

HAWAII ADMINISTRATIVE RULES

TITLE 8

DEPARTMENT OF EDUCATION

SUBTITLE 5

CHARTER SCHOOLS

CHAPTER 503

STATE PUBLIC CHARTER SCHOOL COMMISSION

RULES APPLICABLE TO RULEMAKING PROCEEDINGS

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

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person on the same business day upon receiving the written request.

(b) A notice of the proposed adoption, amendment, or repeal of a rule shall include all information required by statute. [Eff **OCT 04 2018** ]  
(Auth: HRS §302D-3.5) (Imp: HRS §§91-2, 302D-3.5)

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

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

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

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



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

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

(g) Unless otherwise specifically ordered by the commission or the presiding officer, testimony given at the hearing shall be reported and shall be approved by the commission. All supporting written statements and data offered in evidence at the hearing, and which are deemed by the presiding officer to be authentic and relevant, shall be received in evidence and made a part of the record. Unless the presiding officer finds that the furnishing of copies is impracticable, an original and nine copies of all exhibits shall be submitted. [Eff **OCT 04 2018** ] (Auth: HRS §302D-3.5) (Imp: HRS §§91-9, 92-16, 302D-3.5)

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**§8-503-3 Commission action.** At the final public hearing, the commission may make its decision or the presiding officer shall announce the date when the commission's decision shall be made. The commission shall consider all relevant comments and material of record before taking final action in a rulemaking proceeding. [Eff **OCT 04 2018** ] (Auth: HRS §302D-3.5) (Imp: HRS §302D-3.5)

**§8-503-4 Emergency rulemaking.** Notwithstanding sections 8-503-1 through 8-503-4, if the commission finds that an imminent peril to public health, safety, or morals requires the adoption, amendment, or repeal of a rule upon less than thirty days' notice of hearing, and states in writing its reason for the finding, it may proceed without prior notice or hearing or upon abbreviated notice and hearing as it finds practicable to adopt an emergency rule to be effective for a period of not longer than one hundred twenty days without renewal. [Eff **OCT 04 2018** ] (Auth: HRS §302D-3.5) (Imp: HRS §§91-3, 302D-3.5)

**§8-503-5 Petitions for adoption, amendment, or repeal of rules.** (a) Any interested person, organization, or agency may petition the commission for the adoption, amendment, or repeal of any rule, which is designed to implement, interpret, or prescribe law, policy, organization, procedure, or practice requirements of the commission.

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

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

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

(d) The provisions of this section, however, shall not operate to prevent the commission, on its own motion, from acting on any matter disclosed in any petition. [Eff **OCT 04 2018** ] (Auth: HRS §302D-3.5) (Imp: HRS §§91-6, 302D-3.5)