

**CHAPTER X**  
**ATG GENERAL OFFICE MANUAL**  
**HUMAN RESOURCES**  
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## **CHAPTER X HUMAN RESOURCES MATTERS**

### **A. GENERAL POLICY**

The Department of the Attorney General (ATG) shall provide equal employment opportunities to all persons without regard to race, color, sex, sexual orientation, national origin, religion, physical or mental disabilities or other classification prohibited by law in all employment practices.

1. The terms of the applicable collective bargaining agreements of employees shall prevail if conflict exists between the provisions of the applicable collective bargaining agreements of employees and any of the policies set forth in this chapter.
2. The appropriate authorities will be responsible for pursuing any conflict or concerns with this agreement.

### **B. ATG CODE OF CONDUCT**

Our department's values of honesty and integrity set the foundation of our reputation as a Department and the way we do business. Therefore all ATG employees have the responsibility to:

- Comply with all applicable laws and regulations with regards to how we conduct business.
- Demonstrate organizational integrity ensuring our combined efforts align with our values and commitments at all times.
- Understand the Code of Conduct and expectations as a professional employee with ATG;
- Raise concerns and/or report any suspected violations of the law, regulations or Code of Conduct.
- Refer to the *ATG Code of Conduct Policy*

## 1. COMPLIANCE WITH THE LAW

- a. Employees should demonstrate trust and comply with all environmental, safety and fair dealing laws at all times.
- b. Employees are expected to be ethical and responsible when dealing with ATG finances, products, partnerships and public image.

## 2. CONFLICT OF INTEREST

- a. ATG Employees should avoid any personal, financial or other interests that might hinder their capability or willingness to perform their primary job duties.
- b. ATG employees are restricted from engaging or demonstrating interest in any business activity which is in substantial conflict with the proper implementation of his or her duties in ATG.
- c. Any questions regarding conflicts should be directed to the Division Supervisors who may then consult with the Attorney General, First Deputy Attorney General, and/or with the Ethics Commission or the Disciplinary Counsel, as appropriate. *Refer to H.R.S. 84-14*

## 3. CONFIDENTIALITY

- a. ATG employees are expected to safeguard and retain confidential information at all times. Discussing court cases, administrative hearings or any ATG proprietary information or matters of confidential nature should not be discussed outside of the office. H.R.S. 84-12 states:

*“No legislator or employee shall disclose information which by law or practice is not available to the public and which the legislator or employee acquires in the course of the legislator’s or employee’s official duties, or use the information for the legislator’s or employee’s personal gain or for the benefit of anyone.”*

- b. Any employee who discusses confidential matters or releases strictly confidential materials and/or information outside of the office shall be subject to disciplinary action which may include dismissal from his/her employment.

#### 4. PERSONAL CONDUCT

- a. As a representative of ATG, employees should always maintain a high level of integrity, professionalism and appropriate personal conduct during both business and non-business work hours. Offensive behavior and/or abusive language or any conduct which may discredit the Department is completely unacceptable. In addition, employees are forbidden to utilize their status as an employee of ATG for personal benefit, authority or gain.
- b. All employees should fulfill their job duties with integrity towards policies and respect towards customers, stakeholders and the community. Employees should follow their established work schedules unless provided approved exceptions by Management.

#### 5. DRESS CODE POLICY

##### a. STANDARD OFFICE ATTIRE

All ATG employees are expected to dress appropriately for the business office at all times during scheduled business hours. Our appearance in the workplace communicates who we are before any word is spoken.

##### b. BUSINESS CASUAL POLICY

Every Friday employees are allowed to dress in a more casual attire to work. Refer to the *Business Casual Policy*



## 6. GIFTS

ATG employees are discouraged from accepting gifts from customers or clients. Guidelines have been established to prevent any circumstances to influence business practices:

- a. GUIDELINES - The State Ethics Commission has adopted guidelines on gifts for public officials and employees to implement H.R.S. § 84-11, which states:

*“No legislator or employee shall solicit, accept, or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence the legislator or employee in the performance of legislator's or employee's official duties or is intended as a reward for any official action on the legislator's or employee's part.”*

In determining whether a violation has been committed, the State Ethics Commission considers the following factors:

- The official duties of the recipient-employee, and whether they include official action directly affecting the donor;
- The business relationship between the recipient and the donor;
- The existence of past, present, or possible future applications or contracts between the donor and the State;
- Whether the employee's department presently has before it, or has had before it, an application affecting the donor;
- Whether or not the contract was made through an open, public process;
- The size of the gift;
- Whether the gift relates to the job of the recipient-employee and thus

redounds to the State's benefit, or whether the recipient- employee gains a personal benefit;

- Whether the receipt of the gift will impinge the integrity of the recipient-employee's department;
- The benefit the donor stands to gain from giving the gift;
- The custom and practice in the community with regard to the giving of gifts.

The State Ethics Commission discourages the solicitation of gifts by state employees.

Information on the reporting of gifts is specified in H.R.S. § 84-11.5.

#### 7. USE OF OFFICIAL POSITION, OFFICE EQUIPMENT/SUPPLIES, OR WORK TIME

H.R.S. § 84-13 states:

*“No legislator or employee shall use or attempt to use the legislator's or employee's official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for oneself or others; including but not limited to the following:*

- (1) Seeking other employment or contract for services for oneself by the use or attempted use of the legislator's or employee's office or position.
- (2) Accepting, receiving, or soliciting compensation or other consideration for the performance of the legislator's or employee's official duties or responsibilities except as provided by law.
- (3) Using state time, equipment or other facilities for private business purposes.
- (4) Soliciting, selling, or otherwise engaging in a substantial financial transaction with a subordinate or a person or business whom the legislator or employee inspects or supervises in the legislator's or employee's official capacity.”

In light of H.R.S. § 84-13, employees are strictly prohibited from using state equipment (copiers, office supplies, word processors, and typewriters) or

work time for personal/ private purposes. For example, word processors should not be used to revise resumes.

Department stationary should be used for business purposes only. It is permissible for employees to use State letterhead for letters of recommendation for someone (1) who has worked in the Department while employee is working for the State of Hawaii or (2) who worked in another office but with whom the employee has had a professional association as part of his/her state employment.

If further information is desired, consult chapter 84, H.R.S., or contact the State Ethics Commission at:

1001 Bishop Street  
Pacific Tower, Suite 970  
Honolulu, Hawaii 96813  
Phone: 587-0460

8. ATTORNEY PROFESSIONAL CODE OF ETHICS

Refer to Legal Services Manual and the Hawaii Rules of Professional Conduct for Attorneys: <http://www.courts.state.hi.us>

9. DISCIPLINARY ACTIONS

- a. ATG will proceed with disciplinary action against employees, as appropriate, who repeatedly or intentionally fail to follow our code of conduct.

Disciplinary actions will vary depending on the violation.

- b. Possible consequences will include:

- i. Demotion
- ii. Reprimand
- iii. Suspension or termination for the more serious offences as determined by management.

- c. Legal action may be taken for cases involving corruption, theft, embezzlement or other unlawful behavior.
  - i. Before any action is taken, a criminal and/or administrative investigation may take place separately depending on the circumstances. All union representatives will be contacted before any action is taken.
  - ii. ATG Management will review all investigative reports individually before making decisions, as appropriate.

## **C. SEXUAL HARASSMENT/DISCRIMINATION POLICES**

### **1. General Policy**

The Department of the Attorney General is committed to providing an environment for all employees which is fair, respectful and free of discrimination. Sexual harassment is reprehensible in any context – it undermines the integrity of the Department and violates state and federal laws. Employees are protected from sexual harassment under Title VII of the Civil Rights Act of 1964 and the Hawaii Employment Practices Law. Any harassment of employees on the basis of sex is PROHIBITED and will not be tolerated.

### **2. Definition**

Sexual harassment includes:

- a. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature;
- b. Solicitation of sexual activity or other sex-related behavior accompanied by implied or overt offers of rewards or threats of punishment;
- c. Activities of a sexual nature which have the effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile, or offensive environment; and

- d. Verbal or physical conduct of a sexual nature, expressed or implied, imposed on the basis of sex, that denies, limits, or conditions the provision for benefits or services.

Sexual harassment takes many forms. It can be sexual advances by a supervisor or colleagues accompanied by implied rewards or threats pertaining to one's employment. It includes offensive nonverbal behavior such as leering, making obscene gestures or suggestive or insulting sounds with no implied or express employment related consequences. It can be verbal threats, insults, repeated suggestive comments or sexist remarks about a person's body, clothing, or sexual activities. It includes physical behavior ranging from assault to patting, pinching, or unnecessary touching.

### 3. General Provisions

- a. Employees are assured freedom from restraint, coercion, reprisal or retaliation in discussing problems informally, filing written complaints, or assisting in the resolution of a complaint.
- b. Each person against whom a formal complaint has been filed will be given an opportunity to respond to the complaint. Normally, the alleged offender will be fully advised of the nature of the complaint and the identity of the complainant. Informal discussions and attempts to informally resolve a complaint is not "disciplinary action" as used in this paragraph except as stipulated in the section on Informal Complaints
- c. Nothing contained in this policy and procedure statement shall affect the right of the complainant to file a complaint with the Equal Employment Opportunity Commission or the Department of Labor and Industrial Relations. If a complainant seeks a resolution in any other forum, whether administrative or judicial, the Department may wait until the resolution of the complaint filed with the other agency before taking any disciplinary action against its employee.
- d. The Department is committed to maintaining a workplace free of sexual harassment. In order for the Department to meet its commitment, it needs the assistance and cooperation of its employees.

#### 4. Informal Complaint Procedure

- a. Informal Complaints - Any employee who feels that he/she is a victim of sexual harassment as defined above may contact his/her immediate supervisor, the Department's Equal Opportunity/Affirmative Action (EEO/AA) Coordinator or the Administrative Services Manager. All informal complaints will be handled by the EEO/AA Coordinator.

The EEO/AA Coordinator will explain the avenues of recourse which are available and will assist the employee in filing a formal complaint if the employee so desires.

All inquiries and informal complaints will be held in confidence, except as provided in this section. If the employee does not want his/her complaint investigated or otherwise pursued, then no further action will be taken, except where the EEO/AA Coordinator and the complainant agree otherwise or as provided in this section.

A written record of an informal complaint will be kept by the EEO/AA coordinator. The record will contain the date of the complaint, the name of the complainant, a narrative of the nature of the complaint, resolution, if any, and the signature of the complainant and coordinator. The record will be kept confidential by the coordinator. Only the Attorney General, the First Deputy Attorney General, and the Administrative Services Manager shall have access to these records besides the coordinator.

These procedures are not intended to discourage employees from contacting other members within the Department for information or assistance.

However, the Department will not be able to conduct inquiries or initiate investigations unless the problem is brought to the attention of the department through the employee's immediate supervisor or the EEO/AA Coordinator or the Administrative Services Manager. "Brought to the

attention of the Department” may include situations brought by someone other than the complainant that are confirmed to the EEO/AA Coordinator by that complainant.

- b. Informal Remedies - Informal remedies may include a meeting between the EEO/AA Coordinator and the alleged offender. Normally, informal remedies will not be pursued without the complainant’s concurrence and no formal sanctions will be recommended against the alleged offender until a written complaint has been filed and an investigation completed. However, if the Department receives similar complaint(s) from more than one person against the same individual, the AG may initiate an investigation and apply formal remedies.

## 5. Formal Complaint Procedure

- a. Formal Complaints – All formal complaints brought to the attention of the supervisor or the Administrative Services Manager shall be forwarded to the EEO/AA Coordinator. The EEO/AA coordinator will meet with the complainant. If the complainant agrees to file a written complaint of sexual harassment, the following procedures will be followed:
  - (1) Every effort should be made to file written complaints within 30 days of the most recent incident.
  - (2) The complaint must be in writing and signed by the complainant and should include sufficiently detailed information to permit fact-finding and investigation. Complaint forms are available from the EEO/AA Coordinator.
  - (3) The complaint will be investigated by the EEO/AA Coordinator upon the filing of a written complaint. The EEO/AA Coordinator is authorized to collect necessary information to investigate sexual harassment complaints, including questioning and interviewing parties concerned and witnesses, if any. No later than 60 days of receipt of a written complaint, the EEO/AA coordinator will submit a written report of findings to the AG. The report may include recommendations for a formal resolution and disciplinary action.

- b. Formal Remedies - All recommendations for formal remedies or sanctions, whenever warranted, will be determined on a case-by-case basis. The EEO/AA Coordinator will take into consideration, among other things, the severity of the harassment, the duration of the harassment, and the nature of the harassment in making a recommendation. Examples of formal remedies are as follows:
  - (1) A resolution agreement which will be signed by the complainant and the offender, and the EEO/AA Coordinator, subject to the approval of the AG
  - (2) If there is sufficient basis to impose a disciplinary action, the AG or the Administrative Services Manager may invoke the disciplinary article of the individual's bargaining unit contract or, in the case of excluded employees, take appropriate disciplinary actions.

Disciplinary actions may include one or a combination of the following: Verbal or written warnings, reprimands, suspension or leave without pay, obtaining professional counseling, involuntary demotion, denial of merit pay request, or termination of employment.

## **D. SMOKING POLICY**

Hawaii's smoking law prohibits smoking in all enclosed or partially enclosed areas open to the public in order to ensure a consistent level of basic protections statewide from exposure to secondhand smoke Refer to HRS 328. It is the policy of the Department of the Attorney General to ensure the law is followed to ensure a Smoke-Free Workplace:

1. Smoking in Public Areas

Smoking is not allowed within 20 feet of the entrances, exits, and ventilation intakes of any of the designated state facilities; and is prohibited in all "enclosed and partially enclosed" businesses, state and county facilities, and/or places open to the public.

2. Smoking in the Workplace



The following policies are adopted pursuant to chapter HRS 328K,

3. Refer to the *ATG Smoking policy* and go to: <http://health.hawaii.gov/tobacco/> for more information about tobacco prevention and control in Hawaii.
4. All work areas under the jurisdiction of the Attorney General where smoking is prohibited under this Policy or otherwise shall be clearly marked with appropriate signs.

## **E. BUSINESS HOURS AND HOLIDAYS**

### **1. GENERAL OFFICE HOURS**

The standard work hours are from 7:45 am to 4:30 pm, Monday through Friday. Employees may work on a staggered-hour schedule or flexible-hour schedule between the hours of 6:30 am to 5:45 pm with supervisor approval and with the condition that the adjusted schedule allows for completion of assigned responsibilities, and meets the expectations of business operations. Refer to “3.” Of this section for more details on flexible working hours.

### **2. DEPUTY ATTORNEY GENERAL (DAG) WORKING HOURS**

DAGS are considered exempt employees and are expected to work the standard work hours as all other ATG staff. However, based on the nature of their jobs, DAGS are expected to be flexible with their time to respond to clients and business needs.

### **3. FLEXIBLE WORKING HOURS PROGRAM**

- a. *Policy* - Government business hours require that all State Offices remain open for business during regular, standard work hours of 7:45 am to 4:30 pm. However, in all cases, management has the discretion to offer or continue offering flexible hour work schedules to employees. Flexible hour schedules will be arranged in such a manner to maintain efficient and effective service to the public at all times. Should changes to existing conditions occur, the impacted employees shall be notified of the changes and revisions to their work schedules, as appropriate.

- b. *Scope* – The guidelines apply to all civil-service and exempt employees of the department, both full-time and part-time.
  
- c. *Purpose* – The State’s intent in offering flexible hours to its employees includes the following:
  - i. To improve working conditions and to increase hours of operation, as appropriate.
  - ii. To improve morale by allowing employees flexibility to ensure balance between work and personal life while still meeting expectation of their role/responsibility as an employee of ATG and the State
  - iii. To decrease peak traffic congestion by adjusting work times of as many employees as practical.
  
- d. *Start/End time* – The earliest start allowed under this program is 6:30 am; and the latest end time is 5:35 pm. Employees already on schedules which start before 6:30 am or end after 5:45 pm shall retain these schedules as they are already allotted within the appropriate timeframes.
  
- e. *Type of Flexible hours* – Under any of the following options, the employee must continue to work a full work day which requires all employees to work an eight-hour day or a 40-hr work week. The program authorizes three types of flexible working hours:
  - i. Staggered Hours: the employee starts and ends work every day at fixed times within the flexible bands.
  - ii. Glide time – the employee starts and ends work at any time within established bands. It is called “glide” because the exact start and end times can vary from day to day. The starting and ending times may change from day to day within established bands, but the employee still works eight hours a day.

iii. Flexible lunch break – the employee takes a lunch break longer than 45 minutes and makes up the time before or after lunch. This must be arranged in advance.

f. *The Program*- The day is divided into two flexible bands (the hours before and after core time during which employees may be offered a choice of starting and ending times), with core time (the hours except for lunch break during which all employee must be at work) between:

6:30 AM 7:45 AM 9:00 AM to 3:15 PM 4:30 PM 5:45 PM  
45 min/flex lunch break

Core time starts no later than 9:00am and ends no earlier than 3:15pm. Flexible bands are not longer than 6:30am to 9:00am and 3:15pm to 5:45pm. Departments may extend core time and decrease the lengths of the flexible bands.

Division/Offices may choose to offer staggered hours only, or may also offer glide time.

Employees participate in setting their staggered schedules and glide time bands with Management consent. Operations must be considered before any request is granted and in all cases, management makes the final decisions.

This program is managed by all supervisors where they are expected to exercise proper controls to prevent any abuse with the flexible hours schedule.

This program does not require that office hours be extended. If division find it desirable and feasible to change office hours under flexible hours, suggestions may be submitted to improve operations and services to our clients.

Supervisors are key in managing the flexible hours program to ensure success as they are best able to assess operational needs and tailor the program accordingly.

4. COFFEE BREAK/REST PERIODS

Each employee is allowed to take a 10-minute rest period each morning and afternoon within the operational needs of the office. This rest period is offered each day and cannot be accumulated.

5. LUNCH

Each employee is entitled to a lunch period of 45 minutes each work day, free from all duty obligations, except in emergency situations. Lunch periods for all employees shall generally be taken between the hours of 11:00 am to 1:30 pm unless approved otherwise by the division supervisor. Each division supervisor is responsible for scheduling the lunch periods of that divisions' employees so that division offices are fully operational with appropriate staff at all times - open for the transaction of business during State office hours.

6. HOLIDAYS

The following federal and state holidays are observed by the State, as provided by 8-1 HRS as amended. Such holidays are:

<b>New Year's Day</b>	January 1
<b>Martin Luther King Day</b>	3 <sup>rd</sup> Monday in January
<b>President's Day</b>	3 <sup>rd</sup> Monday in February
<b>Kuhio Day</b>	March 26
<b>Good Friday</b>	Friday preceding Easter
<b>Memorial Day</b>	Last Monday in May
<b>Kamehameha Day</b>	June 11
<b>Independence Day</b>	July 4
<b>Admission's Day</b>	3 <sup>rd</sup> Friday in August
<b>Labor Day</b>	1 <sup>st</sup> Monday in September
<b>Veteran's Day</b>	November 11
<b>Thanksgiving Day</b>	4 <sup>th</sup> Thursday in November

Also observed include:

- All election days ,except primary and special elections days
- Any day designated by proclamation by the President or the Governor as an observed Holiday.

**NOTE:**

Holidays falling on Sundays are observed the following Monday.

Holidays falling on Saturday are observed the preceding Friday.

G1 Forms are not required for holidays; HR will indicate the day as holiday on the Form 7 for all eligible employees.

**F. TIMEKEEPING AND PAY PROCEDURES**

1. Approval of Timesheets

Division supervisors have the authority to sign D-55 timesheets for all previously approved/authorized transactions (e.g. overtime, emergency hires, student hires) requiring the completion of timesheets. Attorneys should refer to the Legal Services Manual, chapter IX for the attorney/investigator timekeeping procedures.

2. Pay Procedure

Employees are paid on the 15<sup>th</sup> day (or earlier, if the 15<sup>th</sup> day falls on a weekend) and the last working day of the month.

3. Overtime

- a. Compensation - Generally, if an employee, or other than a salaried deputy attorney general or law clerk is asked to work in excess of eight hours a day or forty hours per week, the employee will be eligible for overtime pay in cash at the rate of one-and-one half hours for each hour of overtime worked or equivalent compensatory time off.

- b. Procedure – Using the departmental Personnel Transaction Form (Attachment Q-1), the division/office supervisor will initiate a request for overtime and route to the Administrative Services Office. The Administrative Services Manager will approve by signing the request. The request will include the following information as part of the justification:
- (1) Name(s) of staff required to work overtime;
  - (2) Date(s) when overtime will be performed and total number of hours to be worked; and
  - (3) Reason(s) for overtime and, if appropriate, case that is being worked on.

For unforeseen overtime for which written prior approval is not possible, a verbal approval from the Administrative Services Manager or Administrative Services Officer shall be requested, and the appropriate written personnel transaction approval submitted as soon as practicable.

If the request for overtime is approved and after completion of the overtime work, the staff who performed the work will complete timesheets. If the overtime work is completed as approved, the supervisor is delegated to sign the timesheet (D-55) for the department head. If there is a significant variance from the approved overtime request, the ASO should be notified.

The timesheet and supporting document (Approved Personnel Transaction Form) will be routed to ASO for pre-audit and payroll processing.

## **G. COMPENSATION/EVALUATION**

### **1. ATTORNEYS**

The Department bases promotions and pay increases largely on the evaluation process. Pay and promotion decisions will be based on seniority and merit, with an emphasis on merit. At the end of each fiscal year, division/unit supervisors will formally evaluate each deputy. This evaluation will provide the basis for pay raises, promotions, disciplinary actions, etc. At any time during the year, a supervisor may

place a deputy on a probationary status which requires evaluation and counseling not less than once a month.

Recommendations to terminate a deputy will be made to the Attorney General through the Administrative Services Manager. Before any deputy is terminated he or she will have the opportunity to have the Attorney General review his or her case.

The performance of all deputies will be made using the criteria set out in the Deputy Evaluation Forms (Attachment Q-4). The basic criteria are:

- Quality of work
- Productivity
- Attitude

Under this system, every effort is made to insure that all the attorneys know exactly what is expected of them, that they are evaluated fairly, and that they have the opportunity to appeal decisions to the Attorney General.

## 2. CIVIL SERVICE AND/OR OTHER EXEMPT EMPLOYEES

### a. Compensation

Compensation for all civil service positions, and/or classes of positions covered by the position classification plan as provided for by chapter 76, H.R.S. is in accordance with chapter 77, H.R.S. and applicable collective bargaining agreements.

### b. Performance Evaluation

In accordance with rules promulgated by the Department of Personnel Services, performance evaluations for civil service positions may be used to:

- (1) Improve individual performance.
- (2) Strengthen supervisor/employee relationships.
- (3) Recognize employee accomplishments and good work.
- (4) Identify job standards and keep employees and supervisors aware of them.
- (5) Identify training needs.

To this end, employees in civil service positions are appraised via a written evaluation (see Attachment Q-3):

- (1) At the end of every twelve months of service for regular employees.

- (2) At the end of their probational period for those persons serving initial or new probational appointments.
- (3) When an employee's performance is substandard. Additionally, when the performance of an employee serving a permanent appointment is substandard, the employee shall be afforded an opportunity to bring the employee's performance to a satisfactory level within three months.  
Coordination of performance evaluations is with the ASO (Personnel).

3. SUPERVISORS (LEGAL SERVICES)

Deputies also evaluate their supervisors in anonymous questionnaires. The purpose of these evaluations is to make supervisors more aware of how they are perceived so they might improve their skills. (see Attachment Q-5)

## **H. EMPLOYEE BENEFITS AND PRIVILEGES**

1. MEDICAL PLANS

An employee who is employed for at least three months on a continuous basis and whose employment is at least a 50% full time equivalent is eligible to join a group health benefit plan wherein the state pays part of the cost. Certain dependents of the employee are also eligible to enroll. Information may be obtained from ASO-Human Resources.

2. PRESCRIPTION DRUG PLANS

An employee who is employed for at least three months on a continuous basis and whose employment is at least a 50% full time equivalent is eligible to join the prescription drug plan wherein the state pays part of the cost. Certain dependents of the employee are also eligible to enroll. Information may be obtained from ASO-Human Resources.

3. VISION CARE PLAN

An employee who is employed for at least three months on a continuous basis and whose employment is at least a 50% full time equivalent is eligible to join the vision care plan wherein the state pays part of the cost. Certain dependents of the



employee are also eligible to enroll. Information may be obtained from ASO-Human Resources.

#### 4. DENTAL PLAN

##### a. EMPLOYEE PLANS

An employee who is employed for at least three months on a continuous basis and whose employment is at least a 50% full time equivalent is eligible to join the adult dental plan wherein the state pays part of the cost. The spouse of the employee is also eligible to enroll. Information may be obtained from ASO-Personnel.

##### b. CHILDREN/DEPENDANT PLANS

An employee who is employed for at least three months on a continuous basis and whose employment is at least a 50% full time equivalent may enroll his/her children under nineteen (19) years of age in the Dental Health Plan. The state pays the total cost of the program. Information may be obtained from ASO (Personnel).

#### 5. LIFE INSURANCE

An employee under the Health Plan can join the State Group Life Insurance Plan. The state pays the cost of the Insurance Plan. Additional information may be obtained from ASO – Human Resources.

#### 6. WORKER'S COMPENSATION

In accordance with chapter 386, H.R.S., the Worker's Compensation Law assures the provision of medical service and compensation payments to employees who become injured in the course of employment. Whenever an employee suffers a work-related injury or illness, he/she must complete the Worker's Compensation Claim by Employee Form (Attachment Q-13). The supervisor in turns completes the Accident Report Form. **Refer to chapter XIV and Attachment XIV-B.**

7. TEMPORARY DISABILITY INSURANCE

Employees who are unable to work because of a non-work related injury or illness and who do not have sick leave coverage for a total of three weeks or more at the time of disability or at the beginning of the calendar year may be eligible for temporary disability insurance benefits. If an employee feels that he/she may be eligible for benefits, he/she must file a claim within 90 days from the date of disability on form TDI-45 (Attachment Q-8). The amount of the temporary disability benefits is based on:

- a. 55% of the employee's average weekly wages or
- b. The "maximum weekly benefit amount" as annually established by the Disability Compensation Division of the State Department of Labor and Industrial Relations, whichever is less.

8. RETIREMENT PLANS

- a. Noncontributory Plan - Eligible employees hired after June 30, 1984 automatically become members of the Noncontributory Retirement Plan administered by the Employees' Retirement System of the State of Hawaii. The entire cost of the plan is born by the state.
- b. Contributory Plan - Eligible employees hired prior to June 30, 1984 may have elected to remain in the contributory retirement plan administered by the Employees' Retirement System of the State of Hawaii. Employees in this plan contribute a portion of their salary along with the state's contribution toward their retirement. Information may be obtained from ASO – Human Resources.

9. DEFERRED COMPENSATION PLANS

The state has established a deferred compensation plan in accordance with section 457 of the Internal Revenue Code of 1954, as amended, for the benefit of employees to defer a portion of their compensation for a future period of time. Any employee interested in participating in such a plan should contact ASO-Human Resources.

## 10. CREDIT UNION

State employees and their family members are eligible to join the Hawaii State Employees' Federal Credit Union, which offers checking and savings account services, loans, group automobile insurance benefits and numerous other services offered by financial institutions. Information may be obtained by calling the Credit Union at ext. 3932.

### I. **FILLING A CIVIL SERVICE POSITION**

#### 1. GENERAL PRACTICE

- a. All appointments to fill vacant civil service positions shall be made in accordance with chapter 76, Hawaii Revised Statutes (HRS) as amended.
- b. Vacancies will be filled by the best qualified candidate. Initial opportunity should be given to internal employees within the department (ATG) however in situations where appropriate, ATG may consider and select persons from other state agencies, jurisdictions, and/or from the general public.

#### 2. RESTRICTIONS

- a. Supervisors, Human Resources personnel and/or anyone involved with the hiring decisions shall refrain from any action which may result in, or project the appearance of, preferential treatment towards any candidate prior or during the interview process.
- b. Supervisors shall not advocate the appointment or promotion of an immediate family member and/or relative for any vacancy in which the supervisor has the opportunity to demonstrate jurisdiction or control.

#### 3. REQUESTING TO FILL A VACANCY

- a. Division Supervisors and/or an assigned designee (i.e. Secretary) by the supervisor, completes a request to fill/recruit by completing a *Personnel Transaction Form (PTF; refer to Attachment Q-1)*, and submits to the Administrative Services Manager (ASM) for review and approval.

- b. ASM reviews the request to ensure appropriate funding is available and forward to Human Resources for processing. ASM forwards to the Attorney General if the request is for a Deputy Attorney General
- c. Upon proper approval, the HR staff shall proceed as follows:
  - i. Prepare the Internal Vacancy Announcement (IVA) and distribute electronically to all ATG employees through Division Supervisors.
  - ii. Ensure that IVAs are posted on bulletin boards in accordance with applicable employee contracts;
  - iii. Determine eligibility of applicants expressing interest to the IVA and responding accordingly;
  - iv. Receive appropriate documents/certificates, etc. of eligible applicants and forward the names of all eligible applicants to the appropriate hiring managers.
- d. Provide technical HR/regulatory assistance to the Division Supervisor in establishing the job-related criteria.

#### 4. INTERVIEW PROCESS

##### a. PANEL INTERVIEWS

An interview panel shall be established to formally interview and evaluate all qualified applicants for a vacant position. A panel consists of two individuals minimum with a recommendation of three individuals per panel.

- i. Selection of panel members shall be made by the supervisor of the vacancy or the supervisor's designee. The supervisor or the supervisor's designee shall chair the panel;
- ii. The formation and use of an interview panel is optional when there is only one applicant for a temporary vacancy of less than one year duration (i.e. student hires) or if the interview is for an emergency hire (i.e. 89-day hires).
- iii. The interview panel should be:

- a) balanced based on ethnicity, gender and occupational discipline, whenever practical and should include individuals with a higher salary grade than the vacancy – panel members could be employed with another State Executive Office Department as long as the criteria of a higher salary grade is met;
- b) non-biased where a panel member shall immediately disclose to the panel chairperson any family or financial relationship with any of the applicants being considered. The chairperson will then determine proper action.
- c) consistent throughout the interview process with the same individuals involved to ensure consistency and fairness with the decision
- d) formed by agreement of all supervisors of the vacant positions to interview and evaluate common applicants obtained from the Department of Human Resources Development (DHRD) for more than one vacancy in positions of the same class (i.e. also supervisors with same vacancy title in varied divisions may form a panel).

b. RESPONSIBILITIES & REQUIREMENTS OF INTERVIEW PANEL

i. INTERVIEW QUESTIONS

- a) The interview panel establishes the job-related criteria by developing a list of knowledge, skills and abilities required to perform the duties and responsibilities of the vacant position.
- b) The chairperson is responsible for developing questions relating to the required knowledge, skills, and abilities needed for the vacant position. The panel reviews the relevancy of the questions in relation to the class specifications and the position description, with final approval from Human Resources.

ii. INTERVIEWS

ALL eligible applicants whom express interest in the vacancy shall be contacted and all whom confirm their interest, MUST be interviewed.

- a) A member of the panel (or chairperson designee) shall contact **all eligible applicants** via phone or email to confirm interest in the position and to schedule individual interviews. Candidates should be given a set response date.
  - b) The panel may provide specific days and times to the candidates and restrict the interviews to designated dates only, based on the availability of the panel, urgency to fill the position, and “void” dates of the applications. The panel has the flexibility to accommodate applicants, within reason, without compromising the standard interview/application process.
  - c) Interviews should be conducted in-person, face-to-face however consideration may be given to candidates who reside out of Hawaii to include Skype, phone interview if the option is offered to all candidates on a consistent basis.
  - d) Candidates may be given specific skills assessments (i.e. written) required for the position, if applicable. All assessments shall be objective and job-related and administered to all applicants uniformly.
  - e) Questions asked of each candidate during the interview must be uniform, consistent, and relevant to the duties and responsibilities of the position.
- iii. EXCEPTIONS
- a) Interviews are optional when:
    - (1) An applicant has been interviewed for the same position within the six months and the interview panel and interview process is identical; or
    - (2) An applicant who has been interviewed within the last six months elects to be considered for the vacancy, but chooses to decline the in-person interview process.

iv. FORMS

5. EXCEPTIONS

a. APPOINTMENTS & TEMPORARY HIRES

The Administrative Services Manager and/or the Attorney General/First Deputy Attorney General reviews the panel's recommendation and forwards the final decision and documents to Human Resources (HR) for processing. HR then forwards pertinent information to the Division Supervisor whom then informs all candidates interviewed of the final results. Non-selection notices via letter is sent by the Hiring Manager.

**J. RECRUITING AND HIRING DEPUTY ATTORNEYS GENERAL (DAGS)**

1. GENERAL POLICY AND PRACTICE

**POLICY**

It is the policy of ATG to recruit and hire the most qualified individuals for all Deputy Attorney General (DAG) positions. In order to accomplish this, ATG will solicit candidates for Department job opportunities by advertising in various medium to include internet sites, newspapers, and general or limited circulation in Hawaii.

It is also the policy and general practice of the Department to encourage existing DAGS to choose public sector law practice as a long-term career goal and to see diverse experiences in various areas of law during their employment with ATG. To this extent, the Department management encourages transfers of DAGS within the Department, if/when the transfer is consistent with the business needs of the Department as determined by the Attorney General.

2. RECRUITING PRACTICES

- a. The Department's HR office will retain all hard copy and online (scanned) DAG applications (including written materials) for a period of six months after the date the application was received by ATG for consideration. All Division Supervisors shall have access to these applications for review.

b. When a DAG vacancy occurs, the supervisor shall notify the Departmental Human Resources Officer (DHRO) via a Personnel Transaction Form (PTF – see Attachment Q-1). Notice of the vacancy will be promptly circulated by HR via IVA and electronic means to all Division Supervisors and Department DAGS. DAGS interested in the vacancy should, within ten (10) days of the notice date, submit the necessary documents and inform the hiring supervisor and their current supervisor of their interest.

3. SCREENING PRACTICES

- a. The unit or Division Supervisor will interview all interested deputies and applicants who meet the minimum qualifications of the vacancy.
- b. Interviews shall be conducted with or without a panel at the discretion of the hiring supervisor.
- c. Interviews of candidates outside of ATG should be conducted by an interview panel consisting of the supervisor and at least one DAG.
- d. Division Supervisors will initiate a reference check of at least one and preferably two former employers of any applicant employed outside of ATG who may be recommended for employment. The reference checks will inquire into the abilities, initiative, dependability, character, and overall ability to professionally represent the Department

4. SELECTION & RECOMMENDATION PROCESS

- a. Division Supervisor is responsible for submitting the following to the Attorney General for approval when a selection is made:
  - i. Request to Hire (*RTH – refer to Attachment Q-2*) with recommendation to hire, salary recommendation, employment application, resume, and required writing samples.

**NOTE:** Recommendation shall be based upon the applicant’s professional skills and experience, work and educational record, ability to research and communicate effectively verbally and in writing; expressed enthusiasm and interest towards the position; comments regarding the applicant’s reference checks; and other



factors which the supervisor (in his/her discretion) believes to be valid and necessary in justifying the recommendation.

- ii. The Attorney General, First Deputy Attorney General, and/or their designee, will interview the recommended candidate before any final decision is made.
- iii. Upon completion of the interview, the Attorney General, First Deputy Attorney General will determine if the candidate satisfactorily meets the criteria for the DAG position and will confirm and approve the salary and hire.
- iv. The signed RTH shall then be submitted to HR for official processing.

## **K. PHYSICAL EXAMINATIONS**

If required as part of the employment process for the position, an applicant may be asked to consent to a drug test prior to employment of six months or more. The applicant shall, at his or her own expense, have a physical examination conducted by a physician of his or her choice. The applicant shall inform the department of the results of that examination on a form obtained from the Department. These results should be approved by ASO – HR prior to the beginning of employment.

### **1. PURPOSE**

- a. Ensure that person seeking employment in the Department meet the health and physical requirements necessary for the safe and efficient performance of the duties of the position and can be expected to continue to meet the health and physical requirements for a reasonable period of time.
- b. Ensure that each applicant is able to perform the duties of the position satisfactorily and without undue hazard to the employee or others or without undue hardship on the operation of the program.

### **2. RANDOM DRUG TESTING**

The Department of Human Resources Development (DHRD) will submit a confidential list to HR Office of randomly selected current ATG employees (employee ID only) to complete a drug testing at the expense of the Department.

- a. Employees will be notified by phone of their selection and instructed of the process.
- b. Employees selected have specific deadlines and must comply.

## **L. LEAVE OF ABSENCES**

### **1. AUTHORITY TO APPROVE**

Division supervisors are delegated the authority to approve the following leaves submitted to them by their staff:

- a. Vacation Leave , except as otherwise provided herein;
- b. Sick Leave;
- c. Military Leave;
- d. Funeral Leave;
- e. Compensatory time off;
- f. Workers' Compensation Leave
- g. Jury Duty;
- h. Leave without pay for periods of one week or less.

Leaves that require the approval of the Administrative Service Manager or First Deputy Attorney General are:

- a. Leave without pay in excess of one work week;
- b. Military Leave beyond the 15 days allowed per year by statute;
- c. Other leaves (i.e. sabbatical, educational, etc.)
- d. Vacation Leave in excess of one week during Legislative session; and
- e. All leave of absence for Division Supervisors.

### **2. LEAVE OF ABSENCES WITHOUT PAY**

- a. General
  1. Leave of absence without pay shall not exceed 12 months, except as otherwise provided by statute, this chapter or applicable collective bargaining unit contracts.

2. Requests shall be submitted via Personnel Transaction Form (PTF – Attachment Q-1) specifying the duration, and the reason for leave and a completed application for leave of absence.
3. If any of the provisions in this section on leaves of absence conflict with applicable contractual provisions, the contractual provisions shall prevail.

b. Leave of Absence Without Pay - Categories

The following is a list of *Leave of Absence Without Pay* that may be available to employees, depending on the nature and condition of their employment:

- (1) Educational-related leaves
- (2) Leave of absence to work for the State Legislature
- (3) Leave of absence to work in an exempt position
- (4) Leave of absences for physical or mental health reasons
- (5) Leave for death in the family, other than funeral leave
- (6) Extended annual vacation for travel purposes only
- (7) Leave to seek political office
- (8) Leave for personal business or an emergency nature
- (9) Annual periods of temporary cessation of normal operation
- (10) Leave for pre-natal care, infant care, or child adoption
- (11) Leave of absence to delay a layoff
- (12) Military Leave without pay
- (13) Leave for officers and employees on loan
- (14) Sabbatical Leave

*\*Before being granted sabbatical leave, the employee shall enter into a contract with the department, specifying the conditions for the sabbatical leave.*

Additional information/clarification on the above leave categories and their specific descriptions may be obtained from the ASO – Human Resources Office.

3. LEAVE OF ABSENCE WITH PAY

a. VACATION LEAVE

Employees shall:

- earn no more than **14 hours** of vacation leave for each full month of service regardless of the number of positions held. When an employee renders less than a full month of service or is a part-time employee, he/she shall earn vacation leave in accordance with applicable contract agreements or DPS Rules & Regulations.
- accumulate 15 days of vacation leave per calendar year unless allowed otherwise by contractual provision. However, the Attorney General may approve accumulation of vacation in excess of 15 days per year for good cause, with the stipulation that the employee take such excess vacation at a specified time. If the employee fails to take the vacation at the time specified, he/she shall forfeit the excess accumulation of vacation leave, unless the Attorney General grants an extension of time for good cause.
- accumulate vacation leave in accordance with applicable contract agreements or DPS Rules & Regulations. An employee may accumulate such unused portion of his/her vacation allowance as is permitted above, provided the total accumulation shall not exceed 90 working days at the end of the calendar year. If any recorded accumulation exceeds 90 working days at the end of the calendar year, the employee shall automatically forfeit the unused vacation allowance in excess of the allowable 90 working days.

Nothing in this chapter shall be construed to prohibit the taking, or to require the forfeiture of any vacation which is validly granted and the taking of which is commenced on or before the last working day of the calendar year.

The recording of the current accrued vacation allowance for such year on the last day thereof might result in an accumulation of more than 90 working days, but the period of such vacation shall be regarded for all purposes as if the vacation had been entirely taken prior to the last day of such calendar year.

- (1) Application for Vacation Leave – An Application for Leave of Absence (Form G-1) shall be filed by the employee prior to the commencement date of such scheduled vacation. However, the advance notice requirement may be waived in emergency situations. Form G-1 applications shall be completed and filed through standard procedures to include processing G-1s via “esign” (*refer to esign Process Manual*) as initial administrative preference or hard copy as appropriate. All G-1 forms require Division Supervisor approval for the leave to be granted.

- (2) Granting and Scheduling Vacation Leave – Vacation shall be granted and taken at such time or times as the approving authority may designate; provided that it shall be as close to the requested period as conditions in the Department will permit.

Priority in scheduling vacation leave shall be given to employees in accordance with applicable contractual provisions. In the absence of the applicable contractual provisions, priority shall be given at the discretion of the approving authority.

- (3) Rescheduling Vacation Leave due to Illness – Whenever an employee is unable to take his/her scheduled vacation due to illness as certified by a licensed physician, he/she shall be permitted to re-schedule his/her vacation subject to the provisions on vacation accumulation and approval by his/her supervisor.

- (4) Recall to Duty during Vacation Leave – An employee may be “recalled” to work duty before the expiration of any granted, scheduled vacation when, in the opinion of the approving authority, his/her services are immediately required for business operations. In the event an employee is recalled, he/she shall be credited with vacation allowance for the unused portion of the granted vacation and the same shall be automatically accumulated.

b. SICK LEAVE

An employee shall earn no more than 14 hours of sick leave for each full month of service regardless of the number of positions held. When an employee renders less than a full month of service or is a part time employee, he shall earn sick leave in accordance with the applicable contract agreements or DPS Rules & Regulations. Unused sick leave may be accumulated without limitations.

- (1) Exceptions to Earning Sick Leave – Sick leave shall accrue to an employee while he/she is on leave with pay, except:
  - a. During the period of any vacation leave or sick leave granted when employment terminates or is to terminate at the end of such leave.
  - b. During the period he/she is on leave without pay.

- c. During any period of valid suspension.
- d. During any period of unauthorized leave.
- e. During any period of sabbatical leave.

(2) Application for Sick Leave - Notification of absence on account of sickness shall be given as soon as possible on the first day of absence, or if impracticable, as soon thereafter as circumstances permit. The employee may be denied sick leave with pay if, in the opinion of the approving authority, such notification has not been given.

Excluded employees shall file an Application for Leave of Absence (Form G-1), within three working days after return to duty with the Division Supervisor. All other employees shall file an application for sick leave as governed by the contractual requirement, within five working days.

(3) Granting Sick Leave – Sick leave shall not be granted unless it is proved to the satisfaction of the approving authority that the absence was necessary because of sickness, or because of medical, dental, optical and optometrical examination appointments which the employee cannot schedule for non-work time. Temporary disabilities cause or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefore, may be charged to sick leave, and provided the employee was on duty status at the time the temporary disability occurred.

(4) Absences of Five or More Days – Absences of five or more consecutive working days due to illness must be substantiated by a licensed physician's certificate that absence was due entirely to sickness and that the employee is fit and able to return to work.

(5) Charging Sick Leave – Sick leave shall be charged only for those hours for which the employee was or would have been scheduled to work. Sickness on holidays shall not be charged against the employee's sick leave allowance.

c. FUNERAL LEAVE

Funeral leave with pay shall be granted in accordance with 79-13, H.R.S., as amended, or applicable contractual provisions. If the death or the funeral occurs outside the State of Hawaii, the employee shall be granted, upon request, a reasonable number of additional days of accumulated vacation leave, if available, or leave without pay to travel to attend the funeral or to make necessary arrangements for a funeral in the State of Hawaii.

An Application for Leave of Absence (Form G-1) shall be filed through normal channels to the division supervisor for approval.

d. TEMPORARY INTERGOVERNMENTAL ASSIGNMENT OF EMPLOYEES

The department may participate in programs of temporary governmental assignment of employees to and from other governmental jurisdictions in accordance with chapter 83, H.R.S., and the following:

- (1) Agreements between sending and receiving departments shall be in writing.
- (2) An employee who is selected shall declare the employee's intention to continue the employee's employment with the department upon termination of the assignment.
- (3) The employee may be assigned through a detail to a regular work assignment in the receiving agency or on a leave of absence without pay from the employee's position.
- (4) An employee from another unit of government of the state or the judiciary may be assigned to the department through a detail or an appointment to a position in the department.

e. MILITARY LEAVE

Military leave with pay shall be granted in accordance with 79-20 H.R.S. An application for Leave of Absence shall be filed with the division supervisor (with a copy of the applicant's orders attached) and if applicable, the

Administrative Services Manager or First Deputy Attorney General for approval.

f. JURY DUTY

An employee shall be granted leave with absence with pay when summoned by the court to serve as a witness or juror, provided he/she shall return to work forthwith when excused by the court.

An employee, upon request, shall be granted either a leave of absence without pay or a vacation leave or compensatory time off when called to serve as a witness in a case which may involve or arise out of his/her outside employment or personal business or private affairs. (H.R.S. 26-5, 76-17, 79-12) (Imp: H.R.S. 79-12)

4. EMPLOYEE RIGHTS

A regular civil service employee, upon return from an authorized leave and upon showing to the satisfaction of the approving authority that he/she has fulfilled the purpose of his/her leave, shall be reinstated in his/her former or comparable position. IF the former position has been abolished and a comparable position cannot be found, a regular employee shall be considered for placement in other position in accordance with the provision of layoff.

A regular employee on an approved leave of absence shall be eligible during the period of such leave for promotional examinations and status on promotional eligible lists under the same conditions as though in active service. (H.R.S. 26-5, 76-17, 79-12) (Imp: H.R.S. 79-12)

5. UNAUTHORIZED LEAVES OF ABSENCE

An employee who is absent from duty without proper authorization shall be placed on unauthorized leave of absence without pay.

6. LEAVE SHARING PROGRAM

REFER TO LEAVE SHARING PROGRAM GUIDELINES



## **M. AWARDS PROGRAMS**

### **1. OBJECTIVE**

One of the objectives of the Department is to promote excellence in the professional work of all staff, including deputy attorneys general and other non-civil service staff of the department. To this end, when excellence is demonstrated, it should be recognized. When professional work is shown to be inadequate, it should be ameliorated or disciplinary actions should be taken.

### **2. POLICY STATEMENT**

#### **a. Awards Program**

Outstanding performance by the employees should be recognized through the awards program.

#### **b. Disciplinary Program**

In order to accomplish the stated objective, the Department may be required to take disciplinary action in proper cases. This is necessary to:

- (1) Correct the attitude or conduct of a employee;
- (2) Maintain the integrity of the department and the moral of its employees; and
- (3) Promote excellence in the professional work of employees.

### **3. AWARDS PROGRAM**

- a. Letter of Appreciation – A letter of appreciation will be issued by the Attorney General to those who perform department-related functions beyond the scope of his/her employment when so requested by the supervisor, First Deputy Attorney General or Attorney General.
- b. Letter of Commendation – A letter of commendation will be issued by the Attorney General for outstanding and professional handling of any legal matter, or for non-attorneys, for outstanding professional work in their field. The supervisor may recommend such a letter by submitting the proposed letter to the Attorney General

## **N. DISCIPLINARY PROGRAMS**

### **1. CIVIL SERVICE EMPLOYEES**

- a. Refer to DHRD PAS guidelines

## 2. EXEMPT EXCLUDED EMPLOYEES

Within this program, deputy attorneys general and other non-civil service excluded staff of the department are collectively called “employees.”

- a. Supervisor Responsibilities – Supervisors are responsible for keeping the employees informed of rules and standards of conduct, for maintaining an atmosphere conducive to high morale and productivity and where appropriate, for taking steps to counsel the employee before taking disciplinary action.
- b. Oral Counseling – A supervisor may give oral counseling to an employee whenever, in the judgment of the supervisor, the employee has made a trivial mistake, or to improve his/her performance or attitude.
- c. Documentation – A written memorandum for the record (MFR) of all oral counseling and all disciplinary action should be maintained by the supervisor. MFRs of oral counseling or discipline should be retained and utilized by the supervisor in the annual job performance review of the employee and in making recommendations for salary determinations. MFRs should consist of a statement of the facts giving rise to the counseling or a statement justifying the imposition of discipline and the nature of the counseling or discipline given.
- d. Progressive Disciplinary Action – The degrees of disciplinary action with increasing consequences are listed below. Meting out progressive discipline is discretionary with the Department.
  - (1) Oral reprimand – An oral reprimand should be clearly expressed to the employee so that the employee may distinguish it from oral counseling. An oral reprimand shall be issued if the employee has not shown needed improvement in his/her attitude or in his/her professional performance, if the employee disregards prior oral counseling, or if the employee, in the judgment of the supervisor, makes a significant mistake that should not have occurred in light of the employee’s skills and experience.

- (2) Written reprimand – A written reprimand shall be issued by the supervisor when:
- (a) In the judgment of the supervisor, the employee has not shown reasonably prompt and significant improvement in areas which were the subjects of prior oral counseling or oral discipline;
  - (b) In the judgment of the supervisor, the employee makes a significant mistake which should have been avoided in light of the exempt employee's skill and experience;
  - (c) The employee engages in unprofessional conduct;
  - (d) The employee demonstrates an uncooperative or hostile attitude toward his or her work or fellow workers; or
  - (e) The employee repeatedly violates departmental rules or policies.
- The written reprimand shall also contain a notice that the employee will be placed on probation if such conduct or other inappropriate conduct continues or occurs. A copy of the written reprimand will be forwarded through the AG to the department personnel officer and filed in the employee's personnel record.
- (3) Probation – An employee shall be placed on probation for a term of six months:
- (a) After receiving two written reprimands during the preceding twelve month period;
  - (b) If his/her job performance is generally unsatisfactory;
  - (c) If, in the judgment of the supervisor, the employee made a serious mistake that should not have occurred in light of the employee's skill and experience;
  - (d) When the employee repeatedly engages in unprofessional conduct; or
  - (e) When the employee demonstrates a persistent uncooperative or hostile attitude toward his or her work or fellow workers.
- The employee shall be given written notice of the probation, signed by the supervisor and approved by the Attorney General or the Administrative Services Manager. During the period of probation, the employee is not

eligible to receive pay raises and will be counseled by the supervisor as often as necessary, but not less than once a month. Probation may be extended for additional six month periods if, in the judgement of the supervisor, any circumstance justifying the imposition of probation exists at the end of the probationary period, and dismissing the employee is not justified. If an employee is retained at the conclusion of any probationary period, he or she will not be eligible for a retroactive or prospective pay increase until the next pay raise period or six months after the conclusion of probation, whichever is later.

- (4) Dismissal – The Attorney General may dismiss an employee who, in the judgement of the supervisor and with the Attorney General’s or the Administrative Services Manager’s concurrence, does not show substantial professional improvement during the probationary period or has engaged in other conduct that justifies dismissal. An employee not on probation may also be dismissed by the AG for conduct derogatory or detrimental to the department, or for any reason deemed sufficient by the AG in his or her unfettered discretion, or (as to the deputy attorneys general only) for any cause that would justify disciplinary action against the deputy by the Office of Disciplinary Counsel of the Hawaii Supreme Court. The following situations are likely to result in immediate dismissal:
- (a) Leaking confidential information to the news media or members of the general public;
  - (b) Conviction for a felony;
  - (c) Disbarment or suspension of practicing law by the Disciplinary Board;
  - (d) Use of the office of the exempt employee for illegal purposes; and
  - (e) Conduct detrimental to the morale of the department.
- e. Opportunity to be Heard – In the case of probation or dismissal, an employee shall have the opportunity to meet with the Attorney General or the First Deputy Attorney General to obtain an explanation of the reason(s) for the imposition of discipline. The employee shall also have an opportunity to explain his or her version of the facts. The Attorney General or the First

Deputy Attorney General shall meet with the employee who is the subject of discipline at the earliest convenient opportunity. Following such a meeting, the Attorney General, may, in his or her discretion, reassess the discipline imposed.

Nothing herein shall alter the at-will nature of exempt employees' employment with the department.

### 3. GRIEVANCE PROCEDURES

All bargaining unit employees will follow the article on Grievance Procedures in their applicable contract agreements.

This section is in accordance with section 14-13-3 of the Department of Personnel Services' Administrative Rules and approved by the Director of Personnel Services on April 4, 1984.

- a. Applicability – The provisions contained herein shall apply to all employees of the Department of the Attorney General who are included in the civil service system of the State of Hawaii, and who are not exempted from civil service by the provision of 76-16 H.R.S., as amended, except as otherwise provided below.
- b. General Provisions
  - (1) Grievance defined. A grievance is a complaint by a regular or non-regular employee alleging that there has been a misinterpretation, misapplication, or violation of a personnel statute, rule, regulation or written policy as to the employee. However:
    - (a) Dissatisfaction with respect to matters of classification and pricing shall not be considered a grievance.
    - (b) Except for matters covered under 76-41, 76-47, and 77-16, H.R.S., any complaint by a regular or non-regular employee alleging a misinterpretation, misapplication, or violation of any of the provisions contained in chapter 76, part II, and chapter 77, H.R.S. to the employee

shall not be subject to this grievance procedure. (See Department of Personnel Services Rules, 14-3-2.)

(c) Actions taken by an appointing authority in the termination of services of a probational employee shall not be subject to this grievance procedure, pursuant to Department of Personnel Services Rules, chapter 14-13.

- (2) Each employee is assured of freedom from coercion, discrimination or reprisal.
- (3) An employee has the right to be represented by a person or persons of the employee's choice at any step in the presentation of the grievance.
- (4) All grievances shall be handled during normal working hours insofar as is practicable.
- (5) Management need not consider any grievance not filed in accordance with the grievance procedure specific herein; provided that the parties may mutually agree to waive or extend any specific time limitation set forth in this procedure.

c. Informal Proceedings

An employee, without resort to formal proceeding, may discuss informally any grievance with the employee's supervisor. If the grievance involves the employee's supervisor, the employee shall discuss the grievance with the Administrative Services Manager. The oral presentation and discussion of a grievance between the parties concerned is encouraged and every attempt should be made to resolve the problem by informal conference. However, the requirements of d(1)(a) below shall be applicable.

d. Formal Proceedings

(1) Attorney General.

(a) The employee shall file a grievance with the attorney general within twenty (20) calendar days from the alleged action causing or resulting in the employee's grievance; or in the case of an alleged continuing violation, within twenty (20) calendar days after the alleged violation first became known or should have become known to the employee involved.

The grievance shall be submitted on the grievance form (Attachment Q-6) which is available in the personnel office.

(b) The Attorney General or designee shall meet with the employee to discuss the grievance.

(c) The Attorney General or designee shall render a written decision within ten (10) working days from the date the grievance was filed.

(2) Failure to Act – Failure on the part of the attorney general to act upon the grievance within the prescribed time limits gives the employee the right to use the appeal procedure set forth in e. below unless such time limits are extended by mutual agreement.

(3) Records – Decisions by the Attorney General shall be reported on the standard form entitled “Grievance Memorandum” (Attachment Q-7).

At least five (5) copies of the Attorney General’s decision shall be prepared and distributed as follows:

(a) Original to the grievance employee;

(b) Copy to the Attorney General;

(c) Copy for filing in the employee’s personnel folder;

(d) Copy to the state personnel director, only upon initiation of the procedure and upon conclusion and final settlement of the grievance within the department.

e. Appeals

(1) Civil Service Commission

(a) Any regular employee who is suspended, demoted, or dismissed, and any employee who is denied a step increment may appeal to the Civil Service Commission.

(b) The Governor shall designate a person or persons to serve as a grievance review committee. The committee shall review the grievance and submit a report to the governor, including a recommendation or recommendations for the disposition of the grievance. The Governor’s decision shall be final and binding on all the parties concerned.

## **O. PERSONNEL RECORDS**

### **1. NEW EMPLOYEES**

All new employees shall be properly processed prior to or on their first day of employment. To ensure that they are properly processed, a New Employee Checklist (Attachment Q-9) is provided to assist all affected employees in fulfilling this responsibility. In addition, processing by librarian (Attachment Q-10) for deputy attorneys general should be completed within one week of the new employee's hire date.

### **2. EMPLOYEE ID CARDS**

All employees occupying permanent positions are issued a Department I.D. by the Hawaii Criminal Justice Data Center under the Department of the Attorney General. All other employees will be issued a Departmental I.D. by the ASO-Personnel. If an employee loses his/her I.D., he/she must report the loss to the ASO-Personnel Office and obtain a replacement.

### **3. DEPARTING EMPLOYEES**

All employees resigning from their positions in the Department of the Attorney General shall give two weeks' notice via a letter, to the Attorney General thru their supervisors with a cc: to ASO-Personnel. The supervisor, upon receiving a letter of resignation, shall forward the letter to the Attorney General.

All Employees leaving the department shall be properly processed and all necessary forms completed on the last day of employment via Departing Employee Checklist (Attachment Q-11). Additionally, all departing deputy attorneys general must obtain Clearance by Librarian and Clearance by Supervisor (Attachment Q-12).

## **P. VOLUNTEERS**

### **1. GENERAL PROCESS**



a. STUDENT EXTERN/INTERN PROGRAMS

The Department will strive to maintain a student law intern program, open to law students, aimed towards developing an interest in public sector law practice. The First Deputy Attorney General shall coordinate the student law intern program.

b. SUMMER INTERNS

Opportunities available for students interested in temporary

**Q. ATTACHMENTS/EXHIBITS**

Q-1 [PERSONNEL TRANSACTION FORM \(PTF\)](#)

Q-2 [REQUEST TO HIRE DEPUTY ATTORNEY GENERAL](#)

Q-3 [CIVIL SERVICE EMPLOYEES EVALUATION](#)

Q-4 DEPUTY ATTORNEY GENERAL EVALUATION

Q-5 SUPERVISOR EVALUATION FORM BY DAG (pending)

Q-6 GRIEVANCE FORM

Q-7 GRIEVANCE MEMORANDUM

Q-8 [TEMPORARY DISABILITY BENEFITS CLAIM FORM](#)

Q-9 NEW EMPLOYEE CHECKLIST

Q-10 LIBRARIAN RESPONSIBILITIES

Q-11 DEPARTING EMPLOYEE CHECKLIST

Q-12 CLEARANCE BY SUPERVISOR/LIBRARIAN

Q-13 [WORKER'S COMPENSATION CLAIM BY EMPLOYEE](#)

