

TITLE XX

LAW ENFORCEMENT STANDARDS BOARD

CHAPTER XX-9

WAIVERS, VARIANCES, AND SPECIAL PROVISIONS

DRAFT (5-13-2025)

§XX-9-1 Purpose.

The purpose of this chapter is to establish procedures for the issuance of waivers, variances, and accommodations related to certification and training requirements. These provisions allow the Board to respond flexibly to exceptional cases while ensuring compliance with chapter 139, Hawaii Revised Statutes, and the standards adopted by the Board under law. [Eff 7/1/26] (Auth: HRS §139-2 and 139-3) (Imp: HRS §139-5)

§XX-9-2 Definitions.

As used in this chapter:

“Accommodation” means a reasonable modification or adjustment to a policy, practice, or procedure, granted to an individual with a medical condition or disability to enable compliance with certification standards.

“Applicant” means a law enforcement officer or agency requesting a waiver, variance, or special accommodation.

“Temporary certification” means a time-limited certification waiver granted under emergency conditions.

“Variance” means a modification of training or certification requirements due to exceptional cases, such as disabilities or prior equivalent training.

“Waiver” means a temporary exemption from a certification or training requirement under emergency or special circumstances. [Eff 7/1/26] (Auth: HRS §139-2 and 139-3) (Imp: HRS §139-5)

§XX-9-3 Temporary certification waivers.

(a) Emergency or critical staffing waivers. A law enforcement agency experiencing critical staffing shortages or training capacity limitations may apply for a temporary certification waiver for an officer who has not yet completed the required training.

(1) The waiver shall not exceed six months, unless extended by the Board for good cause.

(2) The officer must be actively enrolled in a Board-approved training program to maintain the waiver.

(b) Disaster or state emergency waivers. The Board may grant a temporary waiver of certification requirements during declared state emergencies when regular training is unavailable.

(1) The waiver duration shall not exceed the duration of the declared emergency plus ninety days.

(2) Officers receiving an emergency waiver must complete full certification requirements as soon as practicable after the emergency ends. [Eff 7/1/26] (Auth: HRS §139-2 and 139-3) (Imp: HRS §139-5)

§XX-9-4 Medical and disability accommodations.

(a) Eligibility. An applicant who has a verified medical condition or disability that affects their ability to meet certification standards may apply to the Board for a reasonable accommodation or variance.

(1) The request shall include:

(A) Medical documentation from a licensed healthcare provider; and

(B) A proposed alternative standard that allows the applicant to meet certification requirements through modified means.

(b) Review process.

(1) The Board shall evaluate requests on a case-by-case basis to ensure that accommodations do not compromise essential law enforcement functions.

(2) Accommodations shall be consistent with applicable state and federal disability laws, including the Americans with Disabilities Act.

(3) The Board may consult with subject matter experts or medical professionals before issuing a determination.

(c) Duration and monitoring of accommodations.

(1) The Board may grant accommodations as temporary, ongoing, or conditional based on the nature of the applicant's medical condition or disability.

(2) Temporary accommodations may be issued for acute or time-limited conditions and shall include a designated expiration or review date.

(3) For chronic or progressive conditions, the Board may require periodic medical updates to evaluate continued eligibility for the accommodation.

(4) Nothing in this section shall be construed to authorize the Board to make determinations regarding an individual's employment status, duty assignment, or fitness for duty. [Eff 7/1/26] (Auth: HRS §139-2 and 139-3) (Imp: HRS §139-5)

§XX-9-5 Variances for training and certification requirements.

(a) Prior equivalent training. Officers who have received substantially equivalent training in another jurisdiction may apply to the Board for a variance in accordance with chapter XX-2.

(1) The Board shall evaluate requests under the criteria set forth in chapter XX-2, including an assessment of curriculum, duration, and certification standards.

(b) Alternative certification methods. Officers with extensive prior experience may request modifications to training requirements, as provided in chapter XX-2.

(1) Such requests may be considered for:

(A) Accelerated training programs;

(B) Competency-based assessments; or

(C) Waivers of redundant coursework.

(c) Application process.

(1) Requests for variances shall be submitted using the application procedures established under chapter XX-2.

(2) The Board shall review and issue a decision consistent with the timelines and procedures set forth in that chapter.

(d) Requests shall be reviewed using the equivalency and alternative certification criteria set forth in sections XX-2-7 and XX-2-8, Hawaii Administrative Rules. [Eff 7/1/26]

(Auth: HRS §139-2 and 139-3) (Imp: HRS §139-5)

§XX-9-6 Appeals and review.

(a) Request for reconsideration.

(1) An applicant who is denied a waiver, variance, or accommodation under this chapter may submit a written request for reconsideration within thirty calendar days of the Board's decision.

(2) The request shall include additional supporting documentation or information not previously considered.

(3) The Board shall review the request and issue a written response within a reasonable period.

(b) Final appeal.

(1) If the request for reconsideration is denied, the applicant may seek further review in accordance with chapter 91, Hawaii Revised Statutes.

(2) Any appeal under this subsection shall be limited to the record before the Board and conducted as a contested case proceeding. [Eff 7/1/26] (Auth: HRS §139-2 and 139-3) (Imp: HRS §139-5 and chapter 91)