) conditions specified in Chapter 9 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;
- (H) The Merit Appeals Board will have access to legal counsel from the State Attorney General's Office, as arranged by HHSC via a Memorandum of Understanding (MOU) with the State Attorney General's Office, to provide advice and guidance on legal issues;
- (I) 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.

13-9 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.

13-10 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.

13-11 Filing a Grievance.

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

13-12 The Decision of the Board.

- (A) 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.
- (B) The decision will require a majority consensus, or at least two (2) of the three (3) members (regular or alternate) agreeing on the decision.
- (C) The findings and decisions of the Board shall be final on all appeals, unless an appeal is taken as provided in Chapter 91, HRS.

13-13 Authority.

Chapter 76, HRS, Civil Service Law
Chapter 92, HRS, Public Agency Meetings and Records
HRS § 76-14, Merit appeals board; duties, and jurisdiction
HRS § 76-41, Performance appraisal systems; failure to meet performance requirements.
HRS § 76-47, Merit appeals boards; appointment, authority, procedures
HRS § 76-49 Subpoenas, oaths
HRS § 76-50, Compensation and expenses of a merit appeals board
HRS § 76-51, Prohibited activities by members of a merit appeals board
HRS § 92-3, Open Meetings
HRS § 92-4, Executive meetings
HRS § 92-5, Exceptions