DEPARTMENT OF EDUCATION

Amendment and Compilation of Chapter 8-54

~~June 14, 2010~~ February 28, 2011

1. Chapter 8-54, Hawaii Administrative Rules entitled "Teacher Licensing Standards" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 8

DEPARTMENT OF EDUCATION

SUBTITLE 2

EDUCATION

PART I

PUBLIC SCHOOLS

CHAPTER 54

TEACHER LICENSING STANDARDS

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§8-54-1 Statement of purpose. (a) All of Hawaii's public school children deserve to be taught by teachers who are qualified to practice the profession of teaching. The provision of quality education for children is a critical function of state government. The highest standards must be applied to the training of teachers, the screening of applicants for employment and continued employment of teachers. Teacher standards will also strengthen the school system's accountability to the public that qualified teachers are employed in the public school system.

(b) The purpose of this chapter is to set the standards by which public school teachers shall be licensed and relicensed. These standards shall be established by the Hawaii teacher standards board. [Eff 6/13/97; comp 7/18/98; comp 12/20/01; am and comp 8/13/04] (Auth: HRS §302A-803) (Imp: HRS §§302A-801 to -808)

§8-54-2 Historical note. The eighteenth legislature of the State of Hawaii enacted Act 240, which transferred the authority for setting public school teacher certification standards from the department of education to the Hawaii teacher standards board. Its aim was to accord the teaching profession a status comparable to that of other professions. The legislature's action was consistent with efforts occurring nationally to establish standards to evaluate teacher qualification for employment. The twenty-first legislature of the State of Hawaii enacted Act 312, which transferred the authority for issuing and renewing teaching licenses from the department of education to the Hawaii teacher standards board. [Eff 6/13/97; comp 7/18/98; am and comp 12/20/01; am and comp 8/13/04] (Auth: HRS §302A-803) (Imp: HRS §§302A-602.5, 603, 801 to -808)

§8-54-3 Definitions. As used in this chapter:

"Board" means the Hawaii teacher standards board.

"Department" means the department of education.

"Censure" means an official reprimand by the Hawaii Teacher Standards Board.

"Code of Ethics" means the contents of Appendix D, which describes the desired conduct of P-12 teachers as members of the teaching profession.

"Criminal action against children" means any crime involving minors deemed by the Hawaii Teacher Standards Board to

have a direct bearing on an individual's ability to serve as a teacher.

"Emergency Hire" means an unlicensed employee of the department paid under the salary schedule contained in the unit 5 collective bargaining agreement.

"Executive Director" means the executive officer of the Hawaii Teacher Standards Board.

"Felony" is defined as those acts which are criminal acts defined as felonies by the Hawaii Revised Statutes or similar criminal acts which were committed in other jurisdictions.

"Internet crimes" means internet crimes as defined by Hawaii Revised Statutes.

"License" means the document signifying the board's grant of permission to practice the profession of teaching.

"Licensee" means an individual awarded a Hawaii teaching license which is valid.

"Misdemeanor" for the purpose of these rules is defined as those misdemeanor convictions that pose a substantial risk of harm to the health, safety or welfare of students, minors or others.

"National Board Certification" means the voluntary advanced certification developed and administered by the National Board for Professional Teaching Standards.

"Permit" means a limited duty special permit as defined by §8-54-11.

"PRAXIS" means the set of tests developed and administered by the Educational Testing Service.

"Renewal" means a determination by the board granting an additional five years of validity prior to expiration of the initial license.

"Revocation" means permanent lifetime loss of a teaching license.

"Sex offense" means sexual offenses as defined by Hawaii Revised Statutes.

"State-approved teacher education program" means a teacher preparation program that meets the board's state approval performance standards and has been reviewed and approved by the board.

"Superintendent" means the superintendent of education.

"Suspension" means temporary loss of a teaching license/permit.

"Warning" means an admonition relating to a violation of the Code of Ethics that the Board deems not warranting a censure. [Eff 6/13/97; comp 7/18/98; comp 12/20/01; am and comp

8/13/04; am and comp 11/9/07; am and comp] (Auth: HRS §302A-803) (Imp: HRS §§302A-801 to -808)

§8-54-4 Applicability. Any action relating to the screening and hiring of teacher applicants by the department shall be in accordance with the standards provided in this chapter. Beginning with the 2002-03 school year, no person paid under the salary schedule contained in the unit 05 collective bargaining agreement shall serve as a teacher in the department without first having obtained a license from the board in such form as the board determines. All licenses issued by the board shall be renewable every five years, provided the licensee continues to satisfy the board's licensing standards and the license renewal requirements set by the board. [Eff 6/13/97; comp 7/18/98; comp 12/20/01; am and comp 8/13/04] (Auth: HRS §302A-805) (Imp: HRS §§302A-801-808)

§8-54-5 Licensing and emergency hire fee. The fee for a license shall be $48.00 per school year, payable by the licensee. The fee for practicing the profession of teaching as an emergency hire shall be $48.00 per school year, payable by the emergency hire. The board may suspend a license if a licensee fails to pay the license fees in the manner determined by the board. Fees shall be collected in the manner determined by the board. [Eff 6/13/97; comp 7/18/98; am and comp 12/20/01; am and comp 8/13/04] (Auth: HRS §302A-805) (Imp: HRS §§302A-801 to -808)

§8-54-6 Hawaii teacher standards board revolving fund. All fees collected shall be deposited in the Hawaii teacher standards board revolving fund established within the state treasury. All other monies received by the board as appropriations, fines, grants or donations shall be deposited in the revolving fund. The fund shall be administered by the department and used to pay the expenses of the board, including, but not limited to, the payment of all operational personnel costs and reimbursements of board members for travel expenses incurred. [Eff 6/13/97; comp 7/18/98; comp 12/20/01; am and comp 8/13/04] (Auth: HRS §302A-806) (Imp: HRS §§302A-801 to -808)

§8-54-7 Penalty. (a) Any person who engages in the profession of teaching in a public school without first being issued a license shall be fined up to $500. Any person who knowingly or intentionally violates this chapter by employing an individual as a public school teacher who does not possess a

valid license may be fined up to $500. All fines collected shall be deposited into the Hawaii teacher standards board revolving fund. The $500 fine is not applicable for emergency hires.

The board shall adopt such rules as may be necessary in carrying out this section. [Eff 6/13/97; comp 7/18/98; comp 12/20/01; am and comp 8/13/04; am and comp] (Auth: HRS §302A-808) (Imp: HRS §§302A-801 to -808)

§8-54-8 Authority. The board shall administer the licensing and relicensing process in accordance with applicable provisions in chapter 302A, Hawaii Revised Statutes, and the standards provided in this chapter. The superintendent shall administer the emergency hire process in accordance with applicable provisions in sections 302A-801-808, Hawaii Revised Statutes and the standards provided in this chapter. [Eff 6/13/97; comp 7/18/98; comp 12/20/01; am and comp 8/13/04] (Auth: HRS §302A-803) (Imp: HRS §§302A-801 to -808)

§8-54-9 Licensing standards.

(a) Issuance of license:

(i) A non-renewable provisional license may be granted for no more than three (3) years to an applicant provided that the individual has met the following criteria:

(1) satisfactorily completed a State-approved teacher, librarian or counselor education program that shows the applicant is likely to satisfy the performance standards established by the board as specified in Appendix A, B, or C, which are incorporated at the end of this chapter; provided, however, that this requirement does not apply if the applicant has met the experience conditions of the Interstate Agreement on Qualification of Personnel, chapter 315, Hawaii Revised Statutes;

(2) met the Praxis II subject area testing requirement or such other test or other requirement such as an academic major or other HTSB approved demonstration of content mastery if there is no validated Praxis II subject area test;

(3) obtained clearance in the professional fitness check; and
(4) pays license fees as established by the board.

(ii) A standard renewable license may be granted to an applicant for five (5) years provided that the individual has:

(1) (a) satisfactorily completed a State-approved teacher, librarian or counselor education program that shows the applicant is likely to satisfy the performance standards established by the board as specified in Appendix A, B, or C, which are incorporated at the end of this chapter; provided, however, that this requirement does not apply if the applicant has met the experience conditions of the Interstate Agreement on Qualification of Personnel, chapter 315, Hawaii Revised Statutes;

(b) attained passing scores on the PRAXIS exams or such other minimum competency test as the board may approve if the board discontinues use of the PRAXIS exams;

(c) obtained clearance in the professional fitness check; and

(d) pays license fees as established by the board.

OR

(2) (a) possesses a valid National Board Certification in the field for which a license is sought and holds a valid license from a state that participates in the Interstate Agreement on Qualification of Personnel;

(b) obtained clearance in the professional fitness check; and
(c) pays license fees as established by the board.

OR

(3) (a) has received the Meritorious New Teacher Candidate (MNTC) designation on his/her valid teaching license from a state that is a signatory to the MNTC program;

(b) obtained clearance in the professional fitness check; and

(c) pays license fees as established by the board.

OR

(4) (a) possesses a valid unrevoked teaching license from another state;

(b) completed a State-approved teacher education program;

(c) passed all licensing tests required by the State which issued the valid license being used to apply under this section. At a minimum, the tests must have tested for content knowledge.
For test(s) not taken, the applicant must comply with requirements set by the Board;

(d)obtained clearance in the professional fitness check; and

(e) pays license fees as established by the board.

(iii) A renewable advanced license may be granted for 5 years to an applicant provided that individual:

(1) (a) possesses a valid unrevoked National Board Certification by the National Board for Professional Teaching Standards in the field for which a license is sought and holds a valid teaching license from a state that participates in the Interstate Agreement on Qualification of Personnel;

(b) provides documentation of five (5) years within the last eight (8) years of satisfactory full-time teaching experience under a Hawaii Standard License or its equivalent in other states;

(c) obtained clearance in the professional fitness check; and

(d) pays license fees as established by the board.

OR

(2) (a) has been granted a master's or doctoral degree from a regionally accredited institution in an area relevant to the field for which a license is sought and holds a valid teaching license from a state that participates in the Interstate Agreement on Qualification of Personnel. The board shall develop an approved list of degree areas for use under this section;

(b) provides documentation of five (5) years within the last eight (8) years of satisfactory full-time teaching experience under a Hawaii Standard License or its equivalent in other states;

(c) obtained clearance in the professional fitness check; and

(d) pays license fees as established by the board.

The board may assess a license application processing fee, provided the amount of the fee is set at a regular meeting of the board.

(b) Renewal of license: A licensee holding a standard or advanced license must renew his/her license every five years. The board may renew a teaching license provided the licensee satisfactorily completes the Board's license renewal requirements. This procedure will:

(1) incorporate the performance standards contained in Appendix A, B, or C, which are incorporated at the end of this chapter;

(2) link with the licensee's subject matter field and with teaching and pedagogy;

(3) use multiple criteria;

(4) be professionally credible; and

(5)provide public accountability

Teaching licenses that have not been revoked or suspended and which expired in 2004 or June 30,2010 will be extended for three years from the date of expiration, provided fee payments are current. If payments are not current, the board shall require the licensee to pay all delinquent fees before extending the license.

(c)~~Teaching licenses expiring July 1,2010 and later:~~ Licensees whose five-year licenses expire on July 1,2010 or later shall meet the guidelines set by the board. Acceptance of the licensee's documentation shall result in a five-year license renewal, provided the licensee has paid the necessary fees specified by the board.

~~The board will conduct an audit between July 1 and August 31 of each year beginning July 1, 2011;~~For each year, HTSB will conduct random audits of licensees who have renewed to ensure that renewals are in compliance with the criteria of meeting the Teacher Performance Standards and satisfactory experience;

~~Ten percent of renewals, not to exceed two hundred annually, will be drawn from those renewals occurring between July 1 to June 30 of the previous school year;~~HTSB will collect a minimum of ~~fifteen~~ ten audit samples per month, not to exceed one hundred eighty annually, and conduct all reviews of renewal documentation, drawn randomly from those renewals occurring from July 1, 2010 and thereafter;

Licensees will submit documentation for audit in a manner prescribed by the board; if a licensee fails to respond to a request for audit, disciplinary action on the license may occur;

An independent, external organization ~~will~~ may be contracted by the board to evaluate the renewals and their compliance with the criteria of meeting the Teacher Performance Standards and satisfactory experience and report to the board. They ~~will~~ may also provide information on methods used to meet Teacher Performance Standards and feedback on the effectiveness of the renewal process.

If a licensee is found not to be in compliance as a result of the audit, disciplinary action on the license may occur.

If a licensee wishes to contest the board's decision, he or she may pursue the matter in the circuit court of the State of Hawaii in the circuit where the licensee resides, or in the First Circuit Court of the State of Hawaii if the licensee resides outside of the State of Hawaii.

(d) Revocation, suspension, denial, non-renewal, non-extension of license or permit and imposing conditions on a license: The Code of Ethics contained in Appendix D sets forth expected professional behaviors of teachers and forms the basis for disciplinary action taken by the board against a licensee. After hearing an individual's possible breach(es) of the Code of Ethics, the board may revoke, suspend, deny, not renew or extend, or impose conditions upon a licensee or permit holder.

(1) Revocation: Revocation of a license or permit is permanent. Crimes against children and sexual offenses may result in the immediate lifetime revocation of a license.

(2) Suspension: The duration of a licensee's or permit holder's suspension shall be set by the Board. A license or permit may be reinstated when the licensee or permit holder demonstrates he/she has fulfilled the requirements for reinstatement. The burden of proof shall be on the licensee or permit holder.

(3) Denial: A license or permit may be denied if the applicant:

(i) misrepresents or falsifies information on his/her application;
(ii) provides falsified or fraudulent documents with an application;
(iii) does not meet the board's licensing requirements;
(iv) does not meet the professional fitness portion of the application; or
(v) does not pay the required license or permit fees.

(4) Failure to Renew or Extend: A license or permit may not be renewed or extended if the applicant:

(i) misrepresents or falsifies information on his/her application;
(ii) provides falsified or fraudulent documents with an application;
(iii) does not meet license renewal or extension requirements;
(iv) does not meet the professional fitness portion of the application; or
(v) does not pay the required license fees.

(5) Conditions: The Board may impose conditions on the licensee or permit holder for a specified amount of time, which may include, but is not limited to, activities directed toward improving a teacher's performance in the area of the violation. During this period the burden of proof is on the licensee or permit holder to demonstrate compliance with the conditions. Before the end of the specified period, the HTSB may extend or terminate the conditions imposed or take further disciplinary actions.

(6) Censure or warning. The Board may issue a written censure or warning if it determines that a violation has occurred that does not necessitate a more severe action to be taken on a licensee or permit holder:

(i) A copy of the censure or warning will be placed in the board's file of the licensee or permit holder.
(ii) A copy will be sent to the licensee or permit holder and he/she will have 30 calendar days to

file a written response. The response will be placed in the board's file of the licensee or permit holder.

The Board may revoke, suspend, deny or refuse to renew or extend; issue a written reprimand, warning or censure; or impose conditions upon any licensee or permit holder, based upon, but not limited to, any of the following reasons or a breach of the Code of Ethics:

(1) A felony conviction;
(2) Misdemeanor convictions as defined in this chapter
(3) Having sexual contact with a minor or student;
(4) Producing, possessing at one's work site or distributing pornographic images or images of minors or_students engaged in sexual conduct;
(5) Producing or performing verbal or visual material or acts that embody violence, coercion, discrimination, force or brutality on women, men, children, or animals in sexual acts, and representing them in a degrading manner;
(6) Committing a crime on school premises or while fulfilling the duties of a teacher;
(7) Possessing, using, distributing or being under the influence of illegal drugs;
(8) Practicing the profession of teaching while under the influence of alcohol or illicit drugs;
(9) Practicing the profession of teaching while impaired by or suffering from mental instability which poses a safety risk to the school or students;
(10) Practicing the profession of teaching with a fraudulent teaching license;

(11) Exhibiting conduct or teaching practice contrary to the recognized standards of ethics adopted by the Hawaii Teacher Standards Board in its Code of Ethics;
(12) Making false, inaccurate or misleading statements in applying for a license, license update, extension or renewal;
(13) Submitting false, fraudulent or misleading documents in applying for a license or permit, extension or renewal; or
(14) Having a license or permit denied, revoked, not renewed or suspended by another jurisdiction.
(15) A license may be automatically suspended for non-payment of license fees. Not paying license fees will result in an automatic suspension and shall be reported to NASDTEC.

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(e) Reporting. Reports of known violation(s) to the Code of Ethics shall be filed in writing with the board on a signed form and in a manner provided by the Board.

(1) The superintendent, headmaster, president or his/her designee in any Hawaii school, district or system is authorized to report violations of the Code of Ethics: The report shall contain the name, address, and social security number of the following individuals:

a. Any licensed educator, permit holder or emergency hire who is terminated or not re-hired for cause;
b. Any licensed educator, permit holder or emergency hire who resigns under threat of termination or non-employment for cause;
c. Any licensed educator, permit holder or emergency hire who is placed on administrative leave for cause;
d. Any licensed educator, permit holder or emergency hire who is indicted for a felony or misdemeanor;
e. Any licensed educator, permit holder or emergency hire who is indicted for a crime against children.

(2) Duty to Report: Licensed educators, permit holders and emergency hires who may have engaged in action that could result in denial, non-renewal, revocation or suspension of a license shall be required to report to the board, in a manner provided for by the board, within 30 calendar days of the event, the following:

a. Been terminated or not rehired for cause;

b. Resigned under threat of termination or non-employment for cause;
c. Been placed on administrative leave for cause;
d. Been indicted for a felony or misdemeanor;
e. Been indicted for a crime against children;
f. Engaged in any activity that violates the Code of Ethics;

g. Engaged in any action that could result in revocation or suspension of a license or permit.

(3) Signators of the National Association of State Directors of Teacher Education and Certification (NASDTEC) Interstate Contract shall report actions taken by them to deny a license to an individual or to revoke, suspend or refuse to renew licenses of licensees in their state within 30 calendar days from when they are made aware that the individual is applying for a license, renewal of a license or permit.

(4) The board shall report actions taken to deny, suspend or revoke a license or permit to the superintendent, headmaster or president of any Hawaii school, district, or system and to the NASDTEC Clearinghouse.

f. Initiating action. The board may initiate action based on a written, signed report submitted by one or more of the following:

i) Any school, district, or system administrator or educator;
ii) Self report received from any licensed educator, permit holder or emergency hire;
iii) Report of license or permit revocation, suspension, refusal to renew or denial by another state;
iv) Report submitted by an individual or individuals who is witness (are witnesses) to a violation of the Code of Ethics.

(g) Investigations.

i) The executive director will verify the complaint.
ii) The applicant, permit holder or licensee will be notified in writing of the complaint. A copy of the notification will be placed in the

board’s file of the applicant, permit holder or licensee.

iii) The applicant, permit holder or licensee will have 30 calendar days to file a written response, which will be placed in the board’s file of the applicant, permit holder or licensee.

iv) The Board will contract with another state agency or private agency to investigate the complaint and determine if a hearing is warranted.

The Board may request the assistance and services of the Office of the

Attorney General or contract with another state agency or a private agency for attorney(s) to prepare and represent the Board at a hearing. If a hearing is not warranted, the applicant or licensee will be notified and a copy of the notification will be placed in the board’s file of the applicant or licensee.

a. If the complaint is found to be false, the complaint form will be removed from the applicant or licensee's file.
b. The board may impose a fee against an applicant or licensee as reimbursement for all or part of the costs of investigations, hearings, contested cases or appeals that result in disciplinary action against the licensee.

§8-54-10 Contested Cases. A license or permit applicant or licensee or permit holder may contest the application of the board’s rules on a license, extension, special duty permit or license renewal application if the applicant, licensee or permit holder believes the rules were improperly applied resulting in the denial of a license or special duty permit or non-extension, non-renewal, or suspension of a license, extension, or special duty permit. A licensee or permit holder may also contest the board’s decision to hear a request to suspend or revoke the individual’s license or permit. The contested case shall be heard by the board as long as the applicant or licensee submits a written request for a contested case hearing within 30 calendar

days of being informed in writing of the denial, non-renewal, suspension, or revocation of the license, extension or

special duty permit. The hearing shall be scheduled at a time and place determined by the board chairperson or designated hearing officer within 90 calendar days of the receipt of a written request in consultation with the board's executive director.

(a) Notice. The applicant, licensee or permit holder shall be notified in writing posted by registered or certified mail to the mailing address provided by the applicant, licensee or permit holder of:

(1) the date, time, place and nature of the hearing;
(2) the legal authority under which the hearing is to be held;
(3) the particular sections of the board's rules involved;
(4) the issues involved and the facts alleged by the board in support thereof;
(5) his or her right to retain counsel or consultant at his or her own expense or to appear on his or her own behalf;
(6) His or her rights under statute and procedures for confidential or open hearing. The applicant, licensee or permit holder shall notify the hearing officer of her/his decision seven (7) business days prior to the opening of the formal contested case hearing; and
(7) a copy of the rules of procedure for contested case hearings before the Hawaii Teacher Standards Board.

Unless otherwise provided by law, the notice of hearing shall be served on all parties and persons who are entitled to such notice at their last recorded address at least fifteen(15) calendar days before the hearing.

(b) Hearing. The board or a panel of the board shall constitute the hearing panel and the board chair or designee shall serve as the hearing officer.

(1) Hearing officer, powers. The hearings officer shall preside at the contested case hearing and shall have the power to administer oaths, receive and rule in questions of evidence, schedule pre-hearing conferences to formulate or simplify the issues,

rule upon all objections or matters that do not involve a final determination of the

proceeding, receive offers of proof, fix the length, form and
time of filing briefs, dispose of any other matter that normally and properly arises in the course of a hearing and take lawful action as deemed necessary to the orderly and just conduct of a hearing. Restitution of costs exclusive of attorney's fees may be ordered by the board. The hearing officer may also ask questions during the hearing on behalf of the panel members.

(2) The hearing officer shall announce that statute provides for confidentiality of the proceedings, but if the applicant, licensee or permit holder chooses to have the hearing open, doors will be open and the hearing will no longer be confidential.
(3) All parties shall be allowed to only present evidence and argument on the issues involved to the hearing panel.
(4) The applicant, licensee or permit holder shall be informed that he/she has the burden of proof and must prove his/her case by a preponderance of the evidence.
(5) The hearing will be taped to assist the panel in note taking and preparation of its decision.
(6) Panel members may also take individual notes, but these will be collected and destroyed at the end of the proceeding.
(7) The applicant, licensee or permit holder shall be allowed to present evidence and argument first.
(8) The Board or designee shall present evidence and argument next.
(9) The applicant, licensee or permit holder may then offer rebuttal before the executive director or designee is allowed to rebut evidence or argument.
(10) Any hearing procedure may be modified or waived by stipulation of the parties and informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(c) Record. For the purpose of the board's decisions, the record shall include:

(1) All pleadings, motions, intermediate rulings;

(2) Evidence received or considered, including oral testimony, exhibits, and a statement of matters officially noticed;
(3) Offers of proof and rulings thereon;
(4) Proposed findings and exceptions;
(5) Report of the officer who presided at the hearing;
(6) Staff memoranda submitted to members of the board in connection with their consideration of the case.

The record need not be transcribed unless requested by the hearing officer for purposes of rehearing or court review. Transcripts: If any party to a contested case hearing requests transcripts, the party requesting the transcripts shall be responsible for the costs.

(d) Rules of evidence. (1) Any oral or documentary evidence may be received with the exception of irrelevant, immaterial, or unduly repetitious evidence. No sanction shall be imposed or rule or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the reliable, probative, and substantive evidence. The rules of privilege recognized by law shall be in effect.

(2) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available; provided that upon request, parties shall be given an opportunity to compare the copy with the original.
(3) Every party shall have the right to conduct such cross-examination as may be required for a full and true disclosure of the facts and shall have the right to submit rebuttal evidence.
(4) Agencies may take notice of judicially recognizable facts. In addition, they may take notice of generally recognized technical or scientific facts within their specialized knowledge; but parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed.
(5) Except as otherwise provided by law, the party initiating the proceeding shall have the burden of

proof, including the burden of producing evidence as well as the burden of persuasion. The degree or quantum of proof shall be a preponderance of the evidence.

(e) Examination of evidence. Whenever the board has not heard and examined all of the evidence, the decision, if adverse to a party to the proceeding other than the board itself, shall not be made until a proposal for decision containing a statement of reasons and including determination of each issue of fact or law necessary to the proposed decision has been served upon the parties, and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to the officials who are to render the decision, who shall personally consider the whole record or such portions thereof as may be cited by the parties.

(f) Decisions and orders. Decision making shall be made in closed session. Every decision and order adverse to a party to the proceeding, rendered by the board, shall be in writing or stated in the record and shall be accompanied by separate findings of fact and conclusions of law. If any party to the proceeding has filed proposed findings of fact, the board shall incorporate in its decision a ruling upon each proposed finding so presented. The board shall notify the parties to the proceeding by delivering or mailing a certified copy of the decision and order and accompanying findings and conclusions within a reasonable time to each party or to the party's attorney of record.

(g) Judicial review. (1) Any person aggrieved by a final decision and order in a contested case or by a preliminary ruling of the nature that deferral of review pending entry of a subsequent final decision would deprive appellant of adequate relief is entitled to judicial review thereof under this chapter. Notwithstanding any other provision of this section to the contrary, for the purposes of this section, the term "person aggrieved" shall include the board as a party to a contested case proceeding before itself or another agency.(2)*[2004 amendment repealed June 30, 2010. L 2006, c 94, §1.]* Except as otherwise provided herein, proceedings for review shall be instituted in the circuit court within thirty days after the preliminary ruling or within thirty days after service of the certified copy of the final decision and order of the board pursuant to rule of court,

except where a statute provides for a direct appeal to the intermediate appellate court, subject to chapter 602. In such cases, the appeal shall be treated in the same manner as an appeal from the circuit court to the intermediate appellate court, including payment of the fee prescribed by section 607-5 for filing the notice of appeal (except in cases appealed under sections 11-51 and 40-91). The court in its discretion may permit other interested persons to intervene.

(3) The proceedings for review shall not stay enforcement of the board decisions or the confirmation of any fine as a judgment pursuant to

section 92-17(g); but the reviewing court may order a stay if the following criteria have been met:

i. There is likelihood that the subject person will prevail on the merits of an appeal from the administrative proceeding to the court;
ii. Irreparable damage to the subject person will result if a stay is not ordered;
iii. No irreparable damage to the public will result from the stay order; and
iv. Public interest will be served by the stay order.

(4) Appeal. Any appeal of a board license or permit hearing decision will be filed in the circuit court of the circuit in which the applicant or licensee resides in the manner provided in chapter 91; out of state applicants, licensees, and permit holders shall file their appeals with the first circuit court of Hawaii.

(5) Immunity. Members of the Hawaii teacher standards board, members of the hearing committees, hearing officers, board counsel, staff, volunteers, and experts shall be immune from suit and liability for any conduct in the course of their official duties.

§8-54-11 Emergency hires: An applicant who is unable to meet the requirements for a license may be employed by the department for a period not to exceed one year at a time, renewable up to a maximum of four years, provided that he or she:

(1) possesses a baccalaureate degree from a regionally accredited institution, despite not having completed a student teaching program;
(2) submits an official transcript which bears the seal of the issuing institution;
(3) is actively pursuing appropriate licensing, through the following:

A. is enrolled in a course of study that satisfies section 10(a)(1); or

B. if a state approved teacher, librarian or counselor education program has been satisfactorily completed, takes the examinations referred to in §8-54-9(a)(2);

(4) has obtained clearance in the employee suitability background check;

(5) applies for a limited duty special permit as described in §8-54-11(d); and
(6) pays the fees specified in §8-54-5.

Renewal of emergency hire status: The department may reemploy an emergency hire one year at a time, up to a maximum of four years, provided that emergency hire:

(1) is actively pursuing licensing; and
(2) submits evidence of satisfactory progress towards meeting the licensing standards.

§8-54-12 Adding a field to a license: If a licensee wants his/her license to indicate additional teaching fields that he/she is authorized to teach, he/she shall:

1) Complete a state-approved teacher education program that includes appropriate experiences in a P-12 setting in the new field;

OR

2) Demonstrate ~~two (2)~~ the equivalent of one year~~s~~ of satisfactory half time or more contracted P-12 teaching experience in the new field within the last five (5) years of application date. ~~The experience must be equivalent to at least one year of full-time teaching in the new field~~; and

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Successfully complete 30 credit hours of course work required in a state-approved teacher education program or the equivalent of a subject major for the new field.

OR

3) Demonstrate ~~two (2)~~ the equivalent of one year~~s~~ of satisfactory half time or more contracted P-12 teaching experience in the new field within the last five (5) years of application date. ~~The experience must be equivalent to at least one year of full-time teaching in the new field~~; and
Submit passing PRAXIS II scores for the new teaching field. The passing score must be the same as that used for program completers of the state-approved teacher education program.

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OR

~~4) Possess a valid unrevoked teaching license from another state in the new field and passed a licensing test required by the state that issued the valid license in the new field; and~~

~~Demonstrate two (2) years of satisfactory contracted P-12 teaching experience in the new field within the last five (5) years of application date. The experience must be equivalent to at least one year of full-time teaching in the new field.~~

OR

5) Possess a valid National Board Certification in the new field.

6) Possess an Advanced License or National Board Certification in one field and have either the equivalent of a content major or have passed the Praxis content test in the new field.

Adding "school librarian" as a field shall be limited to Option (1) of this subsection.

Upon submittal of appropriate documentation of the method selected by the licensee and a processing fee of not more than $25.00, the amount to be set at a regular board meeting, the board will add the new field to the license and re-issue the license. The re-issued license will include the new teaching field, but will retain the same expiration date as the license

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being updated. [Eff 7/1/01; am and comp 12/20/01; am and comp 8/13/04; am and comp 11/9/07; am and comp_____] (Auth: HRS §302A-802-803, §302A-807) (Imp: HRS §§302A-801-808)

§8-54-13 Limited Duty Special Permit. (a) Issuance of Limited Duty Special Permit: Effective June 30, 2000, on the island of Ni'ihau, the board may grant a limited duty special permit to an instructor employed as of June 1, 2000, who meets the following criteria:

(1) Instructor shall provide evidence showing strong progress towards becoming properly licensed;
(2) Instructor shall have satisfactory prior contracted department of education teaching experience which may be accepted in lieu of student teaching; and
(3) Instructor shall by August 31, 2015, have completed a baccalaureate degree and passed the PRAXIS Pre-Professional Skills test.

(b) The limited duty special permits issued above shall be effective provided that the instructor submits evidence showing strong progress towards meeting the licensing requirements as shown by satisfactory completion of required coursework, tests and other measures identified by the board. Up to but no later than August 31, 2015, a permit holder who meets the requirements for emergency hires may be eligible to pursue emergency hire status pursuant to 8-54-9(e). [Eff 12/20/01; Comp 12/20/01; am and comp 8/13/04; am and comp 11/9/07] (Auth: HRS §302A-803-804) (Imp: HRS §§302A-801-808)

(c) Effective June 30, 2006, the board may also grant a limited duty special permit to an individual recommended by the Superintendent to provide instruction in career and technical education provided that the individual submits the following documentation to the board:

1) a valid industry license or certification, if one exists, in the field in which instruction will be offered; and

2) 3 years of satisfactory full-time experience in the field in which instruction will be offered. This provision shall remain in effect as long as:

(1) the department's annual report to the board includes career and technical education as an official shortage area;

(2) the department suspends its requirement of a baccalaureate degree for career and technical education emergency hires;
(3) the university system offers courses to prepare a permit-holder for classroom instruction and classroom responsibilities; and
(4) funding is available to ensure that coursework, support and resources can be provided to permit-holders.

Limited duty special permits for career and technical education shall be renewable annually for up to five years provided that the instructor submits evidence showing strong progress toward satisfactory completion of required coursework, tests and other measures identified by the board.

(d) Effective July 1, 2009, the Board may also grant a limited duty special permit to an individual recommended by the superintendent to provide instruction as an emergency hire in a declared shortage area where no licensed teacher is available and the individual is assigned to teach a subject that is a declared shortage of the department or the individual is assigned to a school that is identified as hard to staff, provided that the individual meets the following criteria:

1) obtained criminal history clearance.

2) pays the emergency hire fee to practice the profession of teaching as established by the board.

Limited duty special permits issued to emergency hires may be renewed annually for no more than three years provided the individual submits required documentation to the department and the superintendent recommends that a special permit be renewed. [Eff 11/9/07; Comp 11/9/07; am and comp] (Auth HRS §302A-803-804) (Imp: HRS §§302A-801-808)

§8-54-14 Schedule of special fees. The board shall, at a regularly scheduled meeting, set the specific amounts of special fees. In setting the amounts, the board shall consider the cost of providing such services as well as the need to sustain its operations through a balanced budget.

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Type of Fee	*Amount*
License application processing fee	No more than $35
Duplicate license fee	No more than $25
Adding a licensing field	No more than $25
Change of name	No more than $25
IHE Data entry correction fee (license issuance)	No more than $300 per correction
Late payment of fee charge	No more than $25

[Eff 8/13/04; comp 8/13/04] (Auth: HRS §302A-803) (Imp: HRS §§302A-801-808)

§8-54-15 Electronic capture of documents. As part of the board's implementation of its on-line licensing and relicensing system, electronic records of the board as may be certified by the custodian of records, shall constitute the official business records of the board. [Eff 8/13/04; comp 8/13/04; am and comp] (Auth: HRS §302A-803) (Imp: HRS §§302A-801-808)

§8-54-16 Suspension of the rules. If the Board determines that extenuating circumstances exist to justify suspending its rules, the Board may, at a scheduled board meeting, vote to temporarily suspend any of its administrative rules, or any portion thereof, by a majority vote. In doing so the Board shall also determine the length of time for which the suspension shall remain in effect. The following are extenuating circumstances that may require the suspension of rules:

(1) An emergency condition, including natural disaster, exists that prevents compliance with the rules;
(2) Extenuating circumstances or compelling reasons exist that are caused by medical need, life-threatening condition, or personal tragedy;
(3) Active military duty impinges on compliance with the Board's rules; or
(4) An unforeseen event beyond the control of the board or teacher prevents or delays the ability to comply with the rules.

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The following describes the procedure for suspending rules:

(1) Any person or agency directly impacted by the rules may submit a signed written request to the Board, citing the rule or portion thereof to be suspended, with at least thirty (30) calendar days notice prior to the next regularly scheduled board meeting unless extenuating circumstances prevent the individual or agency from meeting this timeframe. The request shall also contain the name of the individual(s) or agency impacted by the rule and the reason and rationale for the request.
(2) A majority vote of board members is required to suspend the rules or any portion thereof.
(3) Robert's Rules of Order pertaining to suspension of the rules will be followed.
(4) In considering the motion to suspend, the Board may also determine if another resolution to the request exists and act accordingly.
(5) If a motion to suspend the rules or any portion thereof fails, a future request may be heard again if new, relevant information is obtained relating to the request. [Eff ; compiled] (Auth: HRS §302A-803)(Imp HRS §§302A-801-808)"

§8-54-17 Delegation of Powers. The Board delegates authority to the Executive Director to complete the following actions. All delegated actions will be presented to the Board at their next regularly scheduled meeting.
Grant initial licenses, added fields and permits when the following criteria have been met:

(1) All forms, tests and documentation for meeting licensing and permit requirements have been submitted by the applicant and received by HTSB, and
(2) Forms and documentation are complete, and
(3) There are no professional fitness issues, and
(4) ~~(4)~~ All fees have been paid.

Grant license and permit renewals when the following criteria have been met:

(1) All forms and documentation for meeting renewal requirements have been submitted by the applicant and received by HTSB, and
(2) Forms and documentation are complete, and
(3) There are no professional fitness issues, and
(4) All fees have been paid.