

DRAFT

RULES OF PRACTICE AND PROCEDURE OF THE

STATE OF HAWAII

LAW ENFORCEMENT STANDARD BOARD

[LOGO]

ADOPTED _____

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I. Intent and Purpose

Pursuant to Hawai‘i Revised Statute 139-2, the purpose of the Law Enforcement and Standards Board shall be to provide programs and standards for training and certification of law enforcement officers.

The intent and purpose of the Rules of Practice and Procedure of the Hawaii Law Enforcement Standards Board is to provide a systematic and democratic method of conducting meetings in order to ensure that all persons and parties will have an opportunity to participate in an open, productive, and orderly manner.

II. Definitions

As used herein, except as otherwise required by context:

“Administrator” means the Administrator of the Law Enforcement Standards Board.

“Continue” means to consider the decision at the *same* meeting at subsequent reasonable day and time.

“Defer” means to postpone decision making to a *different* meeting at subsequent reasonable day and time.

“HRS” means Hawai‘i Revised Statutes.

“Member” means a member of the Law Enforcement Standards Board, whether ex-officio or appointed.

“State” means the state of Hawai‘i.

III. Sunshine Law

The Law Enforcement Standards Board is a “board,” as defined by HRS 92-2, and shall comply with HRS 92.

IV. Organization and Parliamentary Rules

1. Membership.

- a. **Ex officio members.** Ex officio members of the Hawaii Law Enforcement Standards Board are identified in HRS 139-2
- b. **Appointed members.** Board members may be appointed to the Hawaii Law Enforcement Standards Board as provided by HRS 139-2.

- i. The Governor shall appoint the following as members: two law enforcement officers; four members of the public consisting of one member from each of the four counties.
 - ii. Members shall be appointed for three-year terms provided that the initial terms shall be staggered, as determined by the governor.
 - iii. Pursuant to HRS 26-34(d) and HRS 26-34(f), the governor may remove or suspend for cause any *appointed* member of any board or commission after due notice and public hearing.
 - iv. Pursuant to HRS 92-15.5, an appointed member with three unexcused absences will be deemed to have resigned.
 - c. **Voting members.** Every member of the Law Enforcement Standards Board shall have a vote.
2. **Election of Chair and Vice-Chair.** Every year the Law Enforcement Standards Board shall elect a Chairperson and Vice-Chairperson from among its members. They shall serve for a term of one year or until their successors are duly elected. Members may be elected to successive terms as Chair or Vice Chair.
3. **Chair and Vice Chair.**
 - a. **Presiding Officer.** The Chair shall be the Presiding Officer of the Law Enforcement Standards Board. In the absence or disability of the Chair, the Vice Chair shall act as the Presiding Officer. In the absence or disability of both the Chair and Vice Chair, the Law Enforcement Standards Board shall appoint a Chair pro tem who shall act as the Presiding Officer.
 - b. **Duties.** It shall be the duty of the Presiding Officer:
 - i. To convene all meetings at the appointed time by taking the Chair and calling the Law Enforcement Standards Board to order;
 - ii. **To ascertain whether there is a quorum;**
 - iii. To call for the approval of the minutes of the preceding meeting(s);
 - iv. To maintain order and proper decorum;
 - v. To announce the business before the Law Enforcement Standards Board in the order prescribed by the agenda;

- vi. To receive and to determine for disposition all matters properly brought before the Law Enforcement Standards Board, to call for votes upon the same, and to announce the results;
- vii. To authenticate by signature all acts of the Law Enforcement Standards Board as may be required by law;
- viii. To make known all Rules of Order when so requested and to decide all questions of order, subject to an appeal to the Law Enforcement Standards Board;
- ix. To announce the result on any matter voted on by the Law Enforcement Standards Board, and in case of a tie vote, to order that the matter be made the special order of the day for the next regular meeting;
- x. To act as the Law Enforcement Standards Board's liaison in dealing with the Hawaii State Boards and Commissions;
- xi. To sign all instruments requiring execution or agreement by the Law Enforcement Standards Board;
- xii. To receive all reports, communications, correspondence, and other items addressed to the Law Enforcement Standards Board from the public, elected officials, various governmental agencies or departments, and immediately make the proper referrals of these matters. All communications addressed to the Law Enforcement Standards Board shall be properly recorded and made available to the public upon request, except as otherwise provided by law; and
- xiii. To hold a Chair's meeting, as needed, with the Administrator, to informally discuss scheduling, operational, or procedural matters, that are within the decision-making authority of the Chair, and that do not require Law Enforcement Standards Board approval;
- xiv. To determine, with concurrence of members, when non-members of the Law Enforcement Standards Board may speak on topics being discussed and whether any time limitation per speaker will be set (provided that any person is *also* automatically entitled to provide testimony under Rule IV(7)(g));
- xv. To adjourn a meeting at any time, unless the majority of the members present at the Law Enforcement Standards Board meeting object;
- xvi. To call recesses; and

xvii. To perform other duties as may be required by law, or as may properly appertain to such office.

4. **Quorum and number of votes necessary for a decision.** Pursuant to HRS 92-15, a majority of all the members to which the Law Enforcement Standards Board is entitled shall constitute a quorum to do business, and the concurrence of a majority of all the members to which the board or commission is entitled shall be necessary to make any action of the board or commission valid.

5. Motions.

- a. **Form.** Motions and amendments may be oral, but shall be reduced to writing if requested by the Presiding Officer.
- b. **Second.** No motion may be considered until the same has been seconded.
- c. **Withdrawal.** After a motion is stated or read by the Presiding Officer, it is deemed in the possession of the body, and shall be disposed of by majority vote or unanimous consent.
- d. **Motions for matters under discussion.** Whenever any question whatsoever is under discussion, the motions relative thereto shall be to:
 - i. Lay on the table (no debate);
 - ii. Postpone or defer to a certain time (no debate);
 - iii. Commit or refer;
 - iv. Amend; or
 - v. Postpone indefinitely: When a question is postponed indefinitely, the same shall not be acted upon again or revised at any subsequent meeting in the calendar year in which the question was so disposed.

The motions shall have precedence in the order named. The first two (2) motions shall be decided without debate and shall be put as soon as made.

- e. **No revival.** When any motion is decided in the negative, it shall not be revived at the same meeting relative to the main question under discussion.
- f. **Deferral date.** When any matter is postponed or deferred, the matter shall be an order of business for the next meeting, unless another time is specifically stated.

- g. **Time limits.** No member may speak longer than a total of ten (10) minutes on the same agenda item, without leave of the Presiding Officer, subject to an appeal to the body. The member or members introducing the matter shall have a combined total of twenty (20) minutes to speak during the initial introduction of the matter.
- h. **Motion to adjourn.** A motion to adjourn is always in order and shall be decided without debate. One motion to adjourn shall not follow another without intervening business.
- i. **Call for the question.** The purpose of the motion to call for the question is to end debate. It shall always be in order and shall require a two-thirds vote of the members present to carry it. Whenever such motion prevails, the main question, subject to the order of priority, shall be put.
- j. **Reconsideration.** When a motion has been made and carried in the affirmative or negative, only a member who voted with the majority may move, at the same meeting or at the next regular meeting, to reconsider it and such motion shall take precedence over all other questions except a motion to adjourn.
- k. **Point of order.** A point of order may be raised at any stage of the proceedings, except during a calling of the roll when the ayes and noes are called for.
 - i. When the Presiding Officer or any member thinks that the rules are being violated, the Presiding Officer or member may raise a point of order (or "raise a question of order"), thereby calling upon the Presiding Officer for a ruling and an enforcement of the rules. Such question shall be decided by the Presiding Officer, without debate, subject to an appeal to the Law Enforcement Standards Board. In addition, the Presiding Officer may call for the judgment of the body on any point of order.
 - ii. Whenever any person is called to order while speaking, that person shall be in possession of the floor after the point of order is decided, and may proceed with the matter under discussion within the ruling made on the point of order.
 - iii. The members may, by a majority vote, overrule the decision of the Presiding Officer upon a motion of appeal which is duly seconded.

6. Voting.

- a. **Calling for vote.** Whenever the Law Enforcement Standards Board is ready to vote on any question, the Presiding Officer, after stating the question, shall put

such question to a vote, then announce the result of the vote to the Law Enforcement Standards Board. Upon the request of any member of the Law Enforcement Standards Board, the Administrator shall call the roll. Unless a member is excused from voting, their silence shall be recorded as an affirmative vote.

- b. **Voting methods.** There shall be three methods of ascertaining the decision of the Law Enforcement Standards Board upon any matter:
 - i. A call of the roll of the voting members and a record made of the vote of each voting member.
 - ii. Voice vote; and
 - iii. Unanimous consent.
- c. **No explanation or change.** Whenever the ayes and noes are called, no one, without the unanimous consent, shall be permitted to explain their vote; and after the announcement of the result, no one shall be permitted to vote or to change their vote.

7. Meetings.

- a. **As necessary.** The Law Enforcement Standards Board shall meet as necessary at a time, date, and location as may be determined by the Chair or, in the absence of the Chair, the Vice-Chair. Special meetings may be called by the chair pursuant to chapter 92, Hawaii Revised Statutes. The meeting must be held at a building that is accessible by the general public.
- b. **Agenda.** Pursuant to HRS 91 and 92, the Law Enforcement Standards Board shall prepare and post an agenda for all meetings of the Law Enforcement Standards Board, and its committees, identifying the date, time, place, and subjects to be considered.
- c. **Minutes.** The Law Enforcement Standards Board shall keep minutes as required by HRS 92.
- d. **Executive session.** The Law Enforcement Standards Board may enter into executive session as provided by HRS 92.
- e. **Emergency meetings.** The Law Enforcement Standards Board may hold emergency meetings as provided by HRS 92.
- f. **Continuances and Recesses.** The Law Enforcement Standards Board may continue or recess meetings to a reasonable place, time, and date, subject to HRS 92.

g. **Public testimony.** Written or oral testimony shall be accepted at meetings and public hearings.

i. Written testimony shall be received for the record on any agenda item.

ii. Oral testimony.

1. Persons wishing to testify are requested to register with the Administrator prior to the Presiding Officer calling the meeting to order.
2. Persons testifying are entitled to the floor only when recognized by the Presiding Officer.
3. Persons testifying may state their name and whom they represent, and shall state whether they are a registered lobbyist, in compliance with HRS 97. Pursuant to HRS 97-2, lobbyists shall file the requisite forms with the State Ethics Commission.
4. Persons testifying shall testify only on the subject matter under consideration, shall refrain from questioning the members and staff personnel, and shall direct any remarks or questions to the Presiding Officer.
5. Persons with written testimony may be given priority at the discretion of the Presiding Officer.
6. Oral testimony shall be limited to three (3) minutes per person per agenda item. The Presiding Officer shall have the prerogative to set the order of speakers, speaking for or against any proposition, and may notify the speaker of the expiration of speaking time thirty (30) seconds before such expiration. The Presiding Officer may allow an additional three (3) minutes to provide further testimony after all persons have had an opportunity to speak.
7. The Presiding Officer shall grant time to speak to persons who have not registered, following the registered speakers, in same manner as registered speakers.
8. Speakers shall restrict themselves to the issues and avoid discussion of personalities.

9. The Presiding Officer may restrict or terminate a speaker's opportunity to speak for intemperate or abusive behavior or language.

10. The Presiding Officer may allow members to ask speakers to repeat or clarify their position for or against the agenda item made during their testimony, but members shall not ask questions that give the speaker a greater opportunity to testify than others. Members shall not ask speakers about the substance of their testimony, or comment on testimony or speakers during the testimony period.

iii. The Law Enforcement Standards Board may receive testimony even if quorum is absent, as provided by HRS 92.

8. Committees

- a. **Appointment.** All committees of the Law Enforcement Standards Board, contemplated under these rules, shall be appointed by the Presiding Officer, subject to confirmation by a majority vote of the members of the Law Enforcement Standards Board.
- b. **Committee Chair.** The first person named on a committee shall be the Committee Chair unless otherwise designated. The Committee Chair shall and preside over committee meetings and may designate temporary alternate members in order to achieve a quorum and to take action in cases where members are absent.
- c. **Precedence.** No committee shall meet while the Law Enforcement Standards Board is in session. Committees shall be under the control and subject to the orders and appropriate rules of the Law Enforcement Standards Board, and shall faithfully carry out such orders.
- d. **Vacancies.** Vacancies on any committees shall be filled by the Presiding Officer of the Law Enforcement Standards Board unless otherwise designated in subsection (b) above, and no member of a committee shall resign therefrom without the consent and approval of the Law Enforcement Standards Board.
- e. **Quorum and number of votes necessary for a decision.** A majority of the entire membership to which the committee is entitled shall constitute a quorum and the majority vote of the membership present shall be necessary to take any action.
- f. **Committee Reports.**

- i. Every committee shall be responsible for writing and submitting a meeting summary to include a list of attendees, topics covered, decisions and/or recommendations to the Law Enforcement Standards Board as a whole.
- ii. Committee chairs or other committee members shall report to the whole Law Enforcement Standards Board at its meetings about the committee's work on matters referred to them.
- iii. Whenever any matter is referred to a committee, it shall be the duty of such committee to make diligent inquiry into all of the facts and circumstances connected with such matter.
- iv. The report of the committee on any matter shall provide an evaluation and recommendation as to the disposal of such matter.

9. Decorum.

- a. No person shall sit at the desk of the Presiding Officer or Administrator, except by permission of the Presiding Officer, or at the desk of any member, except by permission of that member.
- b. While the Presiding Officer is putting any question or addressing the Law Enforcement Standards Board, no one shall walk out of the meeting room or across the floor; nor shall anyone entertain a private discourse, or pass between the member and Presiding Officer while the member is speaking.
- c. When members are about to speak, they shall address themselves to the Presiding Officer, and shall confine their comments to the question under discussion, avoiding personalities.
- d. If any member, in speaking or otherwise, transgresses these rules of procedure, the Presiding Officer, or any member, may call that member to order, and when so called to order, that member shall immediately quiet down. The Presiding Officer shall then decide the question or order without debate, subject to an appeal to the Law Enforcement Standards Board. In addition, the Presiding Officer may call for the sense of the Law Enforcement Standards Board on any question of order.
- e. Whenever any person shall be called to order while speaking, the member shall be deemed to be in possession of the floor when the question of order is decided, and may proceed with the matter under discussion within the ruling made on the question of order.
- f. No unauthorized person shall enter the floor of the Law Enforcement Standards Board except by permission of the Presiding Officer. The term

"floor of the Law Enforcement Standards Board" shall mean that portion of the meeting room generally occupied by the Law Enforcement Standards Board and as may be specifically designated by the presiding officer.

- g. Any person or persons who willfully disrupt a meeting or hearing to prevent and compromise the conduct of the meeting may be removed from the room.

V. Ethics

1. **Compliance.** Members shall comply with HRS 84, Standards of Conduct.
2. **Possible conflicts.** Whenever a possible conflict of interest regarding any matter pending before the Law Enforcement Standards Board or any of its Committees becomes apparent to a member, the member shall promptly make a disclosure to the body prior to any discussion or action by the Board.

VI. Initiation of Rule-Making Proceedings.

1. **Motion by Law Enforcement Standards Board.** Pursuant to HRS 91, the Law Enforcement Standards Board may, at time on its own motion, initiate proceeding for the adoption, amendment, or repeal of any rule or regulation of the Law Enforcement Standards Board.
2. **Petition by Person or Agency.** Any interested person may petition the Law Enforcement Standards Board for the adoption, amendment, or repeal of any rule or regulation of the Law Enforcement Standards Board. Petitions for rule making filed with the Law Enforcement Standards Board will become matters of public record.
 - a. **Form and Contents.** Petitions for rule making shall contain the name, address, and telephone number of each petitioner; the signature of each petitioner; a draft of the substance of the proposed rule or amendment or a designation of the provisions the repeal of which is desired; a statement of the petitioner's interest in the subject matter; a statement of the reasons in support of the proposed rule, amendment, or repeal.
 - b. **Action on Petition.** The Law Enforcement Standards Board shall, within thirty (30) days after the filing of a petition for rule making, either deny the petition in writing, stating its reasons for denial or initiate proceedings in accordance with Section 91-3 HRS.
 - i. **Denial of Petition.** Any petition that fails in material respect to comply with the requirements herein or that fails to disclose sufficient reasons to justify the institution of public rule-making proceedings will not be considered by the Law Enforcement Standards Board. The Law Enforcement Standards Board shall notify the petitioner in writing of such denial, stating the reasons thereto. Denial of a petition shall not operate to prevent the Law Enforcement

Standards Board from acting, on *its* own motion, on any matter disclosed in the petition.

- ii. **Acceptance of Petition.** If the Law Enforcement Standards Board determines that the petition is in order and that it discloses sufficient reasons in support of the proposed rule-making to justify the institution of rule-making proceedings, the following procedure set forth and applicable statutes and law shall apply.

3. **Notice of Public Hearing to Discuss Rule Adoption, Amendment or Repeal.**

- a. **Publication and Mailing.** When, pursuant to a petition therefore or upon its own motion, the Law Enforcement Standards Board proposes to adopt, amend, or repeal a rule or regulation, notice shall be provided as required by HRS 91-2.6 and HRS 91-3.
- b. **Form.** A notice of the proposed adoption, amendment, or repeal of a rule or regulation shall include the requirements set forth in HRS 91-3.

4. **Law Enforcement Standards Board Action.** The Law Enforcement Standards Board shall consider all relevant testimony and documents of record before taking final action in a rule-making proceeding.

5. **Effective Date.** All rules shall be filed and take effect pursuant to HRS 91-4.

6. **Emergency Rule Making.** Notwithstanding the foregoing rules, the Law Enforcement Standards Board may adopt emergency rules in accordance to the provisions of HRS 91-3 and 4 if the Law Enforcement Standards Board finds that an imminent peril to public health or safety requires adoption, amendment, or repeal of a rule or regulation upon less than thirty (30) days notice of hearing, and states in writing its reasons for such finding, it may proceed without prior notice or hearing or upon such abbreviated notice and hearing as it finds practicable to adopt an emergency rule or regulation to be effective for a period not longer than one hundred twenty (120) days without renewal.