

# Direct Process Handbook



Administrative Section

Instructional Services/Spec. In. S. S. . . . . of Hawaii RS 79-7211

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GEORGE R. ARIYOSHI  
GOVERNOR



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SUPERINTENDENT

STATE OF HAWAII

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OFFICE OF INSTRUCTIONAL SERVICES

November 23, 1979

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National Criminal Justice Reference Service  
Acquisition Department No. 2  
Box 6000  
Rockville, MD 20850

Dear Mr. Chiang:

In accordance with your request of July 1979, I am transmitting a copy of our Due Process Handbook for Administrative Actions for your use.

Sincerely,

*Beverly Lee*

Beverly Lee  
Educational Specialist III  
Neglected and Delinquent

BL:dss

Enclosure

NCJRS

JAN - 7 1980

ACQUISITIONS

# **Due Process Handbook**



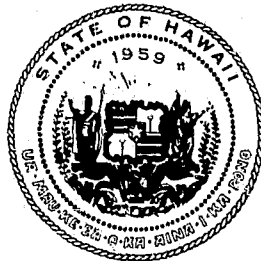
## **for Administrative Actions**

Office of Instructional Services/Special Needs Branch • Department of Education • State of Hawaii • RS 79-7211 • March 1979

NCJRS

JAN - 7 1980

ACQUISITIONS



**The Honorable George R. Ariyoshi  
Governor, State of Hawaii**

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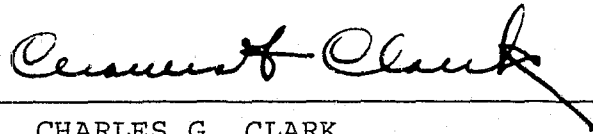
## FOREWORD

Our modern society has become increasingly conscious of the respect for personal dignity of each individual and the fulfillment of unique needs. As a result, the search for resolution of the apparent dichotomy between freedom and license, between rights and responsibilities, between the actions of lawmakers and the responses of citizens, causes tensions between natural drives for individual fulfillment and the intruding needs for restraints.

There will be differences of opinion as to the tolerable limits of intrusion upon what one considers to be an individual's rights. However, schools must maintain reasonable restrictions on personal rights which are necessary for student safety, health and the orderly process of education. These restrictions are in the form of rules and regulations relating to educational requirements, attendance and behavior. The reasonableness of these rules and regulations, periodically reviewed, becomes equated with their necessity in facilitating effective performance of designated educational functions legally and morally expected of the schools.

The maintenance of rules and regulations infers both an intrusion on and the protection of the rights of the individual, an often difficult position for the school administrator. The development of procedures, courses of actions, in accordance with regulations established for the enforcement and protection of individual rights is viewed as a significant way to assist

the school administrator. Toward this end, this Due Process Handbook has been compiled. Hopefully, the document will enable the administrator to weigh the rights of the students against the obligation of educators within the framework of the functions of quality education.

A handwritten signature in cursive script, reading "Charles G. Clark", written over a horizontal line.

CHARLES G. CLARK  
Superintendent of Education

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## I. INTRODUCTION

### A. Mission Statement

In support of the Department of Education commitment to provide educational services and opportunities for the development of all students in Hawaii to their maximum potential, the mission of this effort toward due process is:

To ensure that all students are provided an effective learning environment which respects the rights of students in their relationships with educators, as well as the protection of students not to have their education interrupted.

### B. Purpose

The purpose of the due process handbook is to ensure the attainment of the mission for all students, with special attention to students who are educationally neglected, known to the courts, abused, or alienated.

The importance of due process is succinctly presented by the National Association of Secondary School Principals

#### The Reasonable Exercise of Authority:

These considerations are as necessary to administrative proceedings in schools as they are to more formal trials in courts of law, although they may be discussed and handled in any formal way. ...

Many decisions correct in substance have been overturned on appeal to higher authority simply on the grounds that due process or fairness was not observed.\*

\* Underscore added

## C. Definitions

### 1. Due Process

Due process, in substance, guarantees that each individual be protected against arbitrary actions which threaten his/her personal freedom beyond those restraints necessary for protection of his/her health, safety, and the orderly process of his/her education.

As procedure, due process is defined as a course of actions in accordance with regulations established for the enforcement and protection of individual rights.

### 2. Educationally Neglected Child

HRS Section 571-11 (2) (D) as amended defines the educationally neglected child as one:

Who is neither attending school nor receiving educational services as required by law whether through his own misbehavior or nonattendance or otherwise.

### 3. Child Known to Court

A child becomes known to the court by referral of complaint or petition for various reasons such as the child:

- a. Violated or attempted to violate any federal, state or municipal law;
- b. Is neglected or abandoned;
- c. Is beyond control of his/her parents;

- d. Is in an environment injurious to his/her own welfare or others' welfare.
- e. Exhibits behavior injurious to his/her own welfare or others' welfare.

4. Neglected/Abused Child

HRS Section 571-11 (2) (A) & (B) describe the neglected/abused child as one who:

- a. Is neglected as to proper or necessary support, or as to medical or other care necessary for his/her well-being, or who is abandoned by the parent or other custodian; or
- b. Is subjected to physical or emotional deprivation or abuse as a result of failure of any person or agency to exercise that degree of care for which he or it is legally responsible.

5. Alienated Child

The alienated child is generally characterized as one who feels estranged from school and/or society because of personal problems which may be social, psychological, cultural or economic. The child's feelings are often displayed in negative ways such as the defiance of authority, drug abuse and non-attendance at school.

6. Child Arrested/Interviewed by Police

- a. School related offenses include incidents involving school property, or acts committed on school property during school hours, or acts committed during school functions or activities. (Rule 3, See pages 135-136)
- b. A child becomes involved with the police when the child:
  - 1) Is arrested by the police
  - 2) Is interviewed by the police (with parental consent) for non-school-related offenses
  - 3) Is interviewed by the police for a school-related offense



## II. LEGAL AND ADMINISTRATIVE REQUIREMENTS

This section seeks to highlight those statutes, rules, regulations and procedures which affect the selected target groups. Where the reference may not be readily available to the school administrators, a copy has been included in the appendix.

### A. School Attendance

#### 1. Compulsory Attendance

Unless excluded, all children who will be six years old, and who will not be eighteen on or before December 31 of any school year must attend a public or private school for and during that school year.

(HRS, Section 298-9, See page 79)

- a. The Board of Education is responsible for administering compulsory attendance.

(Policy 4140, See page 80)

- b. Responsibilities for implementing the enforcement of compulsory attendance

(Regulations 4140.1) are:

- 1) Superintendent and State Staff
  - a) Publish annual notification of legal requirements
  - b) Notify private schools
- 2) District Staff
  - a) Monitor principals in ascertaining enrollment of students

- b) Follow-up out-of-school students
  - c) Provide/arrange services to deal with attendance problems
  - d) Encourage development of special school programs
- 3) School
- a) Contact home/parent in cases of chronic non-attendance
  - b) Seek special assistance for cases of behavioral, emotional or unfavorable home conditions

4) External Assistance

In the event that all appropriate efforts/expertise within the Department have been exhausted, assistance may be sought from other agencies such as Department of Social Services and Housing, Department of Health, Family Court and Law Enforcement.

2. Non-Compulsory Cases

Exception to compulsory attendance may be granted in cases of medical certification, tutoring, employment, Family Court approval, or graduation.

(HRS Section 298-9 (1)-(5), See page 79)

- a. Request to withdraw school-age child is to be submitted by student, parent, guardian, or other person having responsibility for or care of child.

- b. The principal annually reviews all previous year's withdrawals and takes appropriate action to ensure compliance with the compulsory education law. The principal reviews and makes recommendations on new requests for withdrawals from school. The request for withdrawal of an 18 year old student (not certified as an exceptional child) shall be approved by the principal.
- c. The district superintendent may approve or disapprove withdrawals in the following cases:
  - 1. Medically certified
  - 2. Employment
  - 3. Graduation
- d. The Superintendent of Education may approve or disapprove withdrawals in requests concerning tutoring.
- e. Family Court Judge approval or disapproval is required for other cases. (See Withdrawal of School-Age Child, pages 71-76)

3. Exclusion from School

A child may be precluded from attending school by the principal with approval of the district superintendent for reasons detrimental to the morals or discipline of the school. The DOE must seek help for these children. (HRS Section 298-11, see page 43)

- a. Disciplinary action not amounting to serious discipline may include suspension not to exceed a total of ten days per semester at the discretion of the principal.
- b. Serious discipline includes dismissals, disciplinary transfers and suspensions which exceed ten school days or will result in suspension for more than a total of ten days in any single semester and requires district superintendent approval.
- c. Crisis suspension not to exceed 10 days may be administered by the principal in an emergency.
- d. All the above disciplinary actions require appropriate notification of student and parents, guardian or other custodian who have the right to file exceptions to the decisions.
- e. The principal must arrange educational alternatives for students dismissed or suspended for more than 10 days.

(Item a - e above are taken from Rule 21. See pages 44-48)

B. Child Abuse

- 1. The Hawaii Revised Statutes, Chapter 350, requires the teacher to report a minor suspected of having injury resulting from abuse or neglect. Immunity from libel suits is granted to the reporting party.  
(See pages 65-66)

- a. Teachers or other school personnel report to principal.
- b. Principal reports to DSSH, Public Welfare Division.

(See Regulation 4240.4 and procedures, page 67)

C. Family Courts

Section 571, HRS, as amended in 1976, has important implications to the target children (page 184). Among these are:

1. The protection of rights of children is clearly identified, with the court authorized to: (Sec. 571-1)
  - a. Formulate a plan to meet the requirements of the child, his/her family and the protection of the community.
  - b. Utilize all State and community resources to the extent possible to implement the plan.
2. The court has exclusive original jurisdiction in proceedings concerning: (Sec. 571-11)
  - a. Person who is alleged to have committed or attempted to commit a violation prior to reaching the age of 18;
  - b. Child who is neglected;
  - c. Child who is subjected to physical or emotional deprivation or abuse;
  - d. Child who is beyond control of parents or whose behavior is injurious to his/her own or others' welfare;
  - e. Child who is neither attending school nor receiving educational services required by

law whether through his/her own misbehavior or  
nonattendance or otherwise.

3. The court may order, if informal adjustment or diversion to a private or community agency or program has not been effected, whatever care or treatment is authorized by law for the child within its jurisdiction. (Sec. 571-48 (5))

D. Police Interviews and/or Arrest of Students During  
School Hours

1. Department of Education Rule 3 requires:
  - a. Parental consent for police interviews for non-school-related offenses
  - b. A log maintained by the principal or his designated staff
  - c. The principal to make an effort to inform the parents when a student is arrested
2. Rule 3 allows police interviews in the school for school-related offenses. (See pages 135-136)

)

### III. GUIDELINES FOR PROGRAMMING

The purpose of this section is to identify the program/service efforts within the schools which serve to assist the target students in their educational development or to prevent problems from reaching levels detrimental to this development.

#### A. Background

1. The Master Plan for Public Education in Hawaii (September, 1968) states:

This state is committed to the concept and practice that instruction will be individualized, that problems will be diagnosed and treated on an individual basis and that students themselves will be dealt with as individuals on the basis of special individual needs. (p. 28)

THIS SCHOOL SYSTEM WILL PROVIDE DIFFERENTIATED CURRICULA FOR SPECIAL GROUPS OF STUDENTS. In stressing the need for individualized learning programs for our students, it is urgent that children with special needs be served effectively. The culturally deprived, the dropouts, the academically talented, the physically and mentally handicapped, and the slow learners must be provided programs that will meet their needs. ... RECOMMENDATION: THE DEPARTMENT SHOULD EXPAND ITS DIAGNOSTIC SERVICES FOR THE EARLY IDENTIFICATION OF PUPILS WITH SPECIAL NEEDS. THE DEPARTMENT SHOULD ALSO ESTABLISH PROGRAMS THAT WILL ADEQUATELY ACCOMMODATE THOSE STUDENTS WITH SPECIAL NEEDS. (pp. 63-64)

2. In keeping with the commitment of the Master Plan, the mission of compensatory education is to provide special and extra services that are intended to offset a complex of social, economic, educational, and related handicaps suffered by deprived children.

3. A program in compensatory education, the Comprehensive School Alienation Program, has the following goals which relate to some of the special needs of the target:

a. To provide for the academic and social success of the alienated youth by:

- 1) Motivating the students toward more positive school attitudes through success-oriented activities;
- 2) Assisting the student to discover a more realistic self-concept through intensive counseling;
- 3) Encouraging the dropout to return to school and providing for his academic and social successes; and
- 4) Providing alternatives for the dropout who chooses not to re-enter school at this time.

b. To assist schools in coping with crisis situations;

c. To provide constructive, corrective measures to insure safety in school; and

d. To seek effective avenues of preventing school alienation.

B. Identification

1. Premise

If alienation toward school or characteristics which



would result in alienation are identified as early as possible, there will be greater probability for successfully working with the child. Early identification allows time to alter the patterns which give impetus to blatant problems.

2. Description

School personnel who can contribute toward early identification of students needing special assistance include everyone with whom the student has contact. Among these are the classroom teacher, counselor, vice principal, principal, educational aide, outreach or campus counselor. Procedures to formally identify the students are often time-consuming. However, a school should provide a climate whereby the student can feel free to seek the help of the staff or whereby school personnel or other agencies who perceive these symptoms can, upon request, expect some provision for immediate, relevant services for the individual.

Attention to symptoms such as non-attendance, negative attitudes or behavior, discipline problems, poor performance in school work, one or more failures or grade retentions, poor physical condition must be on-going with consideration given to more subtle signs of problems.

C. Assessment

1. Premise

In order to meet the special needs of the students, an assessment or diagnosis of what these needs are is crucial. It is recognized that there are cases where the Department of Education does not have the expertise to adequately diagnose the problem and that assistance may need to be sought from other agencies such as the Department of Health, and the Department of Social Services and Housing.

2. Description

Diagnosis and assessment should be comprehensive through the merging of information such as:

- a. Language proficiency
- b. Achievement levels
- c. Affective characteristics
- d. Teacher observations
- e. Socio-cultural characteristics
- f. Special services findings
- g. Reports from other agencies.

D. Services

1. Premise

The students are often faced with many problems such that one type of service may not meet the individual's needs. In addition, the setting within which the student learns, the strategies/activities used, and the personnel providing assistance may need to be

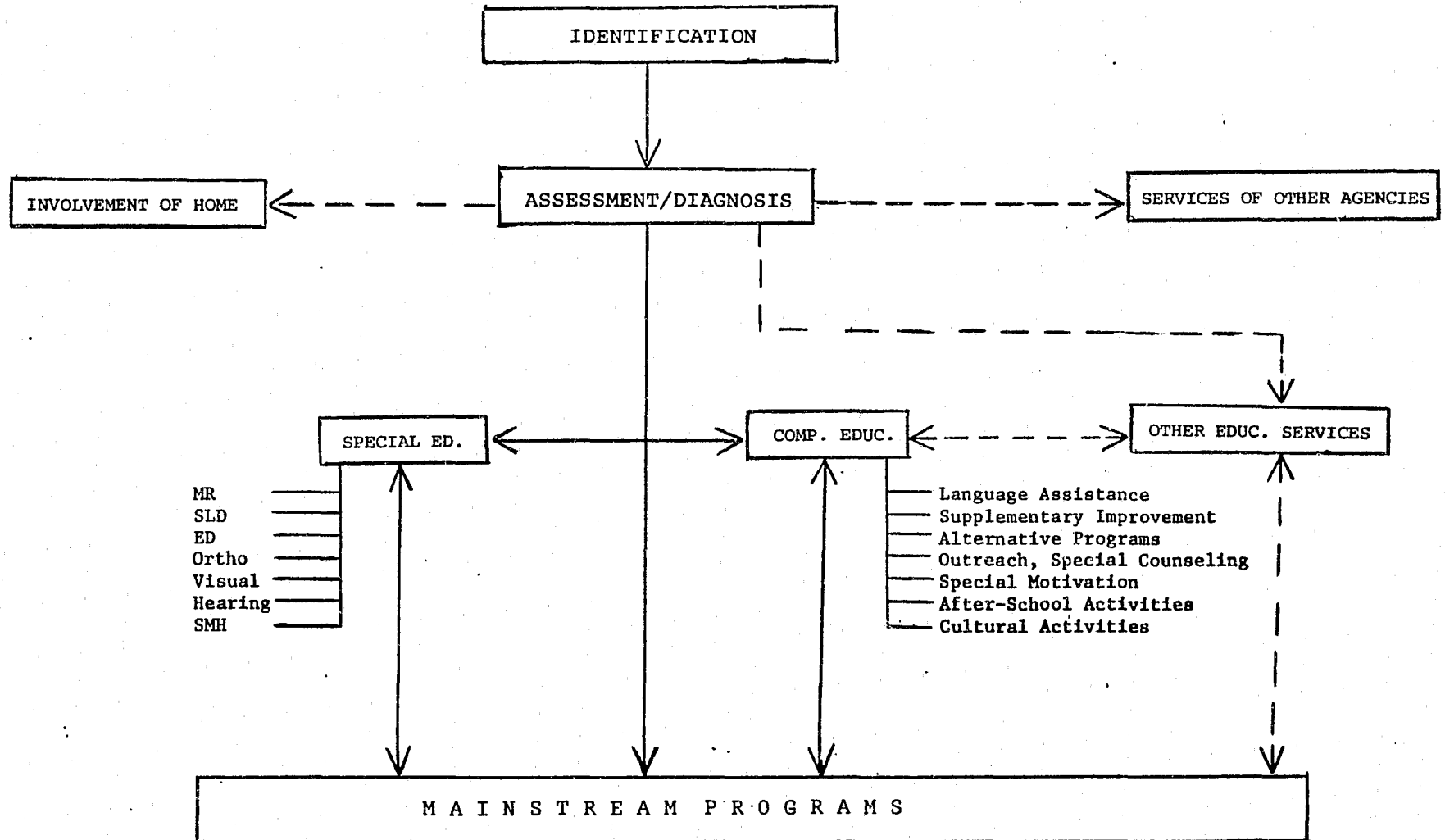
adjusted in order that the student be given an opportunity for success. As with the assessment phase, all the services needed by the student may not be within the expertise of the DOE but should be sought through appropriate referrals.

2. Description

Educational services within the school system are varied. Upon completion of the assessment of an individual's special needs, the appropriate educational plan may include one or more of the following:

- a. Selected options within the regular program
- b. Alternative program
- c. Special motivation class
- d. Special counseling (Outreach, Acculturation)
- e. Supplementary improvement services
- f. After-school motivational activities
- g. Special education services
- h. Work study
- i. Other educational services (Adult Education, Job Corps, Community College, etc.)

STUDENT PROGRAMMING CHART



E. Serving the Child Known to the Court

In 1970 the Department of Education and the Family Court, First Circuit, agreed to guidelines for programming/serving the child known to the court. These guidelines, revised in September, 1978 follow:

1. Entry or Re-entry of Student to School

a. The school's admission procedure shall include the following steps:

1) Arrange for preliminary conference with student, parents, and the Family Court worker for the following purposes:

a) Share relevant information concerning conditions which affect the student's behavior.

b) Review school's program, staff, and climate as to whether the student can adjust academically and socially, or whether district exception should be sought for attendance elsewhere, or whether alternatives other than school should be considered.

c) Identify an advocate, a school individual who can readily relate with the student, such as a teacher, student, or other adult. Extra class

activities in which the student may participate should also be recognized.

- d) Define minimum conditions for enrollment and expectations.
- 2) Arrange for student to confer with the school, accompanied by the parents and the Family Court worker, as appropriate.
  - a) Student meets with his advocate and plans his program of studies with school personnel.
  - b) Student reviews, modified where agreeable to the school, and accepts the conditions for his admission and expectations.
  - c) Entry date is set.
- 3) Orient teachers to assume positive attitude toward student.
- 4) Arrange to have student meet with staff and teachers, where such a meeting is indicated.
- 5) Have student report to school on his own, or with the support personnel as needed.
- b. After admission/readmission, the school shall:
  - 1) Maintain continuous and close contact with the parents and the Family Court.
  - 2) Encourage student independence; however, where needed, afford close, constant supervision in attendance, behavior, and

academic progress.

- 3) Hold periodic School-Family Court conferences involving personnel working with the student to share positive as well as negative reports.

2. Services to Adjudicated Students Currently Enrolled in School

The Family Court worker is usually aware that an enrolled student is adjudicated before school officials receive such information. Therefore, responsibility falls upon the worker primarily to arrange for a conference with school personnel to:

- a. Assess the student's academic and behavioral adjustment and progress.
  - b. Apprise school personnel of the nature of the student's law violation and conditions - personal, home, community, school - which may have caused it.
  - c. Assess the degree to which the school shall become actively involved in program planning and/or modification, or supervision of the student.
- 1) If the student's academic and behavioral adjustment and progress are satisfactory, and the prognosis appears good, the Family Court worker maintains a consulting, liaison role with the school.

- 2) If the student's academic and behavioral adjustment and progress are less than satisfactory, the Family Court worker takes the initiative and become actively involved.

Should it be ascertained that the school is in need of the services of the Family Court worker, the Department will carry out the following procedures:

- a. Arrange for conferences with parents, including the Family Court worker, as appropriate, for the following purposes:

- 1) Share relevant information concerning conditions which affect the student's behavior.
- 2) Review school's program, staff, and climate as to whether the student can adjust academically and socially, or whether district exception should be sought for attendance elsewhere, or whether alternatives other than school should be considered.
- 3) Identify an advocate, a school individual who can readily relate with the student, such as a teacher, student, or other adult. Extra-class activities in which the student may participate should also be recognized.



- 4) Define maximum conditions for enrollment and expectations.
- b. Arrange for student to confer with the school personnel, accompanied by the parents and the Family Court worker, as appropriate.
- 1) Arrange for student to meet with his/her advocate and plan individual program of studies with school personnel.
  - 2) Arrange for student to review, modify where agreeable to the school, and accept conditions for continued enrollment and expectations.
  - 3) Orient teachers to assume positive attitudes toward student.
  - 4) Arrange to have student meet with staff and teachers, where such a meeting is indicated.
  - 5) After adjustment conferences:
    - a) Maintain continuous and close contact with the parents and the Family Court.
    - b) Encourage student independence; however, where needed, afford close, constant supervision in attendance, behavior, and academic progress.

- c) Hold periodic School-Family Court conferences involving personnel working with the student to share positive as well as negative reports, to assess needs, and to plan further steps for rehabilitation.

3. Management of Student in School

- a. The student shall be treated like any other student.
- b. When disciplinary action needs to be taken immediately, prior consent of the Family Court is not required; however, the Family Court should be informed of action taken and reasons for the action.
- c. In non-crisis situations, where disciplinary action is contemplated, the Family Court should be involved before action is taken.
- d. On suspensions/dismissals, follow-up conferences involving the school, parents and Family Court shall be held.
  - 1) As appropriate to their roles and functions, the school and the Family Court shall seek and obtain or provide appropriate support services for the student.
  - 2) Alternative educational programs for the student shall be explored.

#### IV. PROCESS AND PROCEDURES

The general description of educational programming presented in the previous section is continuous and cyclical. When all attempts have had little or no effect, special procedures must be initiated to enable the protection of the individual or the welfare of other students. The need for school administrators to have a thorough working knowledge of these processes is evident in the NASSP quotation in Section I (p. 1): "Many decisions correct in substance have been overturned on appeal to higher authority simply on the grounds that due process or fairness was not observed."

##### A. Disciplinary Actions

As discussed in Section II, Rule 21 (pages 44-48) covers serious disciplinary actions, suspension other than serious discipline, and crisis suspension. (Principal's Guidelines for Student Discipline)

##### 1. Highlights of Rule 21

- a. A student may be suspended up to ten school days in a single semester. An informal "hearing" by the principal with the student is required which can be conducted as soon as the evidence is gathered. The principal's decision is final.
- b. Suspensions which either exceed ten school days or cumulate more than ten school days in a single semester constitute serious

- discipline. A formal hearing may be requested.
- c. Pending a formal hearing for serious discipline, the student shall remain in school until the suspension recommendation is affirmed by the district superintendent, unless removed by crisis suspension action.
  - d. Schools may adopt their own rules which proscribe conduct, behavior, and penalties. However, no punishment amounting to serious discipline shall be imposed. Schools are urged to develop school rules with student, staff, and parent participation. These rules may be presented at a special or PTA meeting to solicit input from all concerned before implementation. These rules shall be made available for inspection, published or posted, and students informed of the proscribed conduct.
  - e. No dismissal shall continue beyond the school year in which it is made, and no suspension shall be for an indefinite period.
  - f. A crisis suspension shall not exceed ten school days.
  - g. For a single offense, other than crisis suspension, non-serious discipline or serious discipline can be imposed one time only: i.e., the principal must make an immediate determination as to the type of discipline to be imposed; he

cannot impose non-serious discipline to be followed by serious discipline.

2. Student Misconduct on School Property or at School Sponsored Activities Violative of the Hawaii Penal Code

To enable schools to identify those sections of the Hawaii Penal Code most commonly violated by students, a study of serious discipline actions taken against students during the 1975-76 school year was conducted. From the study, the most frequent student misconduct and the related sections of the Hawaii Penal Code violated have been identified. Schools may use the listing on pages 49-52 as a guideline to determine whether a student's misconduct is violative of the Hawaii Penal Code.

3. Implementation of Rule 21, Relating to Student Discipline

a. Implementation Procedures (Effective April, 1976)

1) Serious Discipline

- a) Principal shall complete Form OIS 21-B, Serious Discipline Investigation Report, prior to recommending suspension. Such investigation shall be conducted immediately and completed as quickly as practicable. (Sec. 21.6.a)

- b) Principal sends to District Superintendent  
(Sec. 21.6.b., Sec. 21.6.c)
  - 1) Form OIS 21-B, Serious Discipline  
Investigation Report
  - 2) Form OIS 21-A, Serious Discipline -  
Notice
- c) If the District Superintendent approves  
of action, he/she\* sends to parent/  
guardian and student by personal delivery  
mail (return receipt requested) the  
following:
  - 1) Form OIS 21-A, Serious Discipline -  
Notice
  - 2) Form OIS 21-B, Serious Discipline  
Investigation Report
  - 3) Form OIS 21-C, Serious Discipline  
Request for Hearing
- d) Parent must request a hearing within  
five school days after the mailing date  
of the notice, or serious discipline  
will be implemented. Principal shall  
attempt to confirm the notice by  
telephoning parent/guardian.  
(Sec. 21.6.c. (6))

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\* Forms OIS 21-A, OIS 21-B, OIS 21-C may be sent by either  
the principal or district superintendent. To conserve  
time, it is suggested that the district superintendent  
send forms to parent/guardian.

Note: The school shall make every effort to contact the parent/guardian upon suspending student. The student should be referred to the police if a law violation was committed, e.g., physical attack, property damage, threats (where the student displays an obvious and imminent ability to commit the harmful act which he threatens), possession of contraband (weapons, drugs, etc.). Similarly, when the student displays an obvious proneness to hurting himself/herself or meeting with an accident, agency assistance such as the Division of Mental Health should be sought. In such cases, avoid summarily sending student home without seeking assistance for him/her.

- e) If a hearing is requested, the district superintendent must schedule a hearing within ten school days after receipt of request. (Sec. 21.6.d)
- f) District Superintendent must render a decision on Form OIS 21-D, Serious Discipline Hearing Report, within three school days after completion of hearing.

Decision shall be made (return receipt requested) or personally delivered to the student and parent/guardian.

(Sec. 21.6.d (6) and (7))

- g) District Superintendent's decision can be appealed to Superintendent within ten school days after the mailing date of the notice. (Sec. 21.7)

2) Suspension Other Than Serious Discipline

(Sec. 21.4)

- a) An informal hearing with the student is conducted by the principal. A formal hearing is not required. Where the student is so young as to make a meaningful discussion difficult, the principal may involve the parent/guardian in the discussion.
  - 1) Principal gives oral or written notice of charges to the student.
  - 2) Principal indicates evidence school has.
  - 3) Student gives his version of story.
- b) If principal finds charges are sustained, student is suspended, and Form OIS 21-E, Suspension Notice, is issued to student.

Note: The school shall make every effort to contact the parent/guardian upon suspending student. The student should be referred to the police if a law violation was committed,



e.g., physical attack, property damage, threats (where the student displays an obvious and imminent ability to commit the harmful act which he threatens), possession of contraband (weapons, drugs, etc.). Similarly, when the student displays an obvious proneness to hurting himself/herself or meeting with an accident, agency assistance such as the Division of Mental Health should be sought. In such cases, avoid summarily sending student home without seeking assistance for him/her.

- c) After this, no other discipline can be imposed for the same offense.

3) Crisis Suspension (Sec. 21.8)

- a) Crisis suspension is imposed when student:
  - 1) Endangers self or others, or
  - 2) Is so extremely disruptive as to make immediate removal necessary.
- b) Student can be suspended immediately up to ten days without a formal hearing.
- c) Written report of reasons must be sent to student, parent/guardian, and district superintendent on Form OIS 21-F.

Note: The school shall make every effort to contact the parent/guardian upon suspending student. The student should be referred to the police if a law violation

was committed, e.g., physical attack, property damage, threats (where the student displays an obvious and imminent ability to commit the harmful act which he threatens), possession of contraband (weapons, drugs, etc.). Similarly, when the student displays an obvious proneness to hurting himself/herself or meeting with an accident, agency assistance such as the Division of Mental Health should be sought. In such cases, avoid summarily sending student home without seeking assistance for him/her.

- d) If warranted and necessary, principal can additionally impose serious discipline. If serious discipline is to be imposed immediately after a crisis suspension, without having the student return to school, then the school must act quickly and follow procedures required in Sec. 21.6. It is preferable that the notice (Form OIS 21-A) to parent/guardian be delivered personally.

- 4) Reporting of ethnic categories of students in student discipline actions. The Office of Civil Rights will be monitoring school systems to ascertain compliance with civil rights statutes, relating to student discipline actions. Please

note that on Form OIS 21-A, OIS 21-C, OIS 21-E, and OIS 21-F, the forms are designed so that ethnic data will show on the state, parents/guardians, student, district, and school copies. Complete this portion of the form as follows: Determine the ethnic category by visual survey (observation). The parent may voluntarily provide ethnic information; however, eliciting information on the ethnic identity of a pupil by direct inquiry is not encouraged. A pupil may be included in the ethnic group to which he or she appears to belong, or is regarded in the community as belonging. If the pupil is descended from two ethnic groups, then classify first according to appearance, and lastly by surname if appearance is not definitive. Indicate only one ethnic category. Should the parent later disagree with the ethnic selection made by the school, then accede to the parent's request and make the change as requested.

5) Distribution of Copies of Rules to Parents

As a result of a lawsuit against the Department of Education, the United States District Court ordered the issuing of a copy of the respective rule to the parent promptly after action is

started. Rules 21, 49, 26 and 50 are specifically cited and should be made available.

(See page 33)

6) Due Process Steps

The procedures for implementation of Rule 21 include a complex of due process steps which are diagrammatically presented on the following pages.

# IMPORTANT NOTICE TO ALL PARENTS AND STUDENTS

Recently, the Department of Education (DOE) and the Legal Aid Society of Hawaii, which represented all Hawaii public school students as a class, settled the lawsuit of Kekahuna v. Burns, (U.S.D.C., Civ. No. 73-3799). That settlement has become part of an ORDER issued by the United States District Court which states, in effect:

- (1) that Rule 21 of the DOE must be followed before a student may be suspended, expelled, or transferred for disciplinary reasons;
- (2) that Rule 49 of the DOE must be followed before any student may be transferred into or out of any special education program;
- (3) that the parent or guardian of a student will be given a copy of that rule promptly after the action is started.

The foregoing shall also apply to action taken by the DOE under Rule 26 (relating to District exceptions for school attendance) and Rule 50 (relating to the protection of educational rights and privacy of students and parents).

If you have any questions about this notice or the rules themselves, please call your local school. For more information about the lawsuit, contact the Legal Aid Society of Hawaii.

YOU SHOULD KEEP THIS NOTICE IN A SAFE PLACE SINCE THE FOREGOING RULES WILL APPLY TO YOUR CHILDREN THROUGHOUT THE TIME THEY ARE IN SCHOOL.

## 致學生及家長重要通知書

本州教育部(DOE)及法律協助會(LEGAL AID SOCIETY OF HAWAII), 近來已代表本州所有各公立學校學生為一併, 曾解決 KEKAHUNA VS. BURNS (U.S.D.C., CIV. NO. 73-3799) 訴訟一案。該案之解決已成立為美國地方法院之判決公佈之規章之一部。現已付諸實行。

- (1) 學生因懲戒原因而被暫停、免除或轉學前, 必須遵守教育部規章第 21 條。
- (2) 任何學生在轉入或轉出任何教育班次前, 必須遵守教育部規章第 49 條。
- (3) 學生家長或法定監護人將立即接到教育部規章副本一份。

以上教育部規章採取之行動將受到規章第 21 條 (有關學生出席地區之例外) 以及規章第 50 條 (有關學生及家長教育及私人權利之保障) 之保障。對於此通知書或以上規章有何問題者, 請向各當地學校詢問。如對上述訴訟案件需要詳細案情者, 請向本州法律協助會(LEGAL AID SOCIETY OF HAWAII)查詢。本州將此通知書妥為保存。因以上規章凡學生在學期間, 繼續生效。

Shirley J. McNeil

## 致各公立學校學生代表及家長重要通知書

本州教育部(DOE)及法律協助會(LEGAL AID SOCIETY OF HAWAII), 近來已代表本州所有各公立學校學生為一併, 曾解決 KEKAHUNA VS. BURNS (U.S.D.C., CIV. NO. 73-3799) 訴訟一案。該案之解決已成立為美國地方法院之判決公佈之規章之一部。現已付諸實行。

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Office of the Superintendent/Equal Education Opportunity  
Department of Education • State of Hawaii  
TAC 76-2523 • October 1976

## Importante Nga Pakdaar Kadagiti Nagannak Ken Agad-adal

Iti nabiti pay, ti Bennege ti Edukasyon (DOE) ken ti "Legal Aid Society" ti Hawaii a nangitakder a sangsangkamayan kadagiti amin nga agad-adal iti eskuela publiko iti Hawaii ket narisut la ti darum nga Kekahuna v. Burns (U.S.D.C. Civ. No. 73-3799). Daytoy a nagrisutanda ket nagbalin a parte ti Biliin ti "District Court" ti Estados Unidos a mangitiray:

- (1) nga ti Paglintegan 21 ti DOE masapul a masurot sakbay a masuspende, maikkat wenno maiyalis ti agad-adal gacu iti panggep a mangdisiplina iti agad-adal;
- (2) nga ti Paglintegan 40 ti DOE masapul a masurot sakbay nga maiyalis wenno maikkat ti agad-adal iti aniaman nna "special education" program;
- (3) nga ti nagannak wenno mangay-aywan iti agad-adal ket maikkan a dagus iti kopya ti paglintegan apaman a maaramid ti darum.

Dagitoy a pakaua maiyaplikar met iti aramiden ti DOE babaen ti Paglintegan 26 (maipanggep iti pakalakidan ti Distrito iti panageskuela) ken Paglintegan 50 (maipanggep iti pannakasalaknib ti pribado a farbengan ken panagadal dagiti agad-adal ken nagannak).

No adda pay saludsod yo mampanggep iti daytoy pakdaar wenno dagiti paglintegan tawagan yo dayta eskuela nga kaasitgan iti lugar yo. No kayatyo pay ti nayon a pakaua mampanggep daytoy a darum, kitaon yo ti "Legal Aid Society" ti Hawaii.

MASAPUL NGA IDULIN YO DAYTOY A PAKDAAR KET AYAWANHO TA DAGITAY A PAGLINTEGAN MATUSAR KADAGITI ANNAKYO KABAYATAN TI PANAGESKUELA DA

## 학부모와 학생들에게 보내는 중요 공지 사항.

최근 학교 수업에 관해서 모든 하와이 공립 학교 학생들은 대표 하였던 하와이 교육국 (DOE) 과 법률 구조 협회 (the Legal Aid Society of Hawaii) 는 Kekahuna 대 Burns 지사 간에 있었던 고소문 해결했습니다 (U.S.D.C., Civ. No. 73-3799). 사실상 그 해결된 내용은 미국 연방 재판소가 발한 명령의 한 부분으로 되어 있습니다.

- 1) 법규 21조에서 교육국 (DOE) 은 표현상의 이유로 해서 학생이 정학이나 퇴학이나 전학한 당하기 전에 이 법규를 따라야 한다.
- 2) 법규 49조에서 교육국 (DOE) 은 어떤 특별 교육 계획에 따라 학생이 전입 하거나 전학 하기 전에 이 법규를 따라야 한다.
- 3) 학생의 부모나 보호자는 위와 같은 규정이 실행이 되었진 후에는 즉시로 그 법규의 사본을 교부 받도록 되어 있다.

상기와 같은 내용은 또한 법규 26조 (학교 출석에 관한 지역 여의 규정과 관련해서) 와 법규 50조 (학생과 학부모의 교육적인 권리와 사적인 비밀 보장과 관련해서) 에 따라서 DOE (교육국) 에 의해서 실행하게 될것입니다. 만일 여러분이 이 공지 사항이나 또는 그 법률 들에 어떤 의문이 있으면 어린이의 학교에 전화로 문의 하여 주시기 바랍니다. 또, 고소에 대하여 더 자세히 알고 싶으시면 하와이 법률 구조 협회와 연락을 하여 주시기 바랍니다. 전술한 법규들은 어린이의 자녀들이 학교에 다니는 동안은 적용 될 것들이니 잊지 않도록 이 공지 사항들 잘 간수 하시기 바랍니다.

## FA'AAALIGA TAMU TIFIE I MATIA UMA FAALIGA TAMAITI AINA

I se taimi e le'i maaio atu, na maa ai se faaamaina e uiga i se tiki faaamaina i le vaega o aoga i le faaamaina o Kekahuna v. Burns, na e sa faanani ai le Vaega o A'oga na le vaega o le Legal Aid. Ina ua maa loa faaamaina, na faaamaina ai se faaamaina na le vaega o faaamaina a le Uniate Setete e faapea:

- (1) O le tulafono 21 a le vaega o aoga e tatau ona mulinuli iai se lei faaamaina faaamaina, poe le tuu atu i se lei aoga se tamaititi aoga ona o ni ana amlaga i le aoga.
- (2) O le tulafono 49 a le vaega o aoga e tatau ona mulinuli iai se lei faaamaina poe le tuuina foli o se tamaititi aoga i aco se polokalama faaamaina a le vaega o aoga.
- (3) O le maaio poe le foli o loo faaamaina se tamaititi aoga la tuuina atu iai se kopi o lea tulafono i se taimi vave e faai.

O le fa'i tulaga e tatau ona aiaia e le vaega o aoga i lalo o le Tulafono 26 (faatatau i le faatutaina o itumalo na tamaiti o faai ona tala e aoga i se aoga e le o i lona itumalo se'a) na le Tulafono 50 (faatatau i le faatutaina o le ala tau aoga na na le faatutaina o tamaiti aoga faapea maaio).

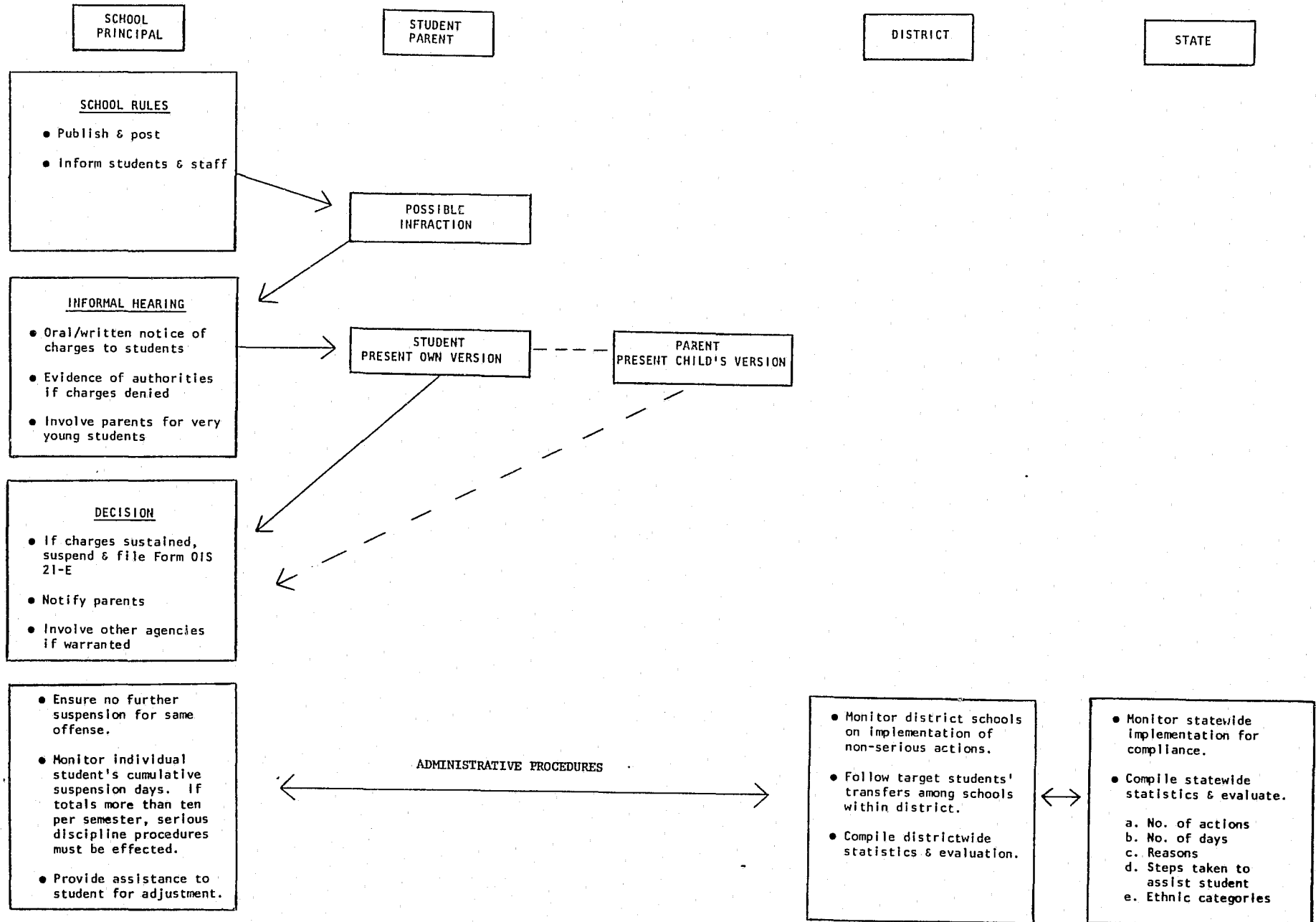
Afai e iai nisi faai e tuu na lelei faaamaina poe tulafono fa'i, faaamaina valaau atu i le aoga lata ana i se oe. Mo nisi faaamaina faaamaina e uiga i tulafono, faaamaina o le ofisa o le Legal Aid Society o Hawaii.

IA TSU LELEI LELEI FAALIGA I SE MEA E MAI AI, ONA O LE TELE O TULAFONO E MATA O LE A FAI AI O SE MA LAU FANAU I TAIMI UMA O LOO IAI I LE AOGA.

Translated by Mrs. Betty Chan

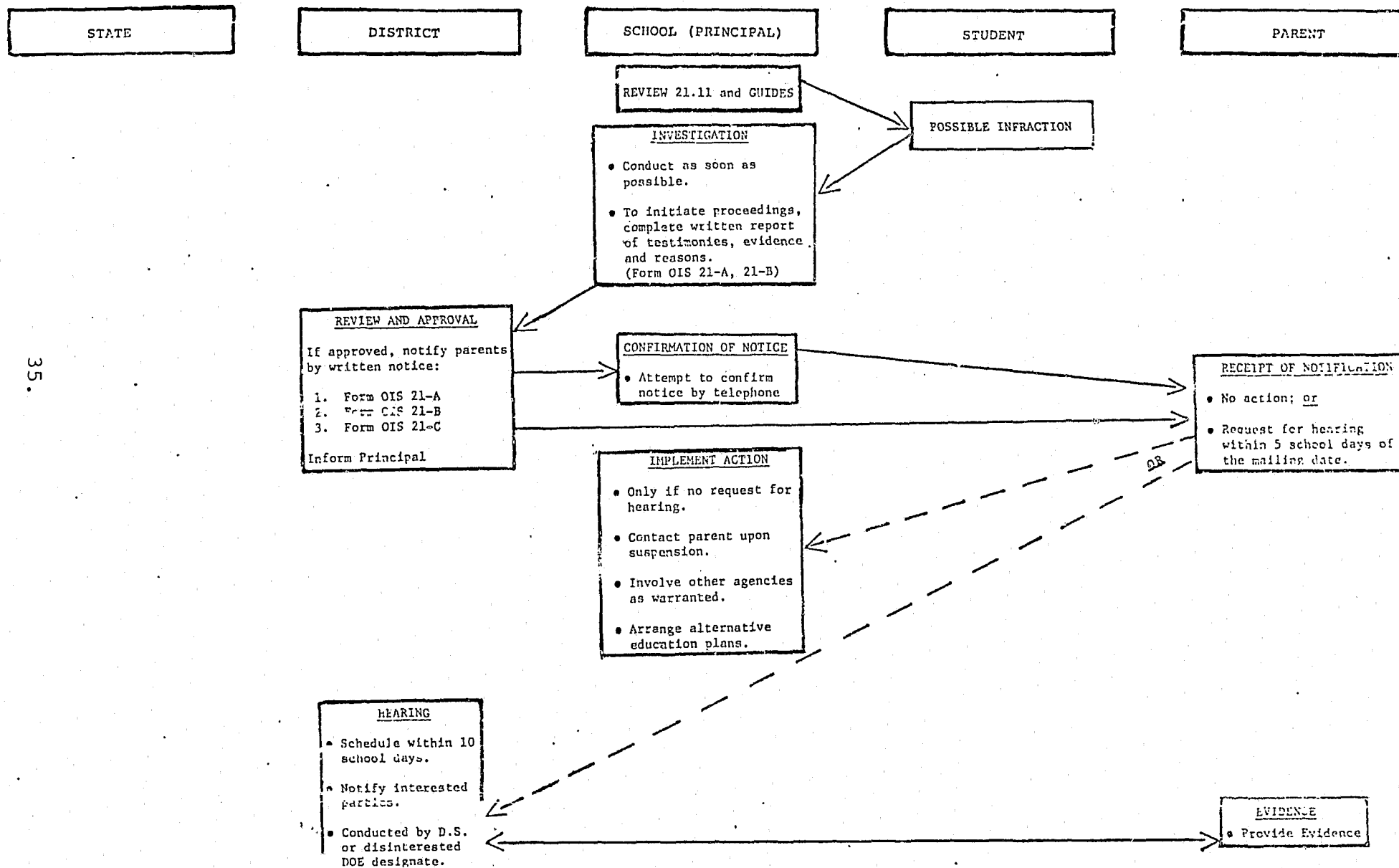
DISCIPLINARY ACTION NOT AMOUNTING TO SERIOUS DISCIPLINE (Not to exceed 10 days of suspension)

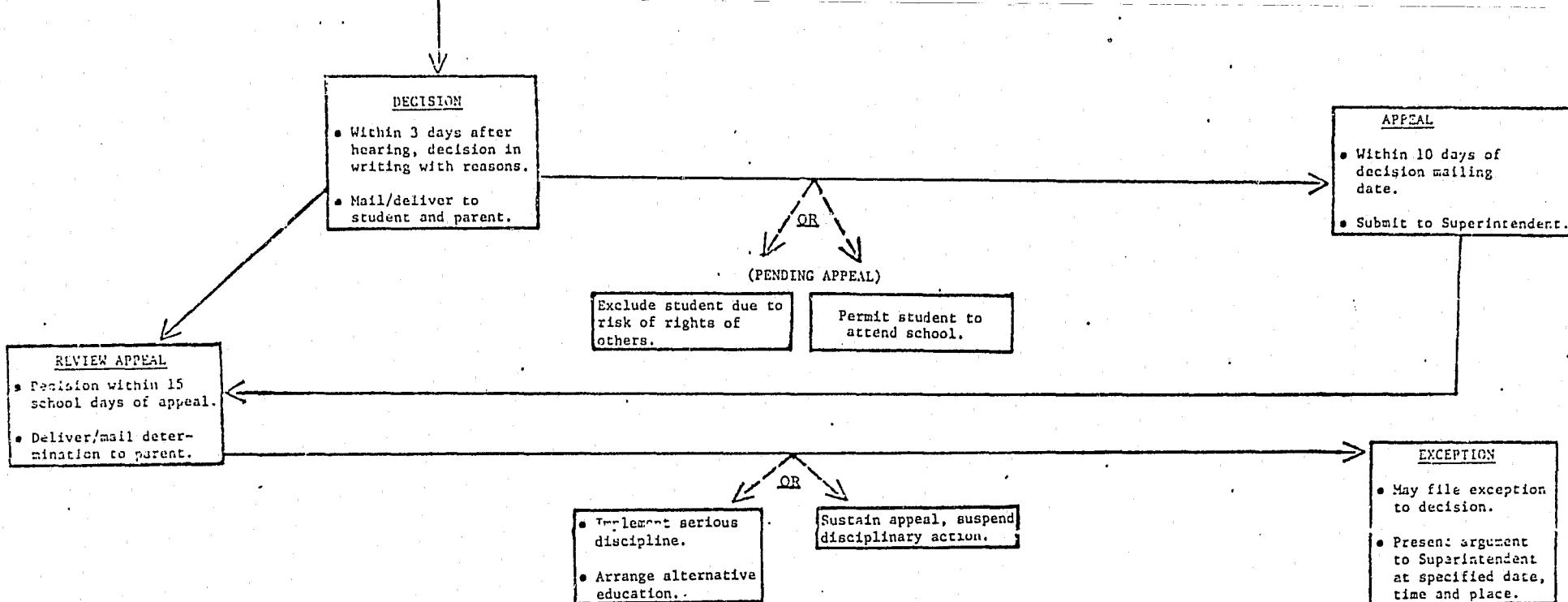
DUE PROCESS STEPS



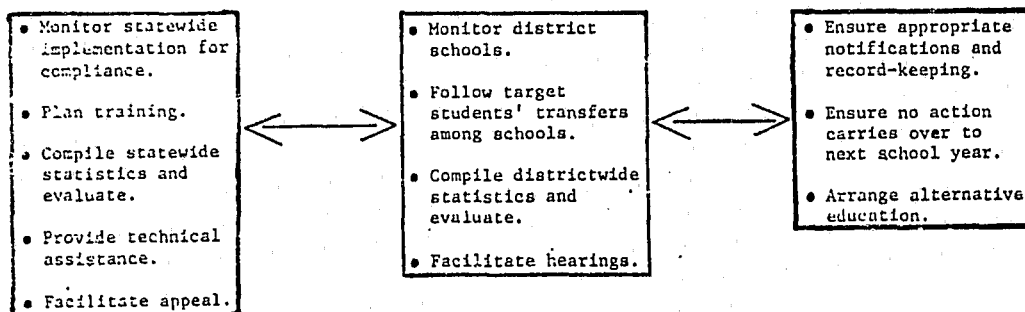
# Serious Discipline

## (1) DUE PROCESS STEPS





## (2) ADMINISTRATIVE PROCEDURES

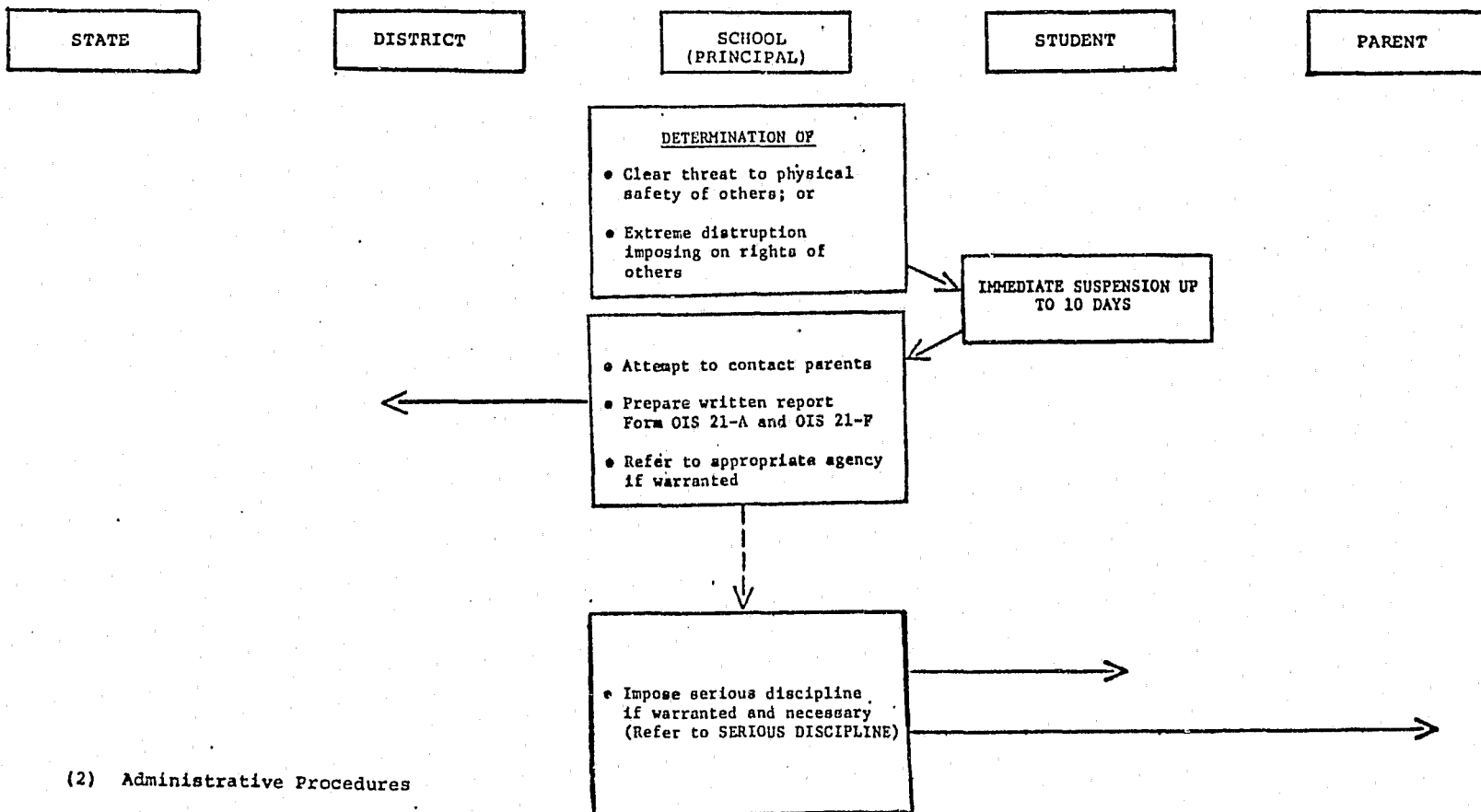


Key: ----- Indicates Alternatives

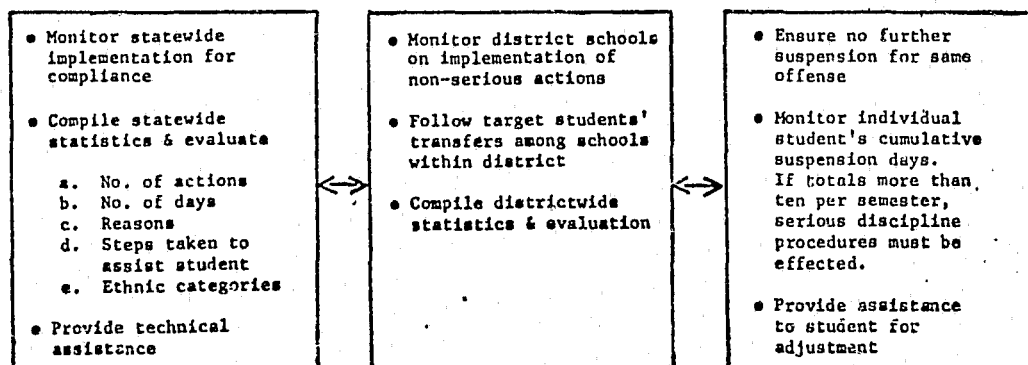


# Crisis Suspension

## (1) DUE PROCESS STEPS



## (2) Administrative Procedures



## SERIOUS DISCIPLINE - NOTICE

(Grade)

(District)

37.



STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
Office of Instructional Services  
1270 Queen Emma Street  
Honolulu, Hawaii 96813

## SERIOUS DISCIPLINE INVESTIGATION REPORT

Name \_\_\_\_\_ District \_\_\_\_\_ School \_\_\_\_\_  
(Last) (First) (Middle)

Birthdate \_\_\_\_\_ Sex \_\_\_\_\_ Address \_\_\_\_\_ Phone \_\_\_\_\_

Father's Name \_\_\_\_\_ Address \_\_\_\_\_ Phone \_\_\_\_\_

Mother's Name \_\_\_\_\_ Address \_\_\_\_\_ Phone \_\_\_\_\_

**INVESTIGATION REPORT:** This written report shall contain a brief summary of the testimony of witnesses interviewed and of any other evidence and a statement of reasons for the initiation of disciplinary proceedings, which shall be retained for use in a later hearing.

1. Reasons for the initiation of disciplinary proceedings. Action(s) allegedly committed including date(s), time and place of incident.

2. Summary of Testimony

3. Other Evidence

Date(s) of Investigation \_\_\_\_\_ By \_\_\_\_\_ Position \_\_\_\_\_  
(Sign here if other than Principal)

PRINCIPAL'S SIGNATURE \_\_\_\_\_ Date \_\_\_\_\_

**Distribution:** WHITE—Parents/Guardians; CANARY—District Office; PINK—Compensatory Education; GOLDENROD—School;  
GREEN—Student



**STATE OF HAWAII**  
DEPARTMENT OF EDUCATION  
Office of Instructional Services  
1270 Queen Emma Street  
Honolulu, Hawaii 96813

## SERIOUS DISCIPLINE REQUEST FOR HEARING

To: \_\_\_\_\_ Date \_\_\_\_\_  
(Name of District Superintendent)

From: \_\_\_\_\_ Business Phone \_\_\_\_\_ Home Phone \_\_\_\_\_  
(Parents/Guardians)

Student \_\_\_\_\_ School \_\_\_\_\_ District \_\_\_\_\_

Address \_\_\_\_\_

According to Department of Education's Rule 21, the student has a right to a hearing before the District Superintendent when he is subject to Serious Discipline. The following procedure has been established for such a hearing:

1. Request may be made by returning this completed form or by contacting the District Superintendent's office not later than 5 school days after receipt of Serious Discipline Notice.
2. At the hearing, evidence may be presented; witnesses called and cross-examined; and attorney or others may represent the family.
3. The District Superintendent shall schedule a hearing within 10 school days upon receipt of request and shall notify all persons concerned.
4. **SERIOUS DISCIPLINE** shall be imposed automatically if no hearing is requested.

### I/WE REQUEST A HEARING UNDER THE CONDITIONS PERMITTED UNDER RULE 21:

1. Private \_\_\_\_\_ Public \_\_\_\_\_ (Private, if public hearing not requested)
2. Will tape/transcribe at own expense \_\_\_\_\_
3. Will be represented by \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_
4. Comments \_\_\_\_\_

SIGNATURE \_\_\_\_\_ Date \_\_\_\_\_  
(Parents/Guardians or Student)

**Parents:** Keep white copy for yourself and return all others to the District Superintendent.

**District Superintendent:** If a hearing is requested, the District Superintendent retains own copy and distributes others.

**Distribution:** WHITE—Parents/Guardians/Student, CANARY—District Office, PINK—Compensatory Education, GOLDENROD—School

#### Ethnic Category of Student (Check one only)

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Alaskan Native  | <input type="checkbox"/> Puerto Rican or Spanish Sur-named | <input type="checkbox"/> Samoan & Pacific Islanders other than Hawaiians |
| <input type="checkbox"/> Portuguese      | <input type="checkbox"/> Black                             | <input type="checkbox"/> Hawaiian  |
| <input type="checkbox"/> White           | <input type="checkbox"/> Japanese                          | <input type="checkbox"/> Part-Hawaiian                                   |
| <input type="checkbox"/> Chinese         | <input type="checkbox"/> Korean                            | <input type="checkbox"/> Other   |
| <input type="checkbox"/> American Indian | <input type="checkbox"/> Filipino                          |  |



**STATE OF HAWAII**  
DEPARTMENT OF EDUCATION  
Office of Instructional Services  
1270 Queen Emma Street  
Honolulu, Hawaii 96813

# SERIOUS DISCIPLINE HEARING REPORT

To: \_\_\_\_\_ and \_\_\_\_\_  
(Parents/Guardians) (Student)

(Address) (Address)

(Home Phone) (Business Phone) (School) (District)

**SERIOUS DISCIPLINE RECOMMENDED:** (Check One)

☐ Suspension Over 10 Days; ☐ Transfer to Another School; ☐ Dismissal for Rest of School Year

**HEARING DECISION:**

**PARTICIPANTS.** (Identify)

You may appeal to the Superintendent of Education within 10 school days of the District Superintendent's action which shall be deemed to be the date the decision is mailed.

Hearing Conducted By \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_ Place \_\_\_\_\_  
(Hearing Officer)

District Superintendent \_\_\_\_\_ Date \_\_\_\_\_  
(Signature)

Decision must be hand delivered and receipt obtained or sent by mail, return receipt requested, to parents and student.

**Distribution:** WHITE—Parents/Guardians; CANARY—District Office; PINK—Compensatory Education; GOLDENROD— School; GREEN—Student



STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
Office of Instructional Services  
1270 Queen Emma Street  
Honolulu, Hawaii 96813

# SUSPENSION NOTICE

Date \_\_\_\_\_

To: \_\_\_\_\_ and \_\_\_\_\_  
(Parents/Guardians) (Student)

\_\_\_\_\_  
(Address) (Birthdate) (Sex) (Grade)

\_\_\_\_\_  
(Business Phone) (Home Phone) (School) (District)

This is official notification that the following action under Department of Education Rule 21.4 has been taken on the above-named student.

**SUSPENSION** for \_\_\_\_\_ school days effective from \_\_\_\_\_ to \_\_\_\_\_  
(Number) Beginning Date Ending Date

Prior number of days suspended this semester \_\_\_\_\_  
(School Days)

Reason for the suspension:

SIGNATURE \_\_\_\_\_ Date \_\_\_\_\_  
(Principal)

**Distribution:** WHITE—Parents/Guardians; CANARY—District Office; PINK—OIS, Compensatory Education; GOLDENROD—School;  
GREEN—Student

**Ethnic Category of Student (Check one only)**

- ☐ Alaskan Native
- ☐ Portuguese
- ☐ White
- ☐ Chinese
- ☐ American Indian

- ☐ Puerto Rican or Spanish Sur-named
- ☐ Black
- ☐ Japanese
- ☐ Korean
- ☐ Filipino

- ☐ Samoan & Pacific Islanders other than Hawaiians
- ☐ Hawaiian
- ☐ Part-Hawaiian
- ☐ Other



**STATE OF HAWAII**  
DEPARTMENT OF EDUCATION  
Office of Instructional Services  
1270 Queen Emma Street  
Honolulu, Hawaii 96813

# CRISIS SUSPENSION

Date \_\_\_\_\_

To: \_\_\_\_\_ and \_\_\_\_\_  
(Parents/Guardians) (Student)

\_\_\_\_\_  
(Address) (Birthdate) (Sex) (Grade)

(Business Phone) (Home Phone) (School) (District)

This is official notification that the following action under Department of Education Rule 21.8 has been taken on the above-named student.

**CRISIS SUSPENSION** effective from \_\_\_\_\_ to \_\_\_\_\_  
Beginning Date Ending Date

*Reason and circumstances for crisis suspension is described below: (The student's conduct presents a clear threat to the physical safety of others or is so extremely disruptive as to make the student's immediate removal necessary to preserve the right of other students to pursue their education free from undue disruption.)*

Signed \_\_\_\_\_ Date \_\_\_\_\_  
(Principal)

**Distribution:** WHITE—Parents/Guardians; CANARY—District Office; PINK—OIS, Compensatory Education; GOLDENROD—School; GREEN—Student

**Ethnic Category of Student (Check one only)**

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Alaskan Native  | <input type="checkbox"/> Puerto Rican or Spanish Sur-named | <input type="checkbox"/> Samoan & Pacific Islanders other than Hawaiians |
| <input type="checkbox"/> Portuguese      | <input type="checkbox"/> Black                             | <input type="checkbox"/> Hawaiian  |
| <input type="checkbox"/> White           | <input type="checkbox"/> Japanese                          | <input type="checkbox"/> Part-Hawaiian                                   |
| <input type="checkbox"/> Chinese         | <input type="checkbox"/> Korean                            | <input type="checkbox"/> Other   |
| <input type="checkbox"/> American Indian | <input type="checkbox"/> Filipino                          |  |

**SCHOOLS AND ATTENDANCE, GENERALLY    Sec. 298-11**

**§298-11 Exclusion from school.** If for any reason a child becomes a detriment to the morals or discipline of any school, the child may be precluded from attending school by the principal with the approval of the district superintendent. The department of education shall seek the

active participation of other public and private agencies in providing help to such children before and after they have left school. An appeal may be taken on behalf of the child to the superintendent of education within ten days from the date of such action.

No child who is seventeen years of age or over shall be admitted to the ninth grade of a public four-year high school, and no child who is eighteen years of age or over shall be admitted to the tenth grade of a public senior high school, except upon the written permission of the superintendent when in his opinion the facts warrant such admission.

Any high school student whose work is below passing in half or more of his subjects shall be placed on probation and, if his work does not improve to the satisfaction of the superintendent during the subsequent semester, he shall be precluded from attending school. Such student may be reinstated by the superintendent if, in his opinion, the facts warrant such reinstatement. [L 1927, c 139, pt of §1; am L 1929, c 193, pt of §1; L 1931, c 182, pt of §1; RL 1935, pt of §745; L 1935, c 86, §1; RL 1945, pt of §§1830, 1837; am L 1949, c 339, §2; RL 1955, §40-11; am L 1965, c 175, §33]

**Attorney General Opinions**

Refusal of student to comply with regulation requiring cafeteria service constitutes insubordination. Att. Gen. Op. 63-50.



STATE OF HAWAII  
BOARD OF EDUCATION

PART II. RULES FOR DEPARTMENT OPERATIONS

RULE 21. RELATING TO STUDENT DISCIPLINE

21.1 Philosophy

Hawaii has established and supported a statewide system of public education. Education is a most important function of the State and is the foundation of good Citizenship. The compulsory nature of school attendance ensures that a child shall have the opportunity for an education. The Department is committed to serve the student--to provide him with optimal learning conditions, to select appropriate teachers for his instruction, and to offer programs which will help him to succeed.

21.2 Definitions

"Department" means the Hawaii State Department of Education.

"Dismissal" means exclusion from school for the remainder of the school year.

"Suspension" means exclusion from school for a specific period during a school year.

"Crisis suspension" means the immediate exclusion of a student from school in an emergency, because his conduct presents a clear threat to the physical safety of others, or he is so extremely disruptive as to make his immediate removal necessary to preserve the right of other students to pursue their education free from undue disruption.

"Disciplinary transfer" means the removal of a student from the school he is attending and the placement of such student in another school as a result of a violation of Section 21.11 of this rule. Disciplinary transfer does not include cases involving the revocation of district exceptions under Rule 26 under circumstances in which the purpose for granting the district exception is no longer valid.

"Serious discipline" includes dismissals, disciplinary transfers and suspensions which either exceed ten school days or will result in the student affected having been suspended more than a total of ten school days in any single semester.

21.3 Applicability

No serious discipline shall be administered except in accordance with this rule.

21.4 Disciplinary Rules

No student shall be seriously disciplined except for violation of Section 21.11 of this rule. Each school may adopt rules which proscribe other types of conduct or behavior and determine penalties therefor; provided, that no punishment amounting to serious discipline shall be imposed for violation of any individual school rule and, provided further, that individual school rules

shall be published or made available for inspection at the school office and shall inform students and school staff of the proscribed conduct. Nothing in this rule shall be construed as prohibiting the imposition of punishment not amounting to serious discipline for conduct violative of Section 21.11. Whenever any Principal has reason to believe that a student has engaged in activity warranting the imposition of suspension not exceeding ten days, the Principal shall give to the student oral or written notice of the charges against the student. If the student denies the charges, the Principal shall indicate to the student what evidence school authorities have. The student must be given an opportunity to present his version of the story; however, where the student is so young as to make meaningful discussion difficult, the Principal may request that the parents be called in to participate in the discussion. If the Principal finds that the charges are sustained, he may suspend the student. The parents, guardian or other custodian of any suspended student shall be notified of any suspension regardless of its length.

#### 21.5 Authority

Serious discipline may be imposed by the District Superintendent.

#### 21.6 Procedure

- a. Investigation. Whenever any Principal has reason to believe that a student has engaged in activity warranting the imposition of serious discipline, he shall immediately conduct or cause to be conducted an informal investigation of such activity. Such investigation shall be completed as quickly as practicable after the discovery of the offense. If the Principal elects to initiate proceedings for the imposition of serious discipline, he shall, upon completion of his investigation, make a written report which shall contain a brief summary of the testimony of witnesses interviewed and of any other evidence and a statement of his reasons for the initiation of disciplinary proceedings, which shall be retained for use in a later hearing.
- b. Initiation of proceedings. If, based upon such investigation, the Principal believes that a student has engaged in activity which constitutes a violation of Section 21.11 of this rule and if, further, he recommends that serious discipline be imposed, he shall immediately notify the District Superintendent and shall initiate disciplinary proceedings in accordance with this paragraph. No serious discipline shall be administered until after the notice and hearing requirements of this rule have been met, except as provided for in Section 21.8.
- c. Notice, contents. Disciplinary proceedings shall be initiated by a written notice, in such form as the Department may prescribe, which shall be delivered or mailed (return receipt requested) to the student and his parents, guardian or other custodian immediately upon completion of the investigation required by subparagraph (a). Such notice shall contain:
  - (1) a statement of the specific acts allegedly committed by the student which form the basis of the recommended action;
  - (2) the rule(s) allegedly violated;
  - (3) a statement of the recommended action;

- (4) a statement that the student has a right to a hearing before the District Superintendent at which he may present evidence, call and cross-examine witnesses and be represented by a representative of his or his parents' choosing;
- (5) a statement that such hearing may be requested in writing or orally by personal visit or telephone call to the District Superintendent;
- (6) a statement that unless the hearing is requested by a date specified in the notice (which shall be not less than five school days after the date the notice is mailed) the recommended action of the Principal shall be implemented without such hearing.

A copy of such notice shall be mailed to the District Superintendent. In addition to the notice required by this subparagraph, the Principal shall attempt to confirm the notice by telephoning the student's parents, guardian or other custodian.

- d. Hearing. Upon receipt of a request for hearing, the District Superintendent shall schedule a hearing within ten school days and shall notify all interested parties of its date, time and place. The hearing shall be conducted by the District Superintendent or by a disinterested person designated by him who may be an official of the Department. Hearings shall be conducted as follows:
  - (1) it shall be private unless the student or his parents request that it be public;
  - (2) all parties shall have the right to present evidence, cross-examine witnesses and submit rebuttal testimony;
  - (3) the District Superintendent or his designee need not follow the formal rules of evidence;
  - (4) the District Superintendent or his designee shall impartially weigh the evidence; he may request and consider any records or information relevant to the charge or to disposition, provided that such record or information shall be made available to the student and his parents, or their representative;
  - (5) parents may at their own expense make or obtain from the Department a transcript or tape recording of the hearing; the Department shall, however, make a transcript or tape recording of the hearing;
  - (6) no later than three school days after the close of the hearing, the District Superintendent shall render a decision in writing stating clearly the action to be taken and the reasons therefor; such decision shall be mailed (return receipt requested) or personally delivered to the student and his parents, guardian or other custodian;
  - (7) in the event that the hearing is conducted by a person other than the District Superintendent, the recommended decision and record shall be reviewed by the District Superintendent who may accept, reject or modify the decision, provided that, in the event any change is made, the District Superintendent shall state his reasons

therefor in writing. Any recommended or final decision shall be based solely on substantial evidence adduced at the hearing.

#### 21.7 Appeal to Superintendent

The student or his parents or guardian may appeal to the Superintendent of Education within ten school days of the District Superintendent's action which shall be deemed to be the date the decision is mailed. The student shall be permitted to attend his regularly-assigned school pending such appeal unless the District Superintendent finds that his continued presence creates a substantial risk to the rights of other students to pursue their education free from disruption. Where the student is to be excluded from school pending the appeal, the Superintendent shall render his decision within fifteen school days of the filing of the appeal. Upon an appeal, the Superintendent shall cause a statement of the reasons for District Superintendent's decision, which shall contain a determination of each issue of fact or law necessary to it, to be delivered or mailed (return receipt requested) to the student and his parents, guardian or other custodian. In addition, the student and his parents, guardian or other custodian shall be informed of their right to file exceptions to the decision and to present argument to the Superintendent at a specified date, time and place.

#### 21.8 Crisis Suspension

- a. Any other provision of this rule to the contrary notwithstanding, the Principal may, in an emergency, immediately suspend a student after finding that his conduct presents a clear threat to the physical safety of others or is so extremely disruptive as to make student's immediate removal necessary to preserve the right of other students to pursue their education free from undue disruption.
- b. The Principal shall make a written report of the circumstances of any crisis suspension which shall be sent to the student and his parents, guardian or other custodian and the District Superintendent.
- c. Immediately after making a crisis suspension, the Principal shall, unless he determines that serious discipline need not be administered, initiate the investigation and hearing procedures of this rule; a student who is the subject of a crisis suspension shall be permitted to resume attendance at school pending the hearing as soon as his exclusion is no longer necessary under subparagraph (a) above.
- d. In no event shall a crisis suspension continue for more than ten school days.

#### 21.9 Duration

No dismissal shall continue beyond the school year in which it is made and no suspension shall be for an indefinite period.

#### 21.10 Educational Alternatives

The Principal shall arrange alternative education plans in accordance with departmental policy for all students who are dismissed or suspended for a period exceeding ten school days.

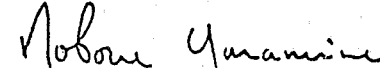
21.11 Prohibited Behavior

Serious discipline may be imposed upon any student who engages in the following:

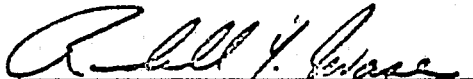
- a. Any act committed upon school property or at school sponsored activities which would, if committed by an adult, constitute a violation of federal, state or local criminal law; provided, however, that this section shall not be construed as requiring proof of such act beyond a reasonable doubt before serious discipline may be imposed.
- b. Willful disobedience to the legitimate directives of teachers or other department personnel acting in their official capacity, under circumstances in which such disobedience constitutes a repeated or significant disruption of the educational process.

Effective Date: The foregoing amendments to Rule 21 shall become effective ten days after filing with the Lieutenant Governor of the State of Hawaii.

Adopted: February 26, 1976

  
 NOBORU YONAMINE  
 Chairman, Board of Education

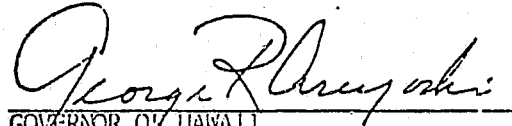
Approved as to Form:

  
 Deputy Attorney General

Date: *March 22, 1976*

Notice of public hearings published  
 in the Honolulu Advertiser on  
 Friday, October 10, 1975

APPROVED:

  
 GOVERNOR OF HAWAII  
 Date: *April 21, 1976*

FREQUENT MISCONDUCTRELATING TO HAWAII PENAL CODECONDUCT\*

Striking any school official or student knowingly or intentionally causing bodily injury.

Striking any school official or student with a weapon knowingly or intentionally causing bodily injury.

Selling or possession of drugs.

HAWAII PENAL CODESec. 712 - Assault in the Third Degree.

- (1) A person commits the offense of assault in the third degree if he:
  - (a) Intentionally, knowingly, or recklessly causes bodily injury to another person; or
  - (b) Negligently causes bodily injury to another person with a dangerous instrument.
- (2) Assault in the third degree is a misdemeanor unless committed in a fight or scuffle entered into by mutual consent, in which case it is a petty misdemeanor.

Sec. 711 - Assault in the Second Degree.

- (1) A person commits the offense of assault in the second degree if:
  - (a) He intentionally or knowingly causes bodily injury to another person with a dangerous instrument; or
  - (b) He recklessly causes serious bodily injury to another person with a dangerous instrument.
- (2) Assault in the second degree is a class C felony.

Sec. 1243 - Promoting a Dangerous Drug in the Third Degree.

- (1) A person commits the offense of promoting a dangerous drug in the third degree if he knowingly and unlawfully possesses any dangerous drug in any amount.
- (2) Promoting a dangerous drug in the third degree is a class C felony.

\*NOTE: This listing of misconduct represents some of the more common misconduct and is not a complete listing.

CONDUCT\*

Selling, smoking or possession of marijuana.

Damaging school property.

Harassing any student or school official.

Offensively shoving any school official or student.

\*NOTE: This listing of misconduct represents some of the more common misconduct and is not a complete listing.

HAWAII PENAL CODESec. 1249 - Promoting a Detrimental Drug in the Third Degree.

- (1) A person commits the offense of promoting a detrimental drug in the third degree if he knowingly and unlawfully possesses any marijuana or any Schedule V substance in any amount.
- (2) Promoting a detrimental drug in the third degree is a petty misdemeanor.

Sec. 820 - Criminal Property Damage in the First Degree.

- (1) A person commits the offense of criminal property damage in the first degree if he intentionally damages property and thereby recklessly places another person in danger of death or bodily injury.
- (2) Criminal property damage in the first degree is a class B felony.

Sec. 1106 - Harassment.

- (1) A person commits the offense of harassment if, with intent to harass, annoy, or alarm another person, he:
  - (a) Strikes, shoves, kicks, or otherwise touches a person in an offensive manner or subjects him to offensive physical contact; or
  - (b) Insults, taunts or challenges another person in a manner likely to provoke a violent or disorderly response; or
  - (c) Makes a telephone call without purpose of legitimate communication; or
  - (d) Makes repeated communications anonymously, or at extremely inconvenient hours, or in offensively coarse language; or
  - (e) Engages in any other course of harmful or seriously distressing conduct serving no legitimate purpose of the defendant.

- (2) harassment is a petty misdemeanor.

CONDUCT\*

Threatening any school official or student.

Recklessly endangering another person causing death or serious bodily injury.

Theft of property from any student, school official, or the school.

Extortion to obtain property from any student by threatening bodily harm, property damage, revealing personal information, etc.

HAWAII PENAL CODE

Sec. 715 - Terroristic Threatening.

- (1) A person commits the offense of terroristic threatening if he threatens, by word or conduct, to cause bodily injury to another person or serious damage to property of another:
  - (a) With the intent to terrorize, or in reckless disregard of the risk of terrorizing, another person; or
  - (b) With intent to cause, or in reckless disregard of the risk of causing evacuation of a building, place of assembly, or facility of public transportation.

- (2) Terroristic threatening is a misdemeanor.

Sec. 713 - Reckless Endangering in the First Degree.

- (1) A person commits the offense of reckless endangering in the first degree if he employs widely dangerous means in a manner which recklessly places another person in danger of death or serious bodily injury.
- (2) Reckless endangering in the first degree is a class C felony.

Sec. 830 - Theft.

A person commits theft if he does any of the following:

- (1) Obtains or exerts unauthorized control over property. He obtains, or exerts control over, the property of another with intent to deprive him of the property.
- (2) Property obtained or control exerted through deception. He obtains, or exerts control over, the property of another by deception with intent to deprive him of the property.

CONDUCT\*

HAWAII PENAL CODE

Sec. 830 - Theft. (Cont.)

- (3) Extortion. He obtains, or exerts control over, the property of another by extortion with intent to deprive him of the property.
- (4) Appropriation of property. He obtains, or exerts control over, the property of another which he knows to have been lost or mislaid, or to have been delivered under a mistake as to the nature or amount of the property, the identity of the recipient, or other facts, and, with the intent to deprive the owner of the property, he fails to take reasonable measures to discover and notify him.
- (5) Obtaining services by deception or extortion. He intentionally obtains services, known by him to be available only for compensation, by deception, extortion, false token, or other means to avoid payment for the services. Where compensation for services is ordinarily paid immediately upon the rendering of them, absconding without payment or offer to pay is prima facie evidence that the services were obtained by deception.
- (8) Receiving stolen property. He intentionally receives, retains, or disposes of the property of another, knowing that it has been stolen, with intent to deprive the owner of the property. It is prima facie evidence that a person knows the property to have been stolen if, being a dealer in property of the sort received, he acquires the property for a consideration which he knows is far below its reasonable value.

Gambling or promoting gambling.

Sec. 1220 - Definitions of Terms in this Part.

- (4) "Gambling." A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome.

\*NOTE: This listing of misconduct represents some of the more common misconduct and is not a complete listing.

CONDUCT\*

HAWAII PENAL CODE

Sec. 1222 - Promoting Gambling in the Second Degree.

- (1) A person commits the offense of promoting gambling in the second degree if he knowingly advances or profits from gambling activity.
- (2) Promoting gambling in the second degree is a misdemeanor.

Sec. 1211 - Displaying Indecent Matter.

- (1) A person commits the offense of displaying indecent matter if he knowingly or recklessly displays on any sign, billboard, or other object visible from any street, highway, or public sidewalk a photograph, drawing, sculpture, or similar visual representation of any person of the age of puberty or older:
  - (a) Which reveals the person with less than a fully opaque covering over his or her genitals, pubic area, or buttocks, or depicting the person in a state of sexual excitement or engaged in an act of sexual conduct or sadomasochistic abuse; and
  - (b) Which is presented in such a manner as to exploit lust; and
  - (c) Which is utterly without redeeming social value.
- (2) Displaying indecent material is a petty misdemeanor.

Sec. 1212 - Displaying Indecent Words.

- (1) A person commits the offense of displaying indecent words if he knowingly or recklessly displays on any sign, billboard, or other object visible from any street, highway, or public sidewalk a word connoting sexual excitement, an act of sexual conduct, defecation, or the genital or pubic area of the male or female anatomy.
- (2) Displaying indecent words is a petty misdemeanor.

Promoting or displaying indecent matter or materials.

CONDUCT\*

HAWAII PENAL CODE

Sec. 1214 - Promoting Pornography.

- (1) A person commits the offense of promoting pornography if, knowing its content and character, he:
  - (a) Disseminates for monetary consideration any pornographic material; or
  - (b) Produces, presents, or directs pornographic performances for monetary consideration; or
  - (c) Participates for monetary consideration in that portion of a performance which makes it pornographic.
- (2) Promoting pornography is a misdemeanor.

Sec. 1217 - Open Lewdness.

- (1) A person commits the offense of open lewdness if in a public place he does any lewd act which is likely to be observed by others who would be affronted or alarmed.
- (2) Open lewdness is a petty misdemeanor.

Sec. 1101 - Disorderly conduct.

- (1) A person commits the offense of disorderly conduct if, with intent to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, he:
  - (a) Engages in fighting or threatening, or in violent or tumultuous behavior; or
  - (b) Makes unreasonable noise or offensively coarse utterance, gesture, or display, or addresses abusive language to any person present;
  - (c) Creates a hazardous or physically offensive condition by any act which is not performed under any authorized license or permit.

Obscene behavior.

Disorderly conduct such as fighting, threatening, making offensive utterance, gesture, or display, or using abusive language.

\*NOTE: This listing of misconduct represents some of the more common misconduct and is not a complete listing.

\*NOTE: This listing of misconduct represents some of the more common misconduct and is not a complete listing.



CONDUCT\*

HAWAII PENAL CODE

Sec. 1101 - Disorderly Conduct. (Cont.)

- (2) Disorderly conduct is a petty misdemeanor if it is the defendant's intention to cause substantial harm or serious inconvenience, or if he persists in disorderly conduct after reasonable warning or request to desist. Otherwise disorderly conduct is a violation.

Obstructing any passage way or facility and refusing to obey a reasonable request or order to move.

Sec. 1105 - Obstructing.

- (1) A person commits the offense of obstructing if, having no legal privilege to do so, he knowingly or recklessly obstructs any highway or public passage, whether alone or with others.
- (2) A person in a gathering commits the offense of obstructing if he refuses to obey a reasonable request or order by a peace officer to move:
- (a) To prevent obstruction of a highway or other public passage; or
- (b) To maintain public safety by dispersing those gathered in dangerous proximity to a public hazard.
- (3) An order to move under subsection (2) (a), addressed to a person whose speech or other lawful behavior attracts an obstructing audience, is not reasonable if the obstruction can be readily remedied by police control.
- (4) A person is not guilty of violating subsection (1) solely because persons gather to hear him speak or because he is a member of such a gathering.
- (5) Obstructing is a petty misdemeanor if the person persists in the conduct specified in subsection (1) after a warning by a peace officer; otherwise it is a violation.

\*NOTE: This listing of misconduct represents some of the more common misconduct and is not a complete listing.



STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
P. O. BOX 2368  
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

August 9, 1978

MEMO TO: Assistant Superintendents, District Superintendents and Principals  
F R O M: Charles G. Clark, *CLC* Superintendent  
SUBJECT: Principal's Guidelines for Student Discipline

Article XI-A, Agreement between the State of Hawaii, Board of Education and the Hawaii State Teachers Association, April 1, 1978 - June 30, 1979, stipulates that "the principal shall meet with his faculty at the beginning of the school year but not later than October 1 for the purposes of presenting and discussing with the faculty the guidelines for student behavior and administrative follow-up in the schools. The principal shall give due consideration to faculty suggestions in developing the school level guidelines." The following guidelines for student discipline have been proposed as suggestions for the principal for contract compliance:

1. Make available to and help teachers become familiar with the following DOE documents referred to in the "Working Guidelines on Duties and Responsibilities of Teachers Relating to Student Behavior and Discipline":
  - a. Student Bill of Rights and Responsibilities
  - b. Regulation 4600.1, Student Rights and Due Process
  - c. Rule 21, Relating to Student Discipline
  - d. Rule 50, Relating to the Protection of Educational Rights and Privacy of Students and Parents
  - e. Policy 4000 and Regulation 4000.1, Focus on Students
  - f. Policy 4200, Student Welfare
  - g. Policy 4210 and Regulation 4210.1, Student Safety
  - h. DOE Safety and Accident Prevention Program, January 4, 1977
  - i. Superintendent's Plan of Action to Deal with the Problem of Student Unrest and Disturbance in Our Schools, December 4, 1974.

August 9, 1978

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2. Provide time for detailed discussion of Rule 21, Relating to Student Discipline. Help teachers to distinguish between discipline which should be managed by the classroom teacher and discipline which would require action by the principal under Rule 21. Teachers should be aware that should a teacher provide information about a student's misbehavior which eventually leads to serious discipline action by the school, she may need to testify should the student and his parent(s) request a hearing.
3. Develop a school emergency plan aimed primarily at aiding teachers who have potentially harmful situations occurring in their classrooms or work areas. This plan should be discussed with the faculty by October 31, 1978, seeking faculty input; i.e., how can a teacher seek assistance from other staff members and/or the administrator when confronted with irate parents or an uncontrollable student.
4. Involve students, staff, and parents in developing and adopting school rules which proscribe conduct, behavior, and penalties. These rules may be presented at a special or PTA meeting to solicit input and support before implementation. Make the rules available to all for inspection. They may be published or posted and students informed of them. The Hawaii State and District Student Councils indicate that they want to actively participate in dissemination and interpretation activities.
5. If not already established, develop criteria, procedures, channels, forms, etc., for the teacher to refer students to the school administration for corrective discipline. A system or procedure for follow-up to inform teachers of status of referral, additional information/action to be provided or taken by teacher should be established.
6. When presenting and discussing with the faculty these guidelines for student discipline, the following are some principles for corrective discipline which may be suggested to teachers:
  - a. Fairness, common sense, and experience remain the basic ingredients of good classroom management and discipline.
  - b. Urge teachers to handle minor disciplinary infractions. Review with them the teachers' guidelines so that they understand the steps and procedures before the case reaches the principal. The teacher who immediately runs for help for every incidence will face mounting classroom disciplinary problems, resulting in loss of teaching effectiveness and classroom control.
  - c. Continued ignoring of infractions of discipline encourage further breaches. Some appropriate penalty should be imparted to insure that the offending student realizes that his violation has not gone unnoticed.
  - d. Discipline should correspond to the severity of the infraction and should follow as soon as possible. Avoid deferring action and keeping the student in suspense; a deferred action generally loses its effectiveness.

August 9, 1978

Page 3

- e. A student's scholastic achievement should be considered separately from his classroom and social behavior, i.e., if a student is performing satisfactorily academically, he should not be failed because of misbehavior.
- f. Discipline should be impersonal and objective and follow reasonable guidelines. Involve the class in setting up rules, inform all concerned, and apply consistently.
- g. Treatment of infractions should be consistent. Inconsistency of action, which often depends upon the teachers' mood, will be damaging to classroom discipline.
- h. Threatening of a student should be avoided. A threat is often forgotten, becomes meaningless and ineffective, and often cannot be carried out.
- i. Sarcasm should be avoided. An unfair situation produces individual or class resentment and produces negative instead of positive reactions. It creates conditions which favor trouble and possible violent reactions.
- j. Confrontations and taking issues with students publicly should be avoided. Challenges to authority give opportunities for arguments, and disrupt and waste class time. Discussions can be conducted privately or after class. Student embarrassment can lead to retaliation in order to "save face."
- k. Avoid ejecting a student from class. However, should an emotionally disturbed or violent student who can hurt himself or others need to be removed, seek administrative help.

CGC:cs

cc: Directors, Office of the Superintendent

B. Reporting Child Abuse and Neglect (Regulation 4240.4)

Regulation 4240.4 provides procedures for compliance with HRS 350, Mandating Reporting of Child Abuse.

(See pages 65-67)

1. Highlights of Regulation 4240.4

- a. School personnel are responsible for reporting suspected child abuse to principal or designee.
- b. The principal reports child abuse and neglect to the Department of Social Services and Housing, Public Welfare Division.

2. Implementation Procedures (Effective November 20, 1975)

- a. Written report shall be prepared on Form OIS 4240.4, Child Abuse and Neglect Mandatory Reporting, and distribution made according to instructions on the form.
- b. Oral reports shall be telephoned in to the Department of Social Services and Housing, Public Welfare Division, as follows:

HONOLULU - 24 Hour Service - Tel. 947-8511

Children's Protective Services Center  
Kapiolani Children's Medical Center  
1319 Punahou Street  
Honolulu, Hawaii 96826

MAUI - Tel. 244-4330

Mailing Address: P.O. Box 889  
Wailuku, Maui 96793

MOLOKAI - Tel. 553-5349

Mailing Address: P. O. Box E  
Kaunakakai, Molokai 96748

LANAI - Tel. 565-5475

Mailing Address: P. O. Box 840  
Lanai City, Lanai 96763

KAUAI - Tel. 245-4320

Mailing Address: P. O. Box 8  
Lihue, Kauai 96766

HAWAII

Hilo - Tel. 961-7251

Mailing Address: 75 Aupuni Street  
Hilo, Hawaii 96720

Kona - Tel. 322-2761

Mailing Address: P. O. Box 650  
Kealahou, Hawaii 96750

Hamakua - Tel. 775-0523

Mailing Address: P. O. Box 352  
Honokaa, Hawaii 96727

Ka'u - Tel. 9297256

Mailing Address: P. O. Box 6  
Naalehu, Hawaii 96772

Kohala - 889-6229

Mailing Address: P. O. Box 249  
Kapaau, Hawaii 96755

3. Reporting Child Abuse and Neglect (Regulation 4240.4)

- a. Teachers or other school personnel shall report suspected child abuse and neglect cases to the Principal.
- b. The Principal shall call the Department of Social Services and Housing, Public Welfare Division, and give the following information:
  - 1) Name and address of student
  - 2) Name and address of parents or caretaker

- 3) Age of student
  - 4) Nature and extent of injuries or description of neglect
  - 5) Any other information that might be helpful in establishing the cause of the injuries
- c. The Principal shall forward a written report, using the DOE's form, to the Department of Social Services and Housing, Public Welfare Division, within ten (10) school days after the initial oral report.
  - d. In no case will the teacher be relieved of the duty to report suspected child abuse and neglect.
    - 1) If the Principal is not available, the teacher shall report to the Principal's designee who, in turn, will call the Department of Social Services and Housing, Public Welfare Division, and make an oral report of the suspected child abuse and neglect case.
    - 2) The Principal's designee shall forward a written report to the Department of Social Services and Housing, Public Welfare Division, within ten (10) school days after the initial oral report.
4. Family Educational Rights and Privacy Act
    - a. The Family Educational Rights and Privacy Act (FERPA) does not restrict a teacher or school official from making a child

abuse report based on personal knowledge or observation. (See pages 69-70)

- b. FERPA permits disclosure of information contained in educational records without obtaining prior parental consent in the following cases:

- 1) States having child abuse statutes enacted prior to November 19, 1974, educational personnel may report incidents of child abuse and neglect without fear of violating FERPA. Hawaii's laws were established in 1967.
- 2) Instances where school personnel determine, on a case by case basis, that there is a health or safety emergency.

5. Some Indications of a Child's Need for Protection

a. The Child's Behavior

- 1) Is the child aggressive, disruptive, destructive? Such a child may be acting out of need to secure attention. He/she may be shouting for help. His/her behavior may reflect a hostile or emotionally destructive climate at home, or he/she may be imitating destructive parental behavior.



- 2) Is the child shy, withdrawn, passive or overly compliant? This child may be as emotionally damaged as the aggressive child. He/she has internalized his/her problem; his/her cry for help is a whisper instead of a shout. He/she may be inattentive; he/she may daydream; he/she may be out of touch with reality.
- 3) Is the child habitually absent - chronically late or tardy? Is he/she frequently absent for flimsy reasons and lame excuses? These behaviors point to problems of adjustment - problems at home, in school, within the child, or in combination.
- 4) Does the child come to school much too early? Does he/she loiter and hang around after school is dismissed? This child may be seeking to escape from home; he/she may lack normal satisfactions at home. On the other hand, he/she may be "pushed out" in the morning and has no place to go after school because there is no one to supervise or care for him/her.

b. The Child's Appearance

- 1) Is the child inadequately dressed for the weather? Is his/her clothing torn, tattered or unwashed? Is the child not clean; unbathed? Do other children refuse to sit next to him/her

because he/she smells? These are all signs of physical neglect, a condition not related to poverty. It reflects a breakdown in household management and in concern for the child.

- 2) Is the child undernourished? Is he/she coming to school without breakfast; does he/she go without lunch? Again, this is often a problem unrelated to poverty.
- 3) Is the child always tired? Does he/she sleep in class? Is he/she lethargic or listless? Such conditions may be symptomatic of parental failure to regulate the child's routines or of family problems which disrupt family routines.
- 4) Is the child in need of medical attention? Does he/she need glasses or dental work?
- 5) Does the child bear bruises, welts, and contusions? Is he/she injured frequently? Does he/she complain of beatings or other maltreatment? Is there reason to suspect physical or sexual abuse?

c. Parental Attitudes

- 1) Are the parents aggressive or abusive when approached about problems concerning their child?

- 2) Has there been any improvement in the child's appearance since the parents have been approached about their child?
- 3) Are they apathetic or unresponsive?
- 4) Is parental behavior, as observed by school personnel, or as related by the child, bizarre and strange?
- 5) Do the parents show little concern about the child? Do they fail to show interest in what he is doing? Do they fail to participate in school activities or to permit the child to participate?

Excerpts from the Department of Social Services and Housing's Public Welfare Social Services Manual Section on Child Protective Services follow:

"5004.01 Definition of Services

- a. The Department shall provide Protective Services to children who are alleged to have been or at risk of being abused or neglected with the purpose of providing immediate protection to the child through crisis intervention alleviating family stress to prevent abuse, neglect, or exploitation and assisting parents with problems which provoked the abuse or neglect.
  1. The circumstances of siblings must also be evaluated and appropriate services provided.

2. Counseling services shall also be extended to the abusive or negligent parents.

5004.02 Definition of Child Abuse and Neglect

- a. Physical abuse is a non-accidental injury inflicted on a child by parents or those responsible for that child's care.
- b. Psychological Abuse and Neglect: Child rearing procedures or an absence of them, by persons responsible for the child, which results in the gross impairment or likely impairment of a child's opportunity for normal and healthy psychological development which would allow the child to achieve a reasonable degree of positive and independent life adjustment within his or her inherent capabilities and cultural-environmental opportunities.
- c. Sexual abuse is any sexual exploitation of or sexual act performed on a child by parents, relatives or those responsible for the child's care.
- d. Negligent treatment is the failure of parents or caretakers to provide adequate food, clothing, shelter, education, health care, supervision or guidance to a child.

- e. Runaway minors are considered to be harmed or threatened with harm by reason of their being without the care and supervision of their own parents.

5004.03. Circumstances Requiring Protective Services

- a. A child is in need of protective services if reported to be:
  - 1. Cruelly treated or physically abused;
  - 2. Sexually abused;
  - 3. Lacking health and/or medical care;
  - 4. Improperly or insufficiently fed or clothed;
  - 5. Living in unsanitary home conditions;
  - 6. Lacking proper supervision and care;
  - 7. Exhibiting anti-social behavior;
  - 8. Abandoned;
  - 9. Emotionally or psychologically abused or neglected;
  - 10. A runaway."

## **CHAPTER 350 CHILD ABUSE**

### **SECTION**

- 350-1 REPORTS**
- 350-2 ACTION ON REPORTING**
- 350-3 IMMUNITY FROM LIABILITY**
- 350-4 EXEMPTION**
- 350-5 ADMISSIBILITY OF EVIDENCE**

**§350-1 Reports.** Any doctor, which for the purposes of this chapter means any person licensed by the State to render services in medicine, osteopathy, dentistry, or any of the other healing arts, examining, attending, or treating a minor, or any registered nurse, school teacher, social worker, or coroner acting in his official capacity, having reason to believe that such minor has had injury inflicted upon him as a result of abuse or neglect, shall promptly report the matter orally to the department of social services and housing; provided that when examination, attendance, or treatment with respect to the minor is pursuant to the performance of services as a member of the staff of a hospital or similar facility, the staff member shall immediately notify the person in charge of the medical facility, or his designated delegate, who shall report or cause reports to be made in accordance with this chapter.

Abuse or neglect of a minor for the purposes of this chapter means physical or mental injury, sexual abuse, negligent treatment, or maltreatment of a child under eighteen years of age under circumstances which indicate that the minor's health or welfare has been or is harmed or threatened thereby.

The initial oral report shall be followed as soon thereafter as possible by a report in writing. The report shall contain the name and address of the minor and of his parents or other persons responsible for his care, if known, the minor's age, the nature and extent of the minor's injuries, and any other information that the reporter believes might be helpful in establishing the cause of the injuries.

Any other person who has reason to believe that a minor has had injury inflicted upon him as a result of abuse or neglect may report the matter orally to the department of social services and housing. [L 1967, c 261, §2; HRS §350-1; am L 1970, c 21, §1 and c 105, §5; am L 1975, c 147, §1]

**§350-2 Action on reporting.** The department of social services and housing, upon receiving such report, shall immediately take necessary action toward preventing further abuses, safeguarding and enhancing the welfare of such minor, and preserving family life wherever possible. If the injury or abuse to the minor is so serious that criminal prosecution is indicated, the department shall, in addition to taking such action under this section as it deems necessary, report its findings to the police or the office of the prosecuting attorney. The department shall maintain a central registry of reported cases and may adopt such rules and regulations as may be necessary in carrying out this section. [L 1967, c 261, §3; HRS §350-2; am L 1970, c 105, §5]

**§350-3 Immunity from liability.** Anyone participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might be otherwise incurred or imposed by or as a result of the making of such report. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report. [L 1967, c 261, §4]

**§350-4 Exemption.** No child who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for this reason alone, be considered to be medically neglected under this chapter. [L 1967, c 261, §5]

**§350-5 Admissibility of evidence.** Neither the doctor-patient privilege nor the husband-wife privilege shall be ground for excluding evidence regarding a minor's injuries, or the cause thereof, in any judicial proceeding resulting from a report pursuant to this chapter. [L 1967, c 261, §6]

REPORTING CHILD ABUSE AND NEGLECT  
REGULATIONS

1. Teachers or other school personnel shall report suspected child abuse and neglect cases to the Principal.
2. The Principal shall call the Department of Social Services and Housing, Public Welfare Division, and give the following information:
  - a. Name and address of student
  - b. Name and address of parents or caretaker
  - c. Age of student
  - d. Nature and extent of injuries or description of neglect
  - e. Any other information that might be helpful in establishing the cause of the injuries
3. The Principal shall forward a written report, using the Department's form, to the Department of Social Services and Housing, Public Welfare Division, within ten (10) school days after the initial oral report.
4. In no case will the teacher be relieved of the duty to report suspected child abuse and neglect.
  - a. If the Principal is not available, the teacher shall report to the Principal's designee who, in turn, will call the Department of Social Services and Housing, Public Welfare Division, and make an oral report of the suspected child abuse and neglect case.
  - b. The Principal's designee shall forward a written report to the Department of Social Services and Housing, Public Welfare Division, within ten (10) school days after the initial oral report.

Leg. Ref.: HRS Sec. 350  
Regulation Adopted: 10/2/75





STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

# CHILD ABUSE MANDATORY REPORTING

Department of Social Services and Housing  
Public Welfare Division

Dear Sir:

Pursuant to Hawaii Revised Statute 350, Mandatory Reporting of Child Abuse, this official report is submitted and follows our telephone report to your agency.

Student \_\_\_\_\_ School \_\_\_\_\_ Birthdate \_\_\_\_\_  
Month, Day, Year

Name & Address of Parent(s) or Caretaker \_\_\_\_\_

Phone \_\_\_\_\_

First reported on: \_\_\_\_\_ To: \_\_\_\_\_  
(Time) (Month, Day, Year) Intake Worker

**Nature and extent of minor's injuries or description of neglect:**

(This portion may be completed by the teacher or assigned school nurse, if available)

Signature & Position \_\_\_\_\_

Date \_\_\_\_\_

Other information:

Signature \_\_\_\_\_ Date \_\_\_\_\_

**Instructions:** Address Report to Department of Social Services & Housing, Public Welfare Division, in your district.

**HONOLULU - 24 hour service, Tel. 531-3511**  
Children's Protective Services Center  
Children's Hospital  
226 North Kuakini Street  
Honolulu, Hawaii 96817  
Mailing Address:  
P.O. Box 339  
Honolulu, Hawaii 96809

**MAUI - Tel. 244-4363**  
Mailing Address:  
P.O. Box 889  
Wailuku, Maui 96793  
**MOLOKAI - Tel. 553-5651**  
Mailing Address:  
P.O. Box 7  
Kaunakakai, Molokai, 96748  
**KAUAI - Tel. 245-4371**  
Mailing Address:  
P.O. Box 8  
Lihue, Kauai 96766

**HAWAII -**  
**Hilo - Tel. 961-7251**  
Mailing Address:  
75 Aupuni Street  
Hilo, Hawaii 96720  
**Kona - Tel. 323-2616**  
Mailing Address:  
P.O. Box 225  
Capt. Cook, Hawaii 96704  
**Honokaa - Tel. 775-0523**  
Mailing Address:  
P.O. Box 352  
Honokaa, Hawaii 96727

**DISTRIBUTION:** WHITE - DSSH, Public Welfare Division. CANARY - District Office, PINK - OIS-Student Affairs, GOLDENROD - School



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
OFFICE OF EDUCATION  
WASHINGTON, D.C. 20202

MEMORANDUM FOR CHIEF STATE SCHOOL OFFICERS

SUBJECT: Reporting Incidents of Child Abuse and Neglect

School officials have expressed concern that, by reporting incidents of child abuse and neglect, they will violate the Family Educational Rights and Privacy Act (FERPA) and thus jeopardize Federal funding for their schools. The Office of Education has discussed this issue with the Office of Management Analysis and Systems, which administers FERPA and with the National Center on Child Abuse and Neglect. We agree that the reporting of such incidents, made in good faith, will not violate FERPA.

The FERPA establishes rules governing the release of information from education records. The Act does not restrict a teacher or school official from making a report based on his or her personal knowledge or observation.

The regulations governing the Act contain two provisions that permit disclosure of information contained in education records without obtaining prior parental consent. Section 99.31 (a)(5) permits disclosure to State and local authorities to whom information is specifically required to be reported pursuant to State statute adopted prior to November 19, 1974. As a result, in States having "child abuse" statutes enacted before that date, educational personnel may report incidents of child abuse and neglect without fear of violating FERPA.

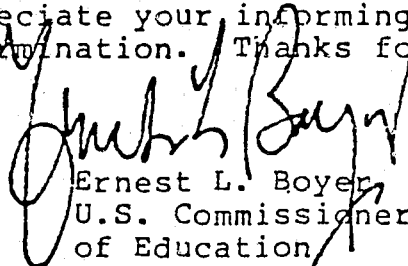
Further, Section 99.36 permits disclosure to appropriate parties in a health or safety emergency. HEW has taken the position that, under this section, schools may disclose information, even in those States with no "child abuse" statutes or those States which enacted statutes after November 19, 1974, if school personnel determine, on a case-by-case basis, that there is a health or safety emergency. The regulations would require that the following factors be taken into account in such a judgement:

**CONTINUED**

**1 OF 3**

- The seriousness of the threat to the child's health or safety;
- The need for the information from the child's education records to protect the child's health or safety;
- Whether the information is being disclosed to persons who are in a position to deal with the emergency;
- Whether time is of the essence in dealing with the emergency.

I would very much appreciate your informing the school districts of this determination. Thanks for your help.

  
Ernest L. Boyer  
U.S. Commissioner  
of Education

C. Withdrawal of School-Age Child

In accordance with the Compulsory Attendance Law Section 298-9, Hawaii Revised Statutes, school-age children who will have arrived at the age of at least six years, and who will not have arrived at the age of eighteen years, on or before December 31 of any school year, shall attend school unless excepted from attendance by law.

1. Highlights of Formal Withdrawal

- a. All school-age children shall attend school or seek approval to withdraw in compliance with state laws.
- b. Form OIS 4140 was developed to allow legal withdrawals from school at the request of any parent, guardian, or other person having the responsibility for or care of a child whose attendance at school is obligatory.

2. Annual Review

The principal will annually review all of the previous year's approved "Request to Withdraw School-Age Child" and make certain that the child meets one of the following criteria:

- a. Is enrolled in school
- b. Is above compulsory school age
- c. Is applying for a request to withdraw from school
- d. Is no longer living within the geographical jurisdiction of the State

3. Authority

- a. The Board of Education is responsible for administering compulsory attendance in accordance with law.
- b. The Department of Education is charged with enforcing compulsory attendance. The Superintendent of Education may approve or disapprove withdrawals from school where a competent person is employed as a tutor in the family wherein the child resides and proper instruction is thereby imparted as approved by the Superintendent.
- c. The district superintendent may approve or disapprove withdrawals from school in the following cases:
  - 1) Where the child is physically or mentally unable to attend school (deafness and blindness excepted) of which fact the certificate of a duly licensed physician shall be sufficient evidence;
  - 2) Where any child who has reached the fifteenth anniversary of birth is suitably employed and has been excused from school attendance by the school department or its authorized agents or the Family Court.

3) Where any child graduated from a high school or vocational school.

d. The Family Court Judge may approve or disapprove withdrawals from school as follows:

Where, upon investigation by the Family Court, when feasible, it has been shown that for any reason other than those designated above, the child may properly remain away from school.

e. The principal will approve withdrawal requests where the student is eighteen years of age.

4. Procedure (Effective September 6, 1978)

Withdrawal Requests Requiring Superintendent's, District Superintendent's, Principal's or Family Court's Approval

Every request to withdraw a school-age child needs to be treated individually and according to what the parent(s)/student gives as reasons for withdrawal. The school has the responsibility to assist the parent(s) and student. Thorough investigation and reporting should be made for every withdrawal request.

a. Parent's/Student's Responsibilities

1) Complete Form OIS 4140, Request to Withdraw School-Age Child.

2) Verify and document reasons.

b. Principal's Responsibilities

- 1) Provides assistance to the parent or student and seeks active participation of other public or private agencies as needed.
- 2) Documents efforts to help the parent and/or student. (Use sample form "Follow-Up Report of Request to Withdraw School-Age Child" on page 78).
- 3) Verifies the student's age and approves withdrawal requests for eighteen year old student.
- 4) Recommends approval or disapproval to the district superintendent and documents reasons.
- 5) Informs the parent(s)/student
  - a) When the principal approves the withdrawal request of an eighteen year old student.
  - b) When the District Superintendent approves or disapproves withdrawals in cases where the child is physically or mentally unable to attend school, is fifteen years of age and employed, or is graduated from a high school or vocational school.



c) When the Superintendent of Education approves or disapproves the withdrawal from school where a competent person is employed as a tutor wherein the child resides and proper instruction is thereby imparted as approved by the Superintendent.

d) When the Judge's decision is rendered.

c. District Superintendent's Responsibilities

- 1) Reviews Form OIS 4140 requests
- 2) Approves or disapproves Form OIS 4140 in cases of employment, physical or mental reasons or graduation from a high or vocational school.
  - a) Retains district superintendent's copy
  - b) Returns copies of Form OIS 4140 to the principal for distribution
- 3) Recommends approval or disapproval to the Superintendent and documents reasons for a tutor to be employed
  - a) Forwards Form OIS 4140 with substantiating facts to the State Office

- b) Upon receipt of the Judge's decision, retains own copy and returns other copies of Form OIS 4140 to the Principal for distribution.

d. State Office Responsibility

- 1) Reviews and analyzes all requests to withdraw school-age child.
- 2) Forwards appropriate requests to
  - a) The Superintendent of Education for approval or disapproval.
  - b) The Family Court for approval or disapproval.
- 3) Upon receipt of the Superintendent's or Judge's decision, transmits the approved or disapproved request to the district superintendent.

e. Family Court Action

- 1) The Family Court will review all requests to withdraw school-age child which the DOE transmits to Court.
- 2) The Judge will approve or disapprove the request and return the Form OIS 4140 to the DOE-Family Court Liaison Officer.



STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
OFFICE OF INSTRUCTIONAL SERVICES  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

REQUEST  
TO WITHDRAW SCHOOL-AGE CHILD

STUDENT: \_\_\_\_\_ ETHNICITY: \_\_\_\_\_ BIRTHDATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ PHONE: \_\_\_\_\_ SCHOOL: \_\_\_\_\_ GRADE: \_\_\_\_\_

I hereby request that the above named be released/excused from school this school year for the following reasons:\*

1. Employment. (Submit verification of minor's employment status)
- a. Reason for working: \_\_\_\_\_
- b. Employer: \_\_\_\_\_ Address: \_\_\_\_\_  
Occupation: \_\_\_\_\_ Hours: \_\_\_\_\_ to \_\_\_\_\_
- c. I will inform the school when my child quits working.
2. Eighteen years of age. (Attach birth verification)
3. Physical or mental reasons. (Parent must arrange to have a certificate of a duly licensed physician sent to the school.)
4. A competent person is employed as a tutor in the family wherein my child resides and proper instruction is thereby imparted as approved by the Superintendent. (The tutor must coordinate with the Department of Education if credits are to be granted.)
- a. Name of Tutor \_\_\_\_\_ Occupation \_\_\_\_\_  
Address \_\_\_\_\_ Phone \_\_\_\_\_
5. Family Court Judge's approval. (Attach verification)
6. Graduated from a high school or vocational school.
- Name of Parent/Guardian/Other: \_\_\_\_\_ Signature: \_\_\_\_\_ Date \_\_\_\_\_

\*Level of Approval Required:

- Reason 2 - Principal  
Reasons 1, 3, 6 - District Superintendent  
Reason 4 - Superintendent  
Reason 5 - Family Court Judge

<p>Principal's Recommendation</p> <p><input type="checkbox"/> APPROVED      <input type="checkbox"/> DISAPPROVED <i>(Granted for current school year unless revoked. Request must be renewed in Sept.)</i></p> <p>_____ Signature                          Date</p>	<p>Action by District Superintendent</p> <p><input type="checkbox"/> APPROVED      <input type="checkbox"/> DISAPPROVED <i>(Granted for current school year unless revoked. Request must be renewed in Sept.)</i></p> <p>_____ Signature                          Date</p>
<p>Superintendent's Action</p> <p><input type="checkbox"/> APPROVED      <input type="checkbox"/> DISAPPROVED <i>(Granted for current school year unless revoked. Request must be renewed in Sept.)</i></p> <p>_____ Signature                          Date</p>	<p>Family Court's Action</p> <p><input type="checkbox"/> APPROVED      <input type="checkbox"/> DISAPPROVED</p> <p>_____ Signature                          Date</p>

WHITE - Parents, CANARY - District Office, PINK - Compensatory Education, GOLDENROD - School

**§298-9 Attendance compulsory: exceptions.**

Unless excluded from school or excepted from attendance, all children who will have arrived at the age of at least six years, and who will not have arrived at the age of eighteen years, on or before December 31 of any school year, shall attend either a public or private school for and during such school year, and any parent, guardian, and other person having the responsibility for or care of a child whose attendance at school is obligatory shall send the child to some such school. Such attendance shall not be compulsory in the following cases:

- (1) Where the child is physically or mentally unable to attend school (deafness and blindness excepted) of which fact the certificate of a duly licensed physician shall be sufficient evidence;
- (2) Where a competent person is employed as a tutor in the family wherein the child resides and proper instruction is thereby imparted as approved by the superintendent;
- (3) Where any child who has reached the fifteenth anniversary of birth is suitably employed and has been excused from school attendance by the school department or its authorized agents, the family court or the district judge;
- (4) Where, upon investigation by the family court, when feasible, or by the district judge, it has been shown that for any other reason the child may properly remain away from school; or
- (5) Where a child graduated from a high school or vocational school. [L 1896, c 57, §24; am L 1911, c 150, §1; am L 1913, c 162, §1; am L 1923, c 73, §1; RL 1925, §324; am L 1927, c 139, pt of §1; am L 1929, c 193, pt of §1; am L 1931, c 182, pt of §1; RL 1935, pt of §745; am L 1937, c 190, §1; am L 1939, c 62, §1; RL 1945, pt of §1630; am L 1955, c 20, §1, RL 1955, §40-9; am L 1961, c 2, §1; am L 1965, c 175, §32 and c 232, §1; HRS s298-9; am L 1970, c 23, §1 and c 168, §39]

FOLLOW-UP REPORT OF REQUEST TO WITHDRAW SCHOOL-AGE CHILD

Student: \_\_\_\_\_ Birthdate: \_\_\_\_\_

School: \_\_\_\_\_ Grade: \_\_\_\_\_ Special Class: \_\_\_\_\_

Action taken by school to assist student/parent(s): \_\_\_\_\_

Investigation and Report: (Include pertinent family and school history. If a tutor is to be employed attach plan and credits to be granted. Use back of page as needed.)

Attendance Record: (List most current three years)

School	Grade	Beginning Date	Ending Date	Days Present	Days Absent

Test Scores or Reports: (Attach)

Recommendation: (Give reasons to support your recommendation)

Principal

Date

District Superintendent

Date

## SCHOOLS AND ATTENDANCE, GENERALLY

§298-9 Attendance compulsory; exceptions. Unless excluded from school or excepted from attendance, all children who will have arrived at the age of at least six years, and who will not have arrived at the age of eighteen years, on or before December 31 of any school year, shall attend either a public or private school for and during such school year, and any parent, guardian, and other person having the responsibility for or care of a child whose attendance at school is obligatory shall send the child to some such school. Such attendance shall not be compulsory in the following cases:

- (1) Where the child is physically or mentally unable to attend school (deafness and blindness excepted) of which fact the certificate of a duly licensed physician shall be sufficient evidence;
- (2) Where a competent person is employed as a tutor in the family wherein the child resides and proper instruction is thereby imparted as approved by the superintendent;
- (3) Where any child who has reached the fifteenth anniversary of birth is suitably employed and has been excused from school attendance by the school department or its authorized agents, the family court or the district judge;
- (4) Where, upon investigation by the family court, when feasible, or by the district judge, it has been shown that for any other reason the child may properly remain away from school; or
- (5) Where a child graduated from a high school or vocational school. [L 1896, c 57, §24; am L 1911, c 150, §1; am L 1913, c 162, §1; am L 1923, c 73, §1; RL 1925, §324; am L 1927, c 139, pt of §1; am L 1929, c 193, pt of §1; am L 1931, c 182, pt of §1; RL 1935, pt of §745; am L 1937, c 190, §1; am L 1939, c 62, §1; RL 1945, pt of §1830; am L 1955, c 20, §1; RL 1955, §40-9; am L 1961, c 2, §1; am L 1965, c 175, §32 and c 232, §1; HRS §298-9; am L 1970, c 23, §1 and c 188, §39]

BEST AVAILABLE COPY

## COMPULSORY ATTENDANCE

## POLICY

The Board of Education shall be responsible for administering compulsory attendance in accordance with law.

## COMPULSORY ATTENDANCE

## REGULATIONS

The following regulations shall serve to implement enforcement of the compulsory attendance laws with which the Department of Education is charged:

A. Responsibilities of the Superintendent and his staff at the state level.

1. To publish annual notice of legal requirements. During the month preceding the opening of each school year there shall be published in at least one newspaper of general circulation in each district a notice which will include:
  - a. A statement of the compulsory attendance age as set by law.
  - b. The responsibility of parent or guardian for enrolling their children.
  - c. The penalty for non-attendance of students of compulsory school age.
  - d. A request that any person knowing of students of school age who are not attending school, notify the neighborhood public school principal.
2. To notify private schools of their responsibility. Each year a letter shall be sent to the principals of all private schools requesting that they notify the district superintendent of the area of school age students who drop out or are dismissed and who to their knowledge do not report to another school.

B. Responsibility of the District Superintendents.

1. To see that principals of public schools, during the first month of school, make every effort to ascertain the whereabouts of all students of school age who were expected to enroll but did not do so.
2. To follow up on all out-of-school students reported by private school principals and by persons knowing of such students.



3. To provide services to the public schools or arrange for such services as will assist the schools with truancy problems they are unable to cope with.
4. To encourage and aid in the development of programs within the schools to compensate for learning, emotional, psychological, and sociological handicaps which discourage students from school attendance.

C. Steps to be taken by the School. In cases where truancy is chronic or persistent the public schools will:

1. Contact the home by telephone or registered mail with a view to getting the student back in school.
2. If it is deemed desirable, the principal or his designate will hold a parent conference in school or visit the home to talk to the student and his parents.
3. When needed the district office should be called upon for special assistance. This will usually be:
  - a. When the truancy case appears to be one which involves other problems of a behavioral or emotional nature or an unfavorable home condition requiring the services of a school social worker.
  - b. When there is need for psychological assessment, speech and hearing services, or consultation on possible special education program placement.

D. Calling on the police or other agencies for assistance.

1. The decision to call the police or other agencies is an administrative one to be made by the principal. This action should be reserved for special situations where students and/or parents are non-cooperative and other means have failed to produce results. Those counseling with the student should be advised of this action.
2. After police or other agencies are called in, the principal and counselor serving the students still have a responsibility to continue to try to find a constructive solution and to coordinate their efforts in behalf of the student. In case it is felt that the parents should be summoned before a magistrate, or referred to another agency, the case should be brought to the attention of the district superintendent and his approval obtained.

Former Code No. 5112

Regulation Adopted: 5/47; Am. 10/58, 7/60, 4/62, 8/70, 10/70

D. Referral to Family Court

The Department of Education is committed to serve all students who can profit from its programs and services to provide them with optimal learning conditions, to select trained and suitable teachers for their instruction, and to offer programs which will help them to succeed. However, there are external conditions in the home and the community as well as severe physical-psychosocial conditions existing within some students with which the Department, despite utilization of all its internal and external resources, is unable to cope. Frequently, private/public referral resources, called upon by the Department for assistance, are unable to effect satisfactory adjustment for the child or mediate home and/or community conditions. These students are typically described as aggressive, hostile, and "unmanageable" from the school's point of view. They are a threat to property, to people, and to themselves. When all appropriate referral resources within the school and the community have been exhausted, or when private/public community resources make little or no progress in effecting adjustment with the student and his/her family, it is then deemed appropriate that the Department of Education enlist the active intervention of the Family Court.

1. Highlights of Petitioning the Family Court

(Revision of January 1971 Procedures)

- a. The school shall prepare the petition and substantiating data and submit the case to the district for review and consideration.
- b. The district shall review the case, confer with the school for comprehensive case review and assist as needed. The District Superintendent shall submit the petition to the Office of Instructional Services before March 30 of each school year.
- c. The State (OIS) shall review and submit approved petitions to the Attorney General's Office.
- d. The Attorney General's Office will file approved petitions in the Family Court.

2. Procedures for Submitting Department of Education  
Petitions to Family Court

All petitions shall be submitted to the Office of Instructional Services before March 30 of each school year. Exceptions are those petitions prepared in emergency or crisis cases.

a. School

1) Teacher

a) Recognizes problem

1) Non-attendance

2) Behavior detrimental to self  
or others

3) Other

b) Takes appropriate action to resolve problem (ACTION SHALL BE INITIATED FOR, BUT NOT LIMITED TO, ALL CASES OF 20 OR MORE DAYS OF ABSENCES UNAUTHORIZED BY THE SCHOOL). For example:

- Reviews and analyzes pertinent available social, medical or educational history.
- Considers alternative programming and/or scheduling.
- Schedules ongoing parent conferences.
- Telephones parents.
- Keeps records.
- Others

2) Counselor/Outreach Counselor/Vice-Principal

a) Takes appropriate and simultaneous action to resolve problem. For example:

- 1) Arranges case conferences  
(considers need for district assistance)
- 2) Visits home
- 3) Contacts parents by telephone  
calls to home
- 4) Contacts parents at work if  
not able to reach at home
- 5) Arranges parent conferences

- b) Involves appropriate community agencies
  - c) Makes appropriate recommendations to Principal
  - d) Reviews attendance record of siblings and takes appropriate action
  - e) Other
- 3) Principal
- a) Takes appropriate action to resolve problem. For example:
    - 1) contacts parents by telephone
    - 2) Sends certified letter, return receipt requested
    - 3) Visits home
  - b) Maintains records
  - c) Offers alternatives
  - d) Seeks assistance from police or appropriate agencies
  - e) Refers to District Office for review and consideration
    - 1) When the non-attendance case appears to be one which involves other problems of a behavioral or emotional nature or an unfavorable home condition requiring the services of a school social worker.

- 2) When there is need for psychological assessment, speech and hearing services, or consultation on possible special education program placement.
- 3) When there is need for Family Court intervention, prepares petition for submittal to Family Court. (May seek district office assistance).
  - a) Completes petition (Oahu: use sample petition. Maui, Kauai, Hawaii: use sample as a guide and complete petition on appropriate petition form for respective island). Blank forms available from the district office.
  - b) Signs petition with black ink and types in petitioner's name, title, address, and phone number.

Crisis petitions submitted after March 30 may be signed by school officials as designated by the district superintendent.

- c) Includes full names and addresses of both parents even if divorced or separated.
- d) Completes supplement to petition

- e) Completes appropriate Family Court Face Sheet, FC-S-L. Signs and dates Face Sheet. Blank forms are available from the district office.
  - Submits accurate and detailed information as required.
  - Includes mother's and father's race on Face Sheet as required by the Family Court.
- f) Includes a letter of referral to another agency (such as DSSH) when the case has been referred to that agency.

b. District Office

- 1) District Educational Specialist, Special Services
  - a) Reviews case for sufficiency of documentation.
  - b) Confers with school for comprehensive case review as needed.
  - c) Checks attendance record of siblings and takes appropriate action.
  - d) Involves appropriate community agencies (public and private).
  - e) Conducts educational evaluations as needed.
  - f) Assists schools as needed in preparation of petitions.

2) District Superintendent

- a) Approves or denies petition.
  - b) Refers petition and supporting data to Office of Instructional Services by March 30 of each school year.
- Three (3) complete sets must be submitted.

c. State Office

- 1) Superintendent of Education assumes responsibility for all petitions submitted to Family Court and all Family Court requests or court orders.
- 2) Office of Instructional Services Assistant Superintendent is responsible to the Superintendent on Family Court matters pertaining to student services.
  - a) Establishes coordination linkages with Family Court and appropriate agencies and community groups.
  - b) Reviews and transmits DOE petitions and supporting data to Attorney General's Office for approval.
  - c) Returns denied petitions to the district for revision or no action.
  - d) Serves as consultant to school and Family Court personnel on educational problems of mutual concern.



d. Attorney General's Office

- 1) Reviews and transmits all approved DOE petitions and supporting data to the Family Court.
- 2) Returns denied petitions to the Office of Instructional Services for revision or no action.

3. Procedures for Family Court Hearings

Upon Family Court request the school official shall attend the scheduled hearing. Substitutions are not to be made without the approval of the Deputy Attorney General representing the Department of Education.

a. School

- 1) Reviews case
- 2) Prepares written updated information and includes (as close as possible) the period between the date of the petition to the date of the hearing. (Sample form on page 114 may be used.)
  - a) Attendance record
    - Total days absent
    - Total days present
  - b) Grades
  - c) Behavior
  - d) Tests or other reports

- e) Steps taken to assist student and/or parent(s).
- 3) Brings four (4) signed and dated reports with updated information to the Family Court hearing for distribution as follows:
  - a) Family Court
  - b) Attorney for student
  - c) Office of Instructional Services (OIS)
  - d) Deputy Attorney General (DAG)(Forward OIS and DAG copies to the Office of Instructional Services, Compensatory Education Section when the DOE-Family Court Liaison Officer and Deputy Attorney General are not present at the hearing).
- 4) Brings complete educational records to Family Court hearing for reference as needed.
- 5) Contacts district office for assistance on problems as needed.
- b. District Office

Upon Family Court request the district official shall attend the scheduled court hearing. Substitutions are not to be made without the approval of the Deputy Attorney General representing the Department of Education.

- 1) Assists schools as needed in preparation for court appearances and ensures that case is ready for presentation to Family Court.
- 2) Contacts DOE-Family Court Liaison Officer for assistance on problems as needed.

c. State Office

- 1) Coordinates DOE efforts for Family Court appearances as needed.
- 2) Consults Attorney General's Office as needed.
- 3) Informs district officials of pertinent information, requests or court orders by Family Court.
- 4) Assists school and district officials as needed for Family Court hearings.
- 5) Informs Family Court of current or pertinent school information which may be necessary for court proceedings.
- 6) Attends court hearings for DOE-initiated petitions when needed.

d. Attorney General's Office

- The Deputy Attorney General representing the Department of Education shall attend Family Court hearings as necessary.

4. Procedures for Family Court Decrees (Orders)

a. School

- 1) Schools must comply with court orders as applicable, including orders of protective supervision.
  - Should the school not be able to comply with orders they shall immediately inform the district office.
- 2) Schools must cooperate with the probation officer in monitoring attendance and providing further assistance as necessary.
- 3) Schools must inform the probation officer directly, immediately to enforce stipulated consequences should the student not be in compliance with the court order. The district office should also be informed as soon as possible.

b. District Office

- 1) The district must comply with court orders as applicable, including orders of protective supervision.
  - Should the district not be able to comply with orders they shall immediately inform the DOE-Family Court Liaison Officer by telephone. A written report shall be immediately submitted and include the reasons for noncompliance.

- 2) The district must inform the DOE-Family Court Liaison Officer in writing should the student not be in compliance with the court order.

c. State Office

- 1) Informs and consults the Attorney General's Office concerning the following:
  - a) Inability to comply with court orders and the reasons therefor.
  - b) The student's noncompliance with Family Court orders.
- 2) Takes appropriate action as needed to comply with court orders or negotiate exemption.

d. Attorney General's Office

- Takes appropriate action when the Department is not able to comply with court orders or the student is not in compliance with court orders.

5. Procedures for Protective Supervision

The protective supervision orders which are awarded to the Department of Education remain in effect until the further order of the court.

When the protective supervision of a minor is awarded to the Department of Education, the following minimum requirements of the court must be met (see pages 115-116).

a. School

- 1) Provides reports to the court (with a copy to the Office of Instructional Services and district) at the end of the first semester and at the end of the school year.
- 2) Prepares and submits interim reports as required to the court (submits copies to the district and Office of Instructional Services) should there be events occurring which affect the status of the minor.
- 3) Includes in the report all the pertinent information necessary to assist the court in evaluating the effect of its order and the treatment and/or educational services being provided.
- 4) Submits in writing reasons and requests for changes in the protective supervision order to the district.

b. District Office

- 1) Ensures compliance of all protective supervision cases awarded to the Department of Education.
- 2) Provides appropriate assistance as needed in carrying out the protective supervision of the court.

- 3) When necessary, submits in writing reasons and requests for changes in the protective supervision order to the Office of Instructional Services.

c. State Office

- 1) The Office of Instructional Services monitors and provides appropriate assistance as needed in carrying out the protective supervision orders of the court.
- 2) When needed, the Office of Instructional Services reviews and prepares the request for changes in the protective supervision orders for submittal to the Deputy Attorney General.

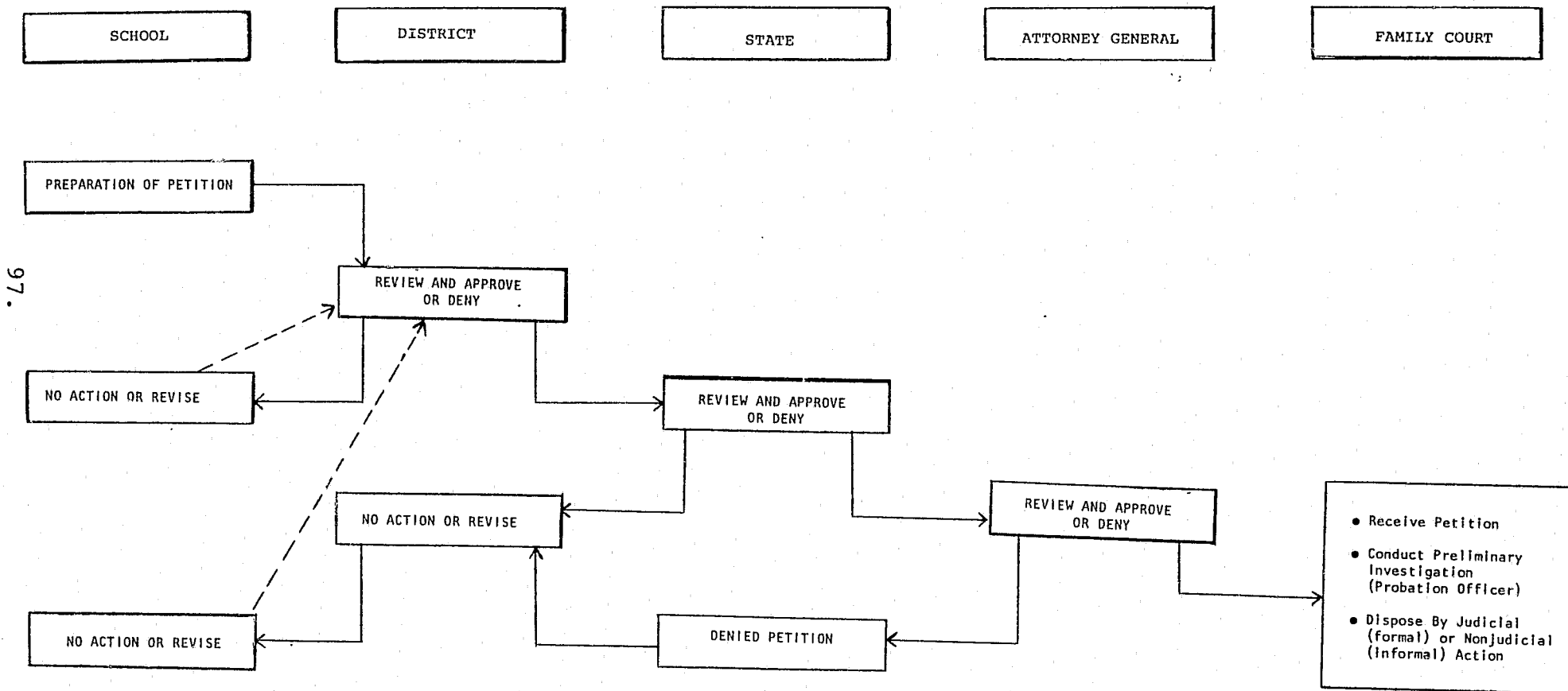
d. Deputy Attorney General

- 1) The Deputy Attorney General assists and provides assistance as needed in carrying out the protective supervision order of the court.
- 2) The Deputy Attorney General is responsible for requesting any changes to the status of the protective supervision orders.

6. Process

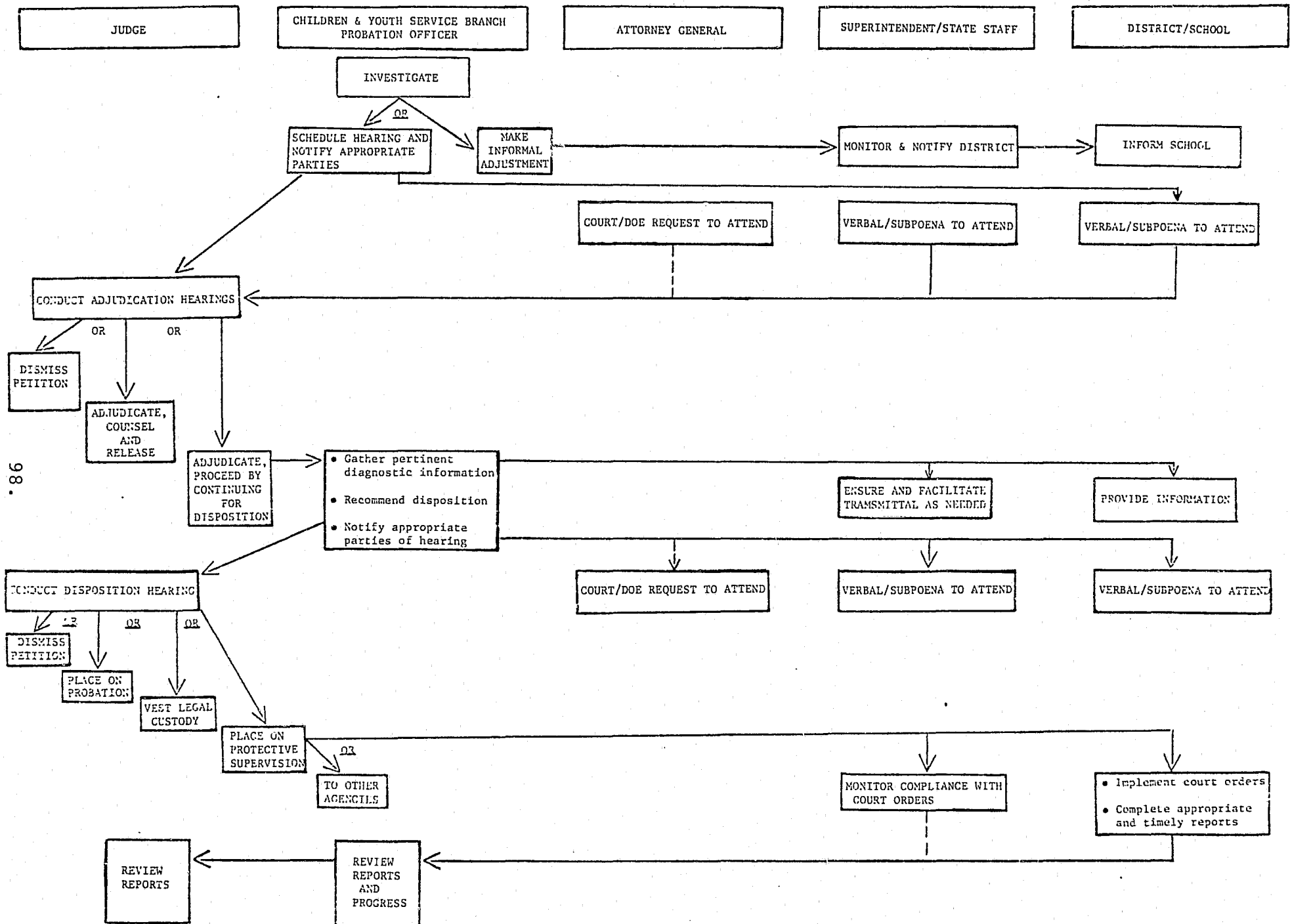
Following are diagrams illustrating the processing of petitions: 1) within the Department, and 2) at the Family Court. In Appendix A, updated excerpts from "A Guidebook for the Public Schools on Oahu: A Tour of the Honolulu Family Court" are presented.

# PETITIONING PROCESS WITHIN THE DEPARTMENT OF EDUCATION





Pertinent Family Court Process



# INSTRUCTIONS FOR FAMILY COURT, FIRST CIRCUIT PETITIONS

These instructions are to be followed in completing all Non-Attendance or Failure to Enroll petitions for submittal to the Family Court, First Circuit. These instructions are to be used as a guide for petitions to the Family Courts of the Second, Third and Fifth Circuits.

ITEM NO.	INFORMATION REQUESTED	DETAILED INSTRUCTIONS	
1	Petitioner's Name	Type name of petitioner.	
2	Petitioner's Title	Type title of petitioner.	
3	Petitioner's Address	Type petitioner's address.	
4	Petitioner's Phone Number	Type petitioner's phone number.	
5	Name of Student	Type name of student.	
6	Birthdate	Type birthdate of student.	
7	Petition Facts	Select appropriate format (A-Non-Attendance or B-Failure to Enroll) below and type on blank petition in accordance with the instructions.	
		A. NON-ATTENDANCE PETITION	INSTRUCTIONS
		The above named student did not receive educational services as required by law in that (a) was absent a total of (b) days out of (c) school days during the period from (d) through (e). This condition brings (f) within the purview of Hawaii Revised Statutes Section 571-11 (2)(D).	(a) Type in he or she. (b) Type in number of days absent. (c) Type in total number of school days. (d) Type in the date (month, day, year) of the first day enrolled in school. (e) Type in the ending date (month, day, year) of attendance period. (f) Type in him or her.

ITEM NO.	INFORMATION REQUESTED	DETAILED INSTRUCTIONS					
		<table border="1"> <thead> <tr> <th>B. FAILURE TO ENROLL PETITION</th><th>INSTRUCTIONS</th></tr> </thead> <tbody> <tr> <td>Beginning on September <u>(g)</u> through <u>(h)</u> the above named student did not receive educational services as required by law in that <u>(i)</u> failed to enroll for the <u>(j)</u> school year. This condition brings <u>(k)</u> within the purview of Hawaii Revised Statutes Section 571-11 (2)(D).</td><td> <p>(g) Type in the date (day, year) of the first day of school.</p> <p>(h) Type in the ending date (month, day, year) of the attendance period.</p> <p>(i) Type in he or she.</p> <p>(j) Type in the school year.</p> <p>(k) Type in him or her.</p> </td></tr> </tbody> </table>		B. FAILURE TO ENROLL PETITION	INSTRUCTIONS	Beginning on September <u>(g)</u> through <u>(h)</u> the above named student did not receive educational services as required by law in that <u>(i)</u> failed to enroll for the <u>(j)</u> school year. This condition brings <u>(k)</u> within the purview of Hawaii Revised Statutes Section 571-11 (2)(D).	<p>(g) Type in the date (day, year) of the first day of school.</p> <p>(h) Type in the ending date (month, day, year) of the attendance period.</p> <p>(i) Type in he or she.</p> <p>(j) Type in the school year.</p> <p>(k) Type in him or her.</p>
B. FAILURE TO ENROLL PETITION	INSTRUCTIONS						
Beginning on September <u>(g)</u> through <u>(h)</u> the above named student did not receive educational services as required by law in that <u>(i)</u> failed to enroll for the <u>(j)</u> school year. This condition brings <u>(k)</u> within the purview of Hawaii Revised Statutes Section 571-11 (2)(D).	<p>(g) Type in the date (day, year) of the first day of school.</p> <p>(h) Type in the ending date (month, day, year) of the attendance period.</p> <p>(i) Type in he or she.</p> <p>(j) Type in the school year.</p> <p>(k) Type in him or her.</p>						
8	Name of Father and Address	Type name of father and address (include name and address even if divorced or separated. Include name with "deceased" in parentheses when appropriate).					
9	Name of Mother and Address	Type name of mother and address (include name and address even if divorced or separated. Include name with "deceased" in parentheses when appropriate).					
10	Other	Type name and address of other guardian, custodian or step-parent.					
11	Date	Type date when petition is signed.					
12	Signature	Sign petition with <u>BLACK INK</u> only.					

Petitioner's name, title,  
address and phone number:

①

②

③

④

**In the Family Court of the First Circuit**  
STATE OF HAWAII

In the Interest of

⑤

⑥

) FCJ No. \_\_\_\_\_

)

) PETITION

) [GENERAL, 11(2)]

)

PETITION

TO THE HONORABLE PRESIDING JUDGE OF THE ABOVE-ENTITLED COURT:

The undersigned Petitioner does hereby solemnly and sincerely declare, under penalty of perjury, that the statements made herein are true and correct to the best of Petitioner's knowledge, information and belief.

The above-named child(ren) is (are) within the purview of HRS section 571-11(2) by reason of the following fact::

⑦

The full names and addresses of the parents, guardian or custodian of the child(ren) are:

Father

⑧

Mother

⑨

Other

⑩

**WHEREFORE**, it is prayed that an inquiry be made into the foregoing allegations, and that such action be taken within the provisions of HRS chapter 571 as may appear best to subserve the welfare of the child(ren) and the best interests of the State.

DATED: Honolulu, Hawaii,

⑪

⑫

Petitioner's Signature

Petitioner's Case No.

NONATTENDANCE

Petitioner's name, title,  
address and phone number:

SAMPLE PETITION

Mrs. Beverly Lee  
Administrator, Neglected and Delinquent  
1270 Queen Emma Street  
Honolulu, Hawaii 96813  
Phone: 548-4635

**In the Family Court of the First Circuit**  
**STATE OF HAWAII**

In the Interest of ) FC-J No \_\_\_\_\_  
John Yamada Doe )  
Born: January 1, 1972 ) PETITION  
[GENERAL, 11(2)]

PETITION

TO THE HONORABLE PRESIDING JUDGE OF THE ABOVE-ENTITLED COURT:

The undersigned Petitioner does hereby solemnly and sincerely declare, under penalty of perjury, that the statements made herein are true and correct to the best of Petitioner's knowledge, information and belief.

The above-named child(ren) is (are) within the purview of HRS section 571-11(2) by reason of the following facts:

The above named student did not receive educational services as required by law in that he was absent a total of 23 days out of 28 school days during the period from September 5, 1978 through October 13, 1978. This condition brings him within the purview of Hawaii Revised Statutes Section 571-11 (2) (D).

The full names and addresses of the parents, guardian or custodian of the child(ren) are:

Father James Doe - 1301 Lake Street, San Francisco, California 94117  
Mother Mary Yamada Chang - 3333 Aloha Aina Drive, Honolulu, Hawaii 96817  
Other Samuel Chang (Step-father) - 3333 Aloha Aina Drive, Honolulu, Hawaii 96817

WHEREFORE, it is prayed that an inquiry be made into the foregoing allegations, and that such action be taken within the provisions of HRS chapter 571 as may appear best to subserve the welfare of the child(ren) and the best interests of the State.

DATED: Honolulu, Hawaii, October 16, 1978

Beverly Lee  
Petitioner's Signature  
Petitioner's Case No. \_\_\_\_\_

FAILURE TO ENROLL

Petitioner's name, title,  
address and phone number:

SAMPLE PETITION

Mrs. Beverly Lee  
Administrator, Neglected and Delinquent  
1270 Queen Emma Street  
Honolulu, Hawaii 96813  
Phone: 548-4635

**In the Family Court of the First Circuit**  
STATE OF HAWAII

In the Interest of	) FCJ No _____
	)
Jane Doe	) PETITION
Born: September 2, 1972	) [GENERAL, 11(2)]
_____	)

PETITION

TO THE HONORABLE PRESIDING JUDGE OF THE ABOVE-ENTITLED COURT:

The undersigned Petitioner does hereby solemnly and sincerely declare, under penalty of perjury, that the statements made herein are true and correct to the best of Petitioner's knowledge, information and belief.

The above-named child(ren) is (are) within the purview of HRS section 571-11(2) by reason of the following facts:

Beginning on September 5, 1978 through October 10, 1978 the above named student did not receive educational services as required by law in that she failed to enroll for the 1978-79 school year. This condition brings her within the purview of Hawaii Revised Statutes Section 571-11 (2) (D).

The full names and addresses of the parents, guardian or custodian of the child(ren) are:

Father James Doe - 1301 Lake Street, San Francisco, California 94117

Mother Mary Doe (Deceased)

Other Mr. and Mrs. James Kauhane (Grandparents) - 6633 Dowsett Avenue  
Honolulu, Hawaii 96817

WHEREFORE, it is prayed that an inquiry be made into the foregoing allegations, and that such action be taken within the provisions of HRS chapter 571 as may appear best to subserve the welfare of the child(ren) and the best interests of the State.

DATED: Honolulu, Hawaii, October 12, 1978

Beverly Lee  
Petitioner's Signature  
Petitioner's Case No. \_\_\_\_\_

# Family Court, First Circuit

STATE OF HAWAII

## Face Sheet

A. Family Surname \_\_\_\_\_ AKA \_\_\_\_\_ Case No. \_\_\_\_\_

B. Children In Home (* before ACTIVE child)	Sex	Age	School & Grade	Address (City, State, Zip Code)	Birth Verification		
					Date	Vol	Reg
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							

C. Parents	Legal Father	Legal Mother (state mother's nee)	Stepfather	Stepmother (stepmother's nee)
Full Name				
Address				
Telephone				
Birthdate				
Birthplace				
Race				
Religion				
Education				
Occupation				
Employer				
Telephone				
Gross Earnings				
Marriage Date				
Divorce Date				
Custody of Child				
Death Date				

D. Past Marriages	Date (Month, Year)	Name Of Person	Ended By (Date In Column)		
			Divorce	Annulment	Death
LEGAL MOTHER					
LEGAL FATHER					

E. Change Of Address Father/Mother/Child	Date	New Address (Include City, State, Zip Code)	Telephone

Date Prepared: \_\_\_\_\_, 19\_\_\_\_  
 Date Re-reviewed: \_\_\_\_\_, 19\_\_\_\_

By: \_\_\_\_\_  
 By: \_\_\_\_\_

\*\*\*\*\*

F. Home (father): Type \_\_\_\_\_ Own \_\_\_\_\_ Rent \_\_\_\_\_ Buying \_\_\_\_\_  
                             No. of Bedrooms \_\_\_\_\_ No. of Occupants \_\_\_\_\_  
 Home (mother): Type \_\_\_\_\_ Own \_\_\_\_\_ Rent \_\_\_\_\_ Buying \_\_\_\_\_  
                             No. of Bedrooms \_\_\_\_\_ No. of Occupants \_\_\_\_\_

\*\*\*\*\*

G. Children Out Of Home	Sex	Age	Address and Telephone	Occupation

\*\*\*\*\*

H. Resources

Person, Name	Medical, Dental & Hospital Insurance Co.	OASI Amount Received	VA Amount Received	RET. BENEFIT Amount Received

\*\*\*\*\*

I. Interested Persons And Agencies

Name	Address and Telephone	Reason for Interest

\*\*\*\*\*

J. Court Records On Family

Case No.	Name (Title of Case)	Kind Of Case (Check One)				
		Criminal	Civil	Probate	Marital	Other

\*\*\*\*\*

11. Other Pertinent Data



## FAMILY COURT, SECOND CIRCUIT

## STATE OF HAWAII

No. \_\_\_\_\_  
 In the Interest of \_\_\_\_\_  
 Born on \_\_\_\_\_ Age \_\_\_\_\_

P E T I T I O N

TO THE HONORABLE PRESIDING JUDGE OF THE ABOVE ENTITLED COURT:

The undersigned Petitioner, a duly appointed probation officer, does hereby solemnly and sincerely declare, under penalty of perjury, that the statements made herein are true and correct to the best of Petitioner's knowledge, information and belief.

The above named child is alleged to have violated or attempted to violate the law in the following manner, and therefore appears to come within the purview of HRS section 571-11 (1):

The full names and addresses of the parents and of the guardian or custodian of the child are:

Father \_\_\_\_\_

Mother \_\_\_\_\_

Other \_\_\_\_\_

WHEREFORE, Petitioner prays that an inquiry be made into the foregoing allegations, and that such action be taken within the provisions of HRS chapter 571 as may appear best to subserve the welfare of the child and the best interests of the State.

DATED at Wailuku, Hawaii, \_\_\_\_\_

\_\_\_\_\_  
 Petitioner

# In the Family Court of the Second Circuit

WAILUKU, MAUI, HAWAII

FC-J No. \_\_\_\_\_

## FACE SHEET

Date \_\_\_\_\_ Officer \_\_\_\_\_

Name \_\_\_\_\_ Also known as \_\_\_\_\_

Age \_\_\_\_\_ Sex \_\_\_\_\_ Birthdate \_\_\_\_\_ Birthplace \_\_\_\_\_ Phone \_\_\_\_\_

Racial Classification \_\_\_\_\_ Address \_\_\_\_\_

Reason for Referral \_\_\_\_\_ Ref. By \_\_\_\_\_

Religion \_\_\_\_\_ Church \_\_\_\_\_

### SCHOOL REPORT

Attending \_\_\_\_\_ Grade \_\_\_\_\_ Standing: Good \_\_\_\_\_ Average \_\_\_\_\_ Poor \_\_\_\_\_ I.Q. \_\_\_\_\_

Last Attended \_\_\_\_\_ Grade \_\_\_\_\_ Age at Leaving \_\_\_\_\_ Cause \_\_\_\_\_

### WORKING RECORD:

Employed: Yes \_\_\_\_\_ No \_\_\_\_\_ Employed by \_\_\_\_\_

### FAMILY HISTORY:

Father \_\_\_\_\_ Age \_\_\_\_\_ Birthdate \_\_\_\_\_ Address \_\_\_\_\_

Employed By: \_\_\_\_\_ Occupation \_\_\_\_\_

Religion \_\_\_\_\_ Church \_\_\_\_\_ Race \_\_\_\_\_

Mother \_\_\_\_\_ Age \_\_\_\_\_ Birthdate \_\_\_\_\_ Address \_\_\_\_\_

Employed By: \_\_\_\_\_ Occupation \_\_\_\_\_

Religion \_\_\_\_\_ Church \_\_\_\_\_ Race \_\_\_\_\_

Stepmother \_\_\_\_\_ Age \_\_\_\_\_ Birthdate \_\_\_\_\_ Address \_\_\_\_\_

Employed By: \_\_\_\_\_ Occupation \_\_\_\_\_

Religion \_\_\_\_\_ Church \_\_\_\_\_ Race \_\_\_\_\_

Stepfather \_\_\_\_\_ Age \_\_\_\_\_ Birthdate \_\_\_\_\_ Address \_\_\_\_\_

Employed By: \_\_\_\_\_ Occupation \_\_\_\_\_

Religion \_\_\_\_\_ Church \_\_\_\_\_ Race \_\_\_\_\_

Date of Marriage: (1st) \_\_\_\_\_ (2nd) \_\_\_\_\_

Date of Marriage (3rd) \_\_\_\_\_ (4th) \_\_\_\_\_

Brothers and Sisters: \_\_\_\_\_

Relatives:	Name	Address	Relationship

HOME: Type \_\_\_\_\_ Rent \_\_\_\_\_ Own \_\_\_\_\_ With Others \_\_\_\_\_

General Atmosphere and Upkeep: \_\_\_\_\_

Lodgers, Age and Sex: \_\_\_\_\_

Court Record: \_\_\_\_\_

FAMILY COURT, THIRD CIRCUIT  
STATE OF HAWAII

In the Interest of \_\_\_\_\_

CASE NO. \_\_\_\_\_

Born on \_\_\_\_\_ Age \_\_\_\_\_  
Alleged to be a: Law Violator  
Person in Need of Supervision

P E T I T I O N

TO THE HONORABLE PRESIDING JUDGE OF THE ABOVE-ENTITLED COURT:

The undersigned Petitioner, a duly appointed Probation Officer, respectfully alleges that the above-named minor is a resident of and is now within the County of Hawaii, State of Hawaii, and that the full names and addresses of the minor's parents and/or custodian with whom the minor is presently living are as follows:

Father: \_\_\_\_\_

Mother: \_\_\_\_\_

Other: \_\_\_\_\_

Petitioner is informed and believes, and therefore further alleges, that said minor comes within the purview of Section 571-11 (1) (2), Hawaii Revised Statutes, by reason of the following facts:

WHEREFORE, Petitioner prays that a hearing be held; that at such hearing an inquiry be made into the foregoing allegations; and that thereafter the Court take such action within the provisions of Chapter 571, Hawaii Revised Statutes, as may appear best to subserve the welfare of said minor and the best interests of the State.

\_\_\_\_\_  
Petitioner

PO \_\_\_\_\_

CASE NO. \_\_\_\_\_  
DATE \_\_\_\_\_

PROBATION OFFICER'S REPORT  
FAMILY COURT-THIRD CIRCUIT

NAME \_\_\_\_\_ FATHER \_\_\_\_\_

ADDRESS \_\_\_\_\_ MOTHER \_\_\_\_\_

AGE \_\_\_\_\_ BIRTHDATE \_\_\_\_\_ TELEPHONE NO. \_\_\_\_\_

I CLASSIFICATION: Law Violator \_\_\_\_\_ PINS \_\_\_\_\_ Ordinance \_\_\_\_\_

II REFERRAL: \_\_\_\_\_

III HEARINGS:  
Adjudication- Date \_\_\_\_\_ Requested  
Disposition - Date \_\_\_\_\_ Counsel (name) \_\_\_\_\_  
Waived Counsel \_\_\_\_\_

IV THE CHILD'S STATEMENT (Please see narrative summary)  
(Please include victim's statement)  
V PRIOR RECORD: \_\_\_\_\_ (If yes, please see narrative summary)

VI OTHER AGENCIES: \_\_\_\_\_

VII THE FAMILY:  
Father \_\_\_\_\_ Age \_\_\_\_\_ Mother \_\_\_\_\_ Age \_\_\_\_\_  
Occupation \_\_\_\_\_ Occupation \_\_\_\_\_  
Birthplace \_\_\_\_\_ Birthplace \_\_\_\_\_  
Step \_\_\_\_\_ Age \_\_\_\_\_ Occupation \_\_\_\_\_  
Brothers \_\_\_\_\_ Sisters \_\_\_\_\_  
Born \_\_\_\_\_ Born \_\_\_\_\_  
Born \_\_\_\_\_ Born \_\_\_\_\_  
Born \_\_\_\_\_ Born \_\_\_\_\_  
Born \_\_\_\_\_ Born \_\_\_\_\_

VIII THE HOME: Type \_\_\_\_\_ Ownership \_\_\_\_\_  
Mtg/Rent Per Month \_\_\_\_\_ Home Morale \_\_\_\_\_

IX RELIGION: Parents \_\_\_\_\_ Child \_\_\_\_\_  
Active \_\_\_\_\_ Active \_\_\_\_\_

X SCHOOL RECORD: Present grade \_\_\_\_\_ School \_\_\_\_\_  
(Please see narrative summary)

XI EMPLOYMENT: Social Security No. \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
Kind of Work \_\_\_\_\_ Employer \_\_\_\_\_  
Part/Full time \_\_\_\_\_ Work Habits \_\_\_\_\_

XII INTERESTS AND ACTIVITIES:  
Talents \_\_\_\_\_ Hobbies \_\_\_\_\_  
Sports \_\_\_\_\_ Others \_\_\_\_\_  
Leisure time \_\_\_\_\_

XIII HEALTH: Physical \_\_\_\_\_ Mental \_\_\_\_\_

XIV EVALUATION AND TREATMENT PLAN: (Please see narrative summary)

XV RECOMMENDATION: (Please see narrative summary)

## FAMILY COURT, FIFTH CIRCUIT

## STATE OF HAWAII

No. \_\_\_\_\_ )  
 )  
 In the Interest of \_\_\_\_\_ )  
 )  
 )  
 )  
 )  
 Born on \_\_\_\_\_ Age \_\_\_\_\_ )  
 )

P E T I T I O N

TO THE HONORABLE PRESIDING JUDGE OF THE ABOVE ENTITLED COURT:

The undersigned Petitioner, a duly appointed probation officer, does hereby solemnly and sincerely declare, under penalty of perjury, that the statements made herein are true and correct to the best of Petitioner's knowledge, information and belief.

The above named child is alleged to have violated or attempted to violate the law in the following manner, and therefore appears to come within the purview of HRS section 571-11 (1):

The full names and addresses of the parents and of the guardian or custodian of the child are:

Father \_\_\_\_\_

Mother \_\_\_\_\_

Other \_\_\_\_\_

WHEREFORE, Petitioner prays that an inquiry be made into the foregoing allegations, and that such action be taken within the provisions of HRS chapter 571 as may appear best to subserve the welfare of the child and the best interests of the State.

DATED at Lihue, Kauai, Hawaii, \_\_\_\_\_

\_\_\_\_\_  
 Petitioner

FAMILY COURT, FIFTH CIRCUIT  
STATE OF HAWAII

FACE SHEET

Case No. \_\_\_\_\_

1. Family Surname \_\_\_\_\_ Alias \_\_\_\_\_ Date \_\_\_\_\_

Date Ref.	Type of Referral	Source of Referral (check one)				Date Closed
		Self <input type="checkbox"/>	Police <input type="checkbox"/>	Agcy. <input type="checkbox"/>	Other <input type="checkbox"/>	
		Self <input type="checkbox"/>	Police <input type="checkbox"/>	Agcy. <input type="checkbox"/>	Other <input type="checkbox"/>	
		Self <input type="checkbox"/>	Police <input type="checkbox"/>	Agcy. <input type="checkbox"/>	Other <input type="checkbox"/>	
		Self <input type="checkbox"/>	Police <input type="checkbox"/>	Agcy. <input type="checkbox"/>	Other <input type="checkbox"/>	

2. Children in Home (X before ACTIVE Child)	Sex	Age	School Grade	Address	Birth Verification		
					Date	Vol.	Page No.
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							

3. Parents	Legal Father	Legal Mother	Stepfather	Stepmother
Name				
Address				
Telephone				
Birthdate				
Birthplace				
Race				
Religion				
Education				
Occupation				
Employer				
Gross Earnings				
Marriage Date				
Divorce Date				
Death Date				

4. PAST MARRIAGES	Date (Mo. Yr.)	PLACE	Ended by (Date in Column)		
			Divorce	Annul.	Death
MOTHER					
FATHER					

<b>5. CHANGE OF ADDRESS</b> Father/Mother/Child		Date	New Address		Telephone

6. HOME (fa.):	Type _____	Own _____	Rent _____	Buying _____	Other _____
	No. of bedrooms _____	No. occupants _____			
HOME (mo.):	Type _____	Own _____	Rent _____	Buying _____	Other _____
	No. of bedrooms _____	No. occupants _____			

7. Children Out of Home	Sex	Age	Address	Education	Occupation

8. RESOURCES				
PERSON, NAME	Medical, Dental & Hospital Insur. Co.	OASI Amt. Recd.	VA Amt. Recd.	RET. BENEFIT Amt. Recd.

9. INTERESTED PERSONS AND AGENCIES		
NAME	ADDRESS	Reason for Interest

10. COURT RECORDS ON FAMILY		
Case No.	Name (Title of Case)	Kind of Case (check one)
		Crim [ ] Civ [ ] Prob [ ] Divorce [ ] Other [ ]
		Crim [ ] Civ [ ] Prob [ ] Divorce [ ] Other [ ]
		Crim [ ] Civ [ ] Prob [ ] Divorce [ ] Other [ ]
		Crim [ ] Civ [ ] Prob [ ] Divorce [ ] Other [ ]

# PETITION SUPPLEMENT

Name of Student:		Ethnicity:	Sex:	Age:
Place of Birth:		Birthdate:	Birth Certificate No. or Verification:	
List Special Certification _____		School:	Grade:	
Currently Enrolled: <input type="checkbox"/> Yes <input type="checkbox"/> No				
Parents	Father/Guardian	Mother/Guardian		
Name				
Ethnicity				
Address/Phone				
Employer/Phone				

SYNOPSIS OF CASE AND REASON FOR FAMILY COURT INTERVENTION:

EVALUATION AND/OR RECOMMENDATION:



CONTACTS WITH PARENTS

DATE

SUMMARY OF CONTACT

PERTINENT FAMILY HISTORY:

ACTION TAKEN TO CORRECT PROBLEM:

ATTENDANCE (List current year first. Provide complete attendance history.)

Beginning Month/Day/Year	Ending Month/Day/Year	Total Days	Days Present	Days Absent	Tardies	School	Grade

REPORTS ATTACHED (check)

- |  |  |
|--|--|
| <input type="checkbox"/> Petition (required)                       | <input type="checkbox"/> Psychological Report/Psychiatric Report     |
| <input type="checkbox"/> Family Court Face Sheet (required)        | <input type="checkbox"/> Individualized Education Program (IEP) Plan |
| <input type="checkbox"/> Attendance Record-Current Year (required) | <input type="checkbox"/> Diagnostic Prescriptive Teacher Report      |
| <input type="checkbox"/> Test Records (required)                   | <input type="checkbox"/> Other(s)                                    |
| <input type="checkbox"/> Report Cards (required)                   |  |
| <input type="checkbox"/> Medical Records                           |  |
| <input type="checkbox"/> School Social Worker Report               |  |

\_\_\_\_\_  
Print or type name & position of person preparing report

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Principal's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
District Superintendent's Signature

\_\_\_\_\_  
Date

REPORT FOR FAMILY COURT HEARING

Name of Student \_\_\_\_\_ Date of Hearing \_\_\_\_\_

School \_\_\_\_\_ Grade \_\_\_\_\_

1. Attendance: (Current school year)

Beginning Date \_\_\_\_\_ Ending Date \_\_\_\_\_

Total Days Absent \_\_\_\_\_ Total Days Present \_\_\_\_\_

(Bring original attendance record and 3 copies to hearing)

2. Grades: (Current)

3. Behavior:

4. Attach Available Tests or Other Reports

\_\_\_\_\_  
Signature of Person Preparing Report

\_\_\_\_\_  
Date

Submit 4 copies to DAG for distribution to Family Court, Attorney, Office of Instructional Services, Deputy Attorney General. (Forward OIS and DAG copies to OIS when DOE-Family Court Liaison Officer and DAG are not present at hearing).



BETTY M. VITOUSEK  
Senior Judge  
JAMES S. BURNS  
Judge  
MARY JANE LEE  
Director

STATE OF HAWAII  
FAMILY COURT  
FIRST CIRCUIT  
P. O. BOX 3498  
HONOLULU, HAWAII 96811

PAUL C. KOKUBUN  
District Judge  
KATSUGO MIHO  
District Judge  
BARRY J. RUBIN  
District Judge  
JOHN T. WEST, JR.  
District Judge  
PATRICK K. S. L. YIM  
District Judge

March 14, 1978

Mrs. Beverly Lee  
Family Court-DOE Liaison Officer  
Department of Education  
Office of Instructional Services  
Post Office Box 2360  
Honolulu, Hawaii 96804

Dear Mrs. Lee:

As you requested, I am writing to advise you as to the minimum requirements of the Family Court relative to an agency awarded protective supervision of a minor.

The Family Court requires that an annual written report be submitted to the Court on or before the annual date the protective supervision was awarded to the agency. The annual date is the date of the Court hearing in which the order was made.

The annual report should contain all the pertinent information necessary to assist the Court in evaluating the effect of its order and the treatment and/or educational services being provided.

These are the minimum requirements of the Court. However, the Department of Education is unique in that the minor's progression and educational experiences are dependent on certain time-related achievements within the grade levels. The effect of any delay in providing educational services will have immense impact in such situations. It is, therefore, requested that Department of Education provide semiannual reports coincident with the completion of each semester. We believe that the currency of the case situation will result in improved planning and services from everyone concerned for the minor.

Additionally, should there be events occurring which affect the status of the minor, interim reports should be submitted.

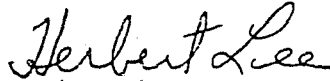
Protective supervision awarded to an agency remains in effect until further order of the Court. Therefore, any change to the status of the order must be made by legal process through your department's legal counsel.

Mrs. Beverly Lee  
March 14, 1978  
Page 2

I hope the foregoing clarifies this matter.

If there are any questions, please feel free to contact me.

Yours truly,



Herbert Lee  
Administrator  
Children and Youth Services Branch

HL:cyt

cc Robin Campaniano, Esq.  
Deputy Attorney General

Mary Jane Lee  
Family Court Director

FAMILY COURT, FIRST CIRCUIT  
Children and Youth Services Branch  
P. O. Box 3498  
Honolulu, Hawaii 96811

To: \_\_\_\_\_

From: \_\_\_\_\_

Date: \_\_\_\_\_

This Court is monitoring the attendance and behavior of \_\_\_\_\_,

Grade \_\_\_\_\_, for the week of \_\_\_\_\_.

We would appreciate it if each teacher would indicate attendance by signing the appropriate block and indicate behavior or adjustment problems, if any, on the reverse of this form.

Thank you.

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	
1						1
2						2
3						3
4						4
5						5
6						6

Forwarded by Probation Officer \_\_\_\_\_ Telephone: 548-\_\_\_\_\_

FC-S-8 (Revised 1/74)

FAMILY COURT, FIRST CIRCUIT - CHILDREN AND YOUTH SERVICES BRANCH

Request for DOE-Family Court Liaison Services

Referral Date \_\_\_\_\_

Court Officer \_\_\_\_\_

Case Number \_\_\_\_\_

Phone \_\_\_\_\_

1.

\_\_\_\_\_  
Name of Child(ren) Involved & Birthdate(s)

\_\_\_\_\_  
School

\_\_\_\_\_  
Grade

2.

\_\_\_\_\_  
Father's Name

\_\_\_\_\_  
Address & Telephone Number

\_\_\_\_\_  
Mother's Name

\_\_\_\_\_  
Address & Telephone Number

\_\_\_\_\_  
Child lives with

\_\_\_\_\_  
Address & Telephone Number

3. Nature of Request: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This form is to be used whenever services from liaison is desired.  
Prepare in duplicate, forward original.

E. Nonattendance of Students

1. Enforcing the Compulsory Attendance Laws (Regulations 4140.1, effective October, 1970)

a. Responsibilities of the Superintendent and his staff at the state level

1) To publish annual notice of legal requirements.

During the month preceding the opening of each school year there shall be published in at least one newspaper of general circulation in each district a notice which will include:

- a) A statement of the compulsory attendance age as set by law.
- b) The responsibility of parent or guardian for enrolling children.
- c) The penalty for non-attendance of students of compulsory school age.
- d) A request that any person knowing of students of school age who are not attending school notify the neighborhood public school principal.

2) To notify private schools of their responsibility. Each year a letter shall be sent to the principals of all private schools requesting that they notify the district superintendent of the area of school age



students who drop out or are dismissed and who to their knowledge do not report to another school.

b. Responsibility of the District Superintendents

- 1) To see that principals of public schools, during the first month of school, make every effort to ascertain the whereabouts of all students of school age who were expected to enroll but did not do so.
- 2) To follow up on all out-of-school students reported by private school principals and persons knowing of such students.
- 3) To provide services to the public schools or arrange for such services as will assist the schools with attendance problems they are unable to cope with.
- 4) To encourage and aid in the development of programs within the schools to compensate for learning, emotional, psychological, and sociological handicaps which discourage students from school attendance.

c. Steps to be Taken by the School

In cases where nonattendance is chronic or persistent the public schools will:

- 1) Contact the home by telephone or registered mail with a view to getting the student back in school.

- 2) Hold a parent conference (if deemed desirable) in school or visit the home to talk to the student and his/her parents.
- 3) Call upon the district office for special assistance.
  - a) When the truancy case appears to be one which involves other problems of a behavioral or emotional nature of an unfavorable home condition requiring the services of a school social worker.
  - b) When there is need for psychological assessment, speech and hearing services, or consultation on possible special education program placement.

2. Reporting Students Failing to Enroll

Reporting of the students who failed to enroll in a public school serves to identify persons, schools/districts that need assistance, progress made during the year, and possible intervention by referral to other agencies.

a. Reporting Periods

Nonattendance As Of

September 30  
November 15  
May 15

Submittal to State

October 15  
November 30  
May 31

If any of the above dates falls on a weekend, the date shall be the last school day preceding the listed date.

b. Format

The school form (see page 126) is designed for continued use over the three reporting periods with updating or additions to be entered. A district summary form is also provided (page 129).

c. Referrals to Family Court

Schools shall prepare "Failure to Enroll" petitions (sample and directions on pages 99-102) for the following students:

- 1) Students listed as of September 30 who failed to enroll.
- 2) Students who in spite of Department of Education assistance fail to enroll as of November 15.

## PROCEDURE FOR REPORTING STUDENTS FAILING TO ENROLL

Reporting of the students who failed to enroll in a public school serves to identify persons, schools/districts that need assistance, progress made during the year, and possible intervention by referral to other agencies.

### A. Reporting Periods

#### Nonattendance As Of

September 30  
November 15  
May 15

#### Submittal to State

October 15  
November 30  
May 31

If any of the above dates falls on a weekend, the date shall be the last school day preceding the listed date.

### B. Format

The school form CES-06 and instructions are designed for continued use over the three reporting periods with updating or additions to be entered. A district summary form CES-07 and instructions are also provided.

### C. Petitions to Family Court

1. Prepare Failure to Enroll Petitions (Instructions Attached) for the following students:
  - (a) Students listed as of September 30 who failed to enroll.
  - (b) Students who in spite of Department of Education assistance fail to enroll as of November 15.
2. Complete Petition Supplement (Sample Attached)
3. Complete Family Court Face Sheet (Sample Attached)
4. District - Submits to Office of Instructional Services

DEPARTMENT OF EDUCATION  
OFFICE OF INSTRUCTIONAL SERVICES

FORM CES-06

Instructions for Completing School Report of Students  
Failing to Enroll in Public School

ITEM NO.	INFORMATION REQUESTED	DETAILED INSTRUCTIONS
1	School	Enter name of school
2	District	Enter name of district
3	Date	Enter date of reporting period a. Period ending September 30 b. Period ending November 15 c. Period ending May 15
4	Name of student (Alphabetical listing)	Alphabetize and enter names of students by last name, first.
5	Birthdate	Enter birthdate of student
6a	Last known address of student	Enter last known address of student
6b	Last known phone of student	Enter last known phone of student
7	Name of parent/guardian	Enter name of parent/guardian
8a	Last enrolled date	Enter last enrolled date
8b	Last enrolled grade	Enter last enrolled grade
9	Summary Statement of All Steps Taken to Locate or Help the Student	Enter summary statement of all steps taken to locate or help the student. Use back of page as needed.
	Current Status - Date (To be used to update report)	
10a	Enrollment	To update status of previously identified student, enter date of enrollment if applicable.
10b	Withdrawal	Likewise, if student has withdrawn since previous report, enter date of withdrawal.
10c	Family Court Referral	Enter date of referral to Family Court if applicable.

ITEM NO.	INFORMATION REQUESTED	DETAILED INSTRUCTIONS
10d	Other (Specify)	Specify other information such as referral to Department of Social Services and Housing and include date if applicable.
11	Total Number of Non-Enrolled Students	Enter the total number of non-enrolled students for the reporting period.
12	Principal's Signature	Principal signs report when completed.
13	Date	Principal enters date report signed.

125.

SCHOOL ①  
 DISTRICT ②  
 DATE ③

SCHOOL REPORT OF STUDENTS FAILING TO ENROLL IN PUBLIC SCHOOL

ALPHABETICAL LISTING NAME OF STUDENT LAST FIRST	BIRTHDATE	LAST KNOWN		NAME OF PARENT/GUARDIAN	LAST ENROLLED		SUMMARY STATEMENT OF ALL STEPS TAKEN TO LOCATE OR HELP THE STUDENT	CURRENT STATUS - DATE			
		ADDRESS	PHONE		DATE	GRADE		ENROLLMENT	WITHDRAWAL	FAMILY COURT REFERRAL	OTHER (Specify)
④	⑤	⑥a	⑥b	⑦	⑧a	⑧b	⑨	⑩a	⑩b	⑩c	⑩d

Distribution: (2) District Superintendent  
 (1) School

TOTAL NUMBER OF NON-ENROLLED STUDENTS ⑪

⑫ ⑬  
 PRINCIPAL'S SIGNATURE DATE

DEPARTMENT OF EDUCATION  
OFFICE OF INSTRUCTIONAL SERVICES

FORM CES-07

Instructions for Completing District Summary of Students  
Failing to Enroll in Public School

ITEM NO.	INFORMATION REQUESTED	DETAILED INSTRUCTIONS
1	District	Enter name of district
2	Date	Enter date of reporting period a. Period ending September 30 b. Period ending November 15 c. Period ending May 15
3	Alphabetical List of All Schools	Alphabetize and enter name of schools.
4	Period Ending September 30 No. of Students Failing to Enroll	Enter number of students failing to enroll at each school for the period ending September 30.
5a	Period Ending November 15 No. of Students Failing to Enroll	Enter number of students failing to enroll at each school during the period ending November 15. This includes the students unaccounted for in the previous period and any newly identified students.
5b	No. of Previously Identified Students Who Enrolled	Enter number of previously identified students who enrolled during the period ending November 15. (Enrollment in school or other alternative program.)
5c	No. of Previously Identified Students Withdrawn	Enter number of previously identified students withdrawn during the period ending November 15.
6a	Period Ending May 15 No. of Students Failing to Enroll	Enter number of students failing to enroll at each school for the period ending May 15. This includes the students unaccounted for in the previous period and any newly identified students.



FORM CES-07

ITEM NO.	INFORMATION REQUESTED	DETAILED INSTRUCTIONS
6b	No. of Previously Identified Students Who Enrolled	Enter number of previously identified students who enrolled during the period ending May 15. (Enrollment in school or other alternative program.)
6c	No. of Previously Identified Students Withdrawn	Enter number of previously identified students withdrawn during the period ending May 15.
7a	Total	Enter total number of all schools.
7b	Total	Enter total number of students failing to enroll for the period ending September 30.
7c	Total	Enter total number of students failing to enroll for the period ending November 15.
7d	Total	Enter total number of previously identified students who enrolled during the period ending November 15.
7e	Total	Enter total number of previously identified students withdrawn during the period ending November 15.
7f	Total	Enter total number of students failing to enroll during the period ending May 15.
7g	Total	Enter total number of previously identified students who enrolled during the period ending May 15.
7h	Total	Enter number of previously identified students withdrawn during the period ending May 15.
8	District Superintendent's Signature	District Superintendent signs report when completed.
9	Date	District Superintendent enters date report signed.

DISTRICT 1  
DATE 2

Alphabetical List of All Schools	PERIOD ENDING SEPTEMBER 30	PERIOD ENDING NOVEMBER 15			PERIOD ENDING MAY 15		
	No. of Students Failing to Enroll	No. of Students Failing to Enroll	No. of Previously Identified Students Who Enrolled	No. of Previously Identified Students Withdrawn	No. of Students Failing to Enroll	No. of Previously Identified Students Who Enrolled	No. of Previously Identified Students Withdrawn
(3)	(4)	(5a)	(5b)	(5c)	(6a)	(6b)	(6c)
TOTAL	(7a)	(7b)	(7c)	(7d)	(7e)	(7f)	(7g)

(8)

\_\_\_\_\_  
DISTRICT SUPERINTENDENT'S SIGNATURE

⑨  
DATE

Distribution: (1) District  
(1) OIS with school-by-school reports attached

F. Police Interviews and/or Arrest of Students During School Hours

1. Non-School-Related Offenses

- a. A police officer may interview a student for non-school-related offense only when parental consent is obtained and the parent is advised that he/she may be present at such an interview.
- b. When parental consent for an interview is obtained the parent or student may request that the principal or his designee be present during the interview as an observer.
- c. The principal or his designated staff shall keep a log and record the name of the student, date, starting and ending time of interview, name of school official present, and name of the police officer.

1) Reporting Periods

<u>Ending Dates</u>	<u>District Submittal to State</u>
End of First Semester	2 weeks after the end of the first semester
End of School Year	2 weeks after the end of the school year

2) Format

The "Log, Police Interviews and/or Arrest of Students During School Hours"

is designed for use by schools in compliance with DOE Rule 3, Relating to Police Interviews and/or Arrest of Students During School Hours. A sample form is provided on page 134.

2. School Related Offenses

- a. Police officers may appear at school to question a student.
- b. If a student is arrested the principal or his designee shall follow the procedure for "arrests."

3. Police Arrests

- a. Police have the legal right to make an unhindered arrest in the school.
- b. When possible the student should be arrested in the principal's office.
- c. Upon notification of a student's arrest the principal should make an effort to inform the parents.

DIRECTIONS FOR COMPLETING LOG

POLICE INTERVIEWS AND/OR ARREST OF STUDENTS DURING SCHOOL HOURS

ITEM NO.	INFORMATION REQUESTED	DETAILED INSTRUCTIONS
1	Date	Enter ending date of reporting period
2	District	Enter name of district
3	School	Enter name of school
4	Student	Enter name of student
5	Police Officer	Enter name of police officer
6	Date	Enter date parental consent obtained
7	Time	Enter time parental consent obtained
8	Approval	Check (✓) if parental consent obtained
9	Denied	Check (✓) if parental consent denied
10	Name of Parent	Enter name of parent
11	Person Contacting Parent	Enter name of person contacting parent
12	Date	Enter date of interview
13	Time	Enter starting time of interview
14	Time	Enter ending time of interview
15	School Official Present	Enter name of school official present
16	Date	Enter date of school related interview
17	Time	Enter starting time of school related interview

ITEM NO.	INFORMATION REQUESTED	DETAILED INSTRUCTIONS
18	Time	Enter ending time of school related interview
19	School Official Present	Enter name of school official present for school related interview
20	Date	Enter date parent notified of arrest
21	Time Notified	Enter time parent notified of arrest
22	Explanation	Enter explanation if parent not notified
23	Name of School Official	Enter name of school official notifying parent
24	Total Number of Students	Enter total number of students interviewed for non-school-related offenses
25	Total Number of Students	Enter total number of students interviewed for school related offenses
26	Total Number of Arrests	Enter total number of students arrested
27	Principal's Signature	Principal signs report when completed
28	Date	Enter date report signed and submit to district office

①

LOG: POLICE INTERVIEWS AND/OR ARREST OF STUDENT DURING SCHOOL HOURS

DISTRICT  
SCHOOL

②

③

[illegible]

TOTAL NO. OF STUDENTS: NON-SCHOOL RELATED OFFENSES

### SCHOOL RELATED OFFENSES

**ARREST**

27  
PRINCIPAL'S SIGNATURE

28  
MIN

STATE OF HAWAII  
BOARD OF EDUCATION

RULE 3. RELATING TO POLICE INTERVIEWS AND/OR  
ARREST OF STUDENTS DURING SCHOOL HOURS

3.1 Philosophy

On occasions it is necessary for police officers to interview students during school hours or to take them into custody. This rule is intended to safeguard the rights and interests of students in attendance; to assist police in the performance of their duties; to preserve the school milieu; and to delineate responsibilities of school personnel.

3.2 Definitions

"Parents" means the natural or legal parents, guardian or other custodian of the student.

"School related offenses" includes incidents involving school property, or acts committed on school property during school hours or acts committed during school functions or activities.

3.3 Applicability

All matters relating to police interviews and/or arrest of students during school hours shall be administered in accordance with this rule.

3.4 Police Interviews in the School for Non-School Related Offenses

- a. The police officer shall contact the school and advise the principal of the nature and circumstances of the visit. Prior to any interview, efforts should be made by a school official to contact the parents to notify them of the nature of the proposed police interview, to seek parental consent and to advise the parent that he/she may be present at such interview.
- b. Upon arrival at the school, the police officer shall be directed to the principal or a member of the school administrative staff designated to act for the principal in his absence to request permission to interview a student.
- c. No interview(s) shall be granted until parental consent is obtained.
- d. Where the request for interview is granted and where the parent(s) is unable to attend the interview, the parent or student may request that the principal or his designee be present at the interview as an observer.
- e. The principal or his designated staff shall keep a log and record the name of the student, date, starting and ending time of interview, name of school official present, and name of police officer.



- f. If the student is arrested by the police, the principal or his designee shall follow the procedures prescribed in section 3.6 of this rule.

3.5 Police Interview in the School for School Related Law Offenses

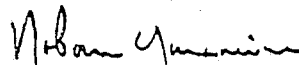
- a. Police officers may appear at school to question a student.
- b. Upon arrival at the school, the police officer shall be directed to the principal or a member of the school administrative staff designated to act for the principal in his absence to request permission to interview a student.
- c. If a student is arrested, the principal or his designee shall follow the procedures prescribed in section 3.6.

3.6 Arrest Made by the Police in the School

- a. The police have the legal right to make an unhindered arrest in the school.
- b. Police shall be directed to the principal's office.
- c. Whenever possible the student shall be sent to the principal's office for the police officer to effect the pending arrest.
- d. Upon notification that a student has been arrested by the police, the principal should make an effort to inform the parents of the student.

Effective Date: The proposed new Rule 3 shall become effective ten days after filing with the Lieutenant Governor of the State of Hawaii.

Adopted: April 14, 1977



NOBORU YONAMINE  
Chairman, Board of Education

Approved as to Form:

  
Deputy Attorney General

Date: June 7, 1977

Notice of public hearings published in the Honolulu Advertiser on December 20, 1976, The Hawaii Tribune Herald on December 20, 1976, The Garden Island on December 20, 1976, and the Maui News on December 22, 1976.

GOVERNOR'S OFFICE

JUN 8 1977

REC'D BY

APPROVED:

  
GOVERNOR OF HAWAII  
Date: JUN 8 1977

## V. OTHER RELATED PROCEDURES

To ensure adequate fulfillment of due process, there are numbers of related procedures which affect the educational services to the target children. These procedures are briefly referred to in this section.

### A. Transfer to Another School, HRS 298-20

Effective as of December 31, 1975, all schools may accept a school-age child who does not produce a certificate of release from the school last attended. The Department's emphasis should be placed on admitting the child and making adjustments upon receipt of the certificate of release.

Where the child shows up without a release, the principal shall have the responsibility to assist the child in obtaining the necessary documents as required by Hawaii Revised Statutes 298-20.

"Sec. 298-20 Transfer to another school. No school, either public or private, shall receive any child under eighteen years of age, who has attended another school of the same class in the same district, unless the child produces to the school to be entered, a certificate of release of the school last attended by the child. If the child applies to attend a school of higher grade, a certificate of proficiency shall be required or a lawful excuse for its absence. The children from one district desiring to enter a school in another district, may be received or admitted upon producing a certificate of release from the school last attended in the other district."

The principal shall make every effort to enroll the student in his/her school unless there is good cause shown why the child should not be enrolled.

The principal should enroll the child in his/her school with the understanding, of course, that adjustment in grade level and/or courses of instruction may be made upon receipt and review of the child's education records from his prior school.

B. District Exception

Under serious disciplinary actions, the disciplinary transfer of a student from his home school to another school may be the desired action. Also, after approval of a district exception, it may be necessary to revoke the approval.

Rule 26, Relating to District Exceptions for School Attendance prescribes numerous steps in the procedures which must be adhered to as a result of previous court action. A copy of the Rule and related instructions is found on pages 143-159.

C. Responding to Subpoenae and Other Requests for Information

Prior clearance with the Department of the Attorney General before responding to subpoenae and other requests for information by private attorneys will be required for the following situations:

1. Where the department, division, or any personnel in his official capacity is or may be a party to a lawsuit, or when such information do not relate to a matter in violation of law and are deemed necessary for the protection of a character or reputation of any person. §92-51, HRS.
2. When there is sensitive or confidential information relating to the privacy of individuals, i.e., investigations, reports, or test results for State employment or license.
3. In any other situation where the request or subpoena is aimed at anything which is NOT CLEARLY a matter of "public record."

PUBLIC RECORDS. §292-50. Definition. "As used in this part, "public record" means any written or printed report, book or paper, map or plan of the State or of a county and their respective subdivisions and boards, which is the property thereof, and in or on which an entry has been made or is required to be made by law, or which any public officer or employee has received or is required to receive for filing, but shall not include records which invade the right of privacy of an individual."

4. In situations where the request is excessively time-consuming, burdensome, or irrelevant to the subject matter.

The respective communications from the Attorney General are found on the following pages.



STATE OF HAWAII  
DEPARTMENT OF THE ATTORNEY GENERAL  
STATE CAPITOL  
4TH FLOOR  
HONOLULU, HAWAII 96813  
September 8, 1976

M e m o r a n d u m

To: All Department & Agency Heads

From: Attorney General

This is to further clarify this Department's memorandum of July 16, 1976 relating to prior clearance with the Department of Attorney General before responding to subpoenae and other requests for information.

The memorandum of July 16, 1976 shall be applicable only to the following situations:

1. Where the department, division, or any personnel in his official capacity is or may be a party to a lawsuit, or when such records do not relate to a matter in violation of law and are deemed necessary for the protection of a character or reputation of any person. §92-51, HRS.
2. Where there is a request or subpoena for possibly sensitive or confidential information relating to the privacy of individuals, i.e. investigations, reports, or test results for State employment or license.
3. In any other situation where the request or subpoena is aimed at anything which is NOT CLEARLY a matter of "public record."

PUBLIC RECORDS. §92-50. Definition. As used in this part, "public record" means any written or printed report, book or paper, map or plan of the State or of a county and their respective subdivisions and boards, which is the property thereof, and in or on which an entry has been made or is required to be made by law, or which any public officer or employee has received or is required to receive for filing, but shall not include records which invade the right of privacy of an individual.

Memo to All Department  
and Agency Heads  
Page Two  
September 8, 1976

4. In situations where the request is excessively time-consuming, burdensome, or irrelevant to the subject matter.

Please be certain to advise the requesting party that the delay is not a denial of inspection, but simply a request of the department for a determination by the Attorney General as to whether or not the document is a "public record" pursuant to §92-50, HRS.

*Ronald Y. Amemiya*  
RONALD Y. AMEMIYA

INSTRUCTIONS FOR FORM OIS-064-76

Request for School District Exception and  
Notification of Principal's Action

REFERENCE: Rule 26.7a, 26.7b(2)(a), 26.7b(2)(b)

GENERAL INSTRUCTIONS:

A. Request for School District Exception

1. Only the parent, 18 year old student, legal guardian or other legal custodian authorized to represent the student may initiate and complete action for a district exception.
2. This request and reasons therefor shall be submitted in writing by the requester to the Principal.
3. Based upon a review of the request and after careful consideration of the evidence presented and the concurrence of the Principal of the receiving school, the home school Principal shall approve or deny the request.

B. Notification of Principal's Action

1. Approved District Exceptions

- a. The home school Principal shall contact the receiving school Principal and grant a district exception when both principals concur.
- b. Approved cases shall be signed and mailed by the home school Principal and include the effective and expiration dates of the district exception.

2. Denied District Exceptions

- a. The home school Principal will review the request for district exception and if he finds the reasons do not warrant a district exception, he will deny the request and state reasons.
- b. If the home school Principal approves the request but the receiving school Principal does not concur, the receiving school Principal shall state his reasons for denial.
- c. The home school Principal will prepare and mail the denial notice.
- d. The denial notice will contain the reasons why the request was rejected and the signature of the home school Principal.



- e. Enclose Form OIS-065-76, Request for Review of Denial of District Exception, with notice of denial.

INSTRUCTIONS FOR COMPLETING FORM OIS-064-76

A. Request for School District Exception

1. To be completed by the requester.
2. Complete in sextuplicate (6). (For all requests involving two district superintendents, make a copy for the district superintendent of the receiving school.)
3. Requester retains goldenrod copy and submits the request to the Principal.

B. Notification of Principal's Action

1. To be completed by the home school Principal.
2. Complete in quintuplicate (5). (For all requests involving two district superintendents, make a copy for the district superintendent of the receiving school.)
3. To be signed by the Principal.
4. Distribute copies as shown on the form.

STATE OF HAWAII  
DEPARTMENT OF EDUCATION

REQUEST FOR SCHOOL DISTRICT EXCEPTION FOR SCHOOL YEAR \_\_\_\_\_

PLEASE TYPE

Name of Student \_\_\_\_\_ Birthdate \_\_\_\_\_ Race \_\_\_\_\_  
Last First Middle

Address of Student \_\_\_\_\_ School Now \_\_\_\_\_ Grade \_\_\_\_\_  
No. Street Apt. City Zip Code Attending

Name of Parent \_\_\_\_\_ Phone: Home \_\_\_\_\_ Bus. \_\_\_\_\_  
Last First Middle

Address of Parent \_\_\_\_\_  
No. Street Apt. City Zip Code

I request that my child be granted a school district exception to attend \_\_\_\_\_  
during the \_\_\_\_\_ school year for the following reason(s):  
Year School

(Attach additional sheets, as necessary)

In making this request, I do so with full understanding that the State of Hawaii law (Hawaii Revised Statutes, 298-18) requires that my child attends the school in the district in which I live. I certify that if this exception is granted, I will notify at once the principals of the home and receiving schools if any of the reasons or conditions change. I understand that failure on my part to abide by the foregoing may result in immediate revocation of the district exception.

Name of Requester/Relationship: ☐ Parent  
☐ 18-yr.-old Student ☐ Legal Guardian

Signature

Date

Mailing Address \_\_\_\_\_  
No. Street Apt. City State Zip Code

NOTIFICATION OF PRINCIPAL'S ACTION

Dear \_\_\_\_\_ :

After careful consideration of the evidence presented, this is to inform you that your request for school district exception for \_\_\_\_\_ to attend \_\_\_\_\_ School is hereby:

☐ APPROVED

(The concurrence of the principal of the receiving school has been obtained.) Retain this copy for verifying your request for release from home school and enrollment at the receiving school.

Effective Date \_\_\_\_\_ Expiration Date \_\_\_\_\_  
(For continued enrollment, a new request must be filed prior to expiration date.)

☐ DENIED

Because of the reason(s) stated below, I have denied your request. If you do not accept the denial, you may request in writing *within ten (10) school days of the postmark date on this notice* that the decision be reviewed by the home-school district superintendent. Your request must clearly state why you believe a district exception should be granted.

Comments (when appropriate) / Reasons for Denial: (Attach additional sheets, as necessary)

Name of Home-School Principal

Signature of Home-School Principal

Date

Name of School

Address

Phone No.

DISTRIBUTION: WHITE — Home-School District Superintendent; BLUE — School of Origin; GREEN — School of Entry; CANARY — OIS, Compensatory Education Section; PINK — Requester (after Principal's action); GOLDENROD — Requester.  
Note to Principal: For all requests involving two districts, make an additional copy for the Receiving-School District Superintendent.

INSTRUCTIONS FOR FORM OIS-065-76

Request for Review of Denial of District Exception and  
Notice of Home-School District Superintendent's Decision

REFERENCE: Rule 26.7c

GENERAL INSTRUCTIONS:

A. Request for Review of Denial of District Exception

1. Parents or 18 year old student may request in writing (within 10 days of the postmark date on the notice) that the home school district superintendent review the decision of the Principal.
2. The request must clearly state why the parents or students believe a district exception should be granted.
3. Requester retains goldenrod copy and submit original and remaining copies to the home school district superintendent.

B. Notice of Home-School District Superintendent's Decision

1. The home school district superintendent shall review the case and render a final written decision within five (5) school days.
2. The reasons for the denial of the district exception shall be included in the Notice.
3. The decision is final.
4. The Notice shall be sent by certified mail and a return receipt requested.

INSTRUCTIONS FOR COMPLETING FORM OIS-065-76

- A. Request for Review of Denial of District Exception
  - 1. To be completed by the requester.
  - 2. Complete in sextuplicate (6).
  - 3. Requester retains goldenrod copy and submits original and other copies to the home school district superintendent.
- B. Notice of Home School District Superintendent's Decision
  - 1. To be completed by the District Superintendent.
  - 2. Complete in quintuplicate (5).
  - 3. Distribute copies as shown on form.

**CONTINUED**

**2 OF 3**

**REQUEST FOR REVIEW  
OF DENIAL OF DISTRICT EXCEPTION FOR SCHOOL YEAR \_\_\_\_\_**  
(USE TYPEWRITER)

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RE: Student (Last Name first) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Birthdate \_\_\_\_\_

Home School \_\_\_\_\_

Receiving School \_\_\_\_\_

I hereby request that you review the denial-of-district exception decision dated \_\_\_\_\_, made on my child by \_\_\_\_\_, Principal of \_\_\_\_\_ School. Reasons for my request are clearly stated below: (Attach additional sheets, as necessary).

I understand that you will review the case and render a written decision within five (5) school days upon receipt of this request and that your decision will be final.

\_\_\_\_\_  
Name of Requester

\_\_\_\_\_  
Relationship

\_\_\_\_\_  
Signature of Requester

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Agency, if applicable

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
Residence Phone

\_\_\_\_\_  
Business Phone

**DISTRIBUTION:** Requester retains GOLDENROD copy and sends the original and remaining copies to the Home-School District Supt.

**NOTICE OF HOME-SCHOOL DISTRICT SUPERINTENDENT'S DECISION**

Certified Mail No. \_\_\_\_\_ Return Receipt Requested \_\_\_\_\_ Date of Mailing \_\_\_\_\_

To: \_\_\_\_\_ Re: Student \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Last First Middle

On \_\_\_\_\_, I received your request to have me review the denial-of-district exception decision made by \_\_\_\_\_, Home-School Principal.

Based upon my review of the principal's denial of a district exception, it is my decision that your request for a district exception be ☐ approved ☐ denied. This decision is final and made for the following reason(s):

\_\_\_\_\_  
Signature of Home-School District Superintendent

\_\_\_\_\_  
District

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone No.

**FINAL DISTRIBUTION:** WHITE — Requester (after District Superintendent's action); BLUE — Home-School Principal; GREEN — Receiving-School Principal; CANARY — District Superintendent; PINK — Office of Instructional Services, Pupil Personnel Services section; GOLDENROD — requester.

INSTRUCTIONS FOR FORM OIS-066-76

Revocation of District Exception and Principal's  
Recommended Action

REFERENCE: Rule 26.10a

GENERAL INSTRUCTIONS:

- A. The Principal shall immediately notify the Receiving School District Superintendent when:
1. The grounds upon which a district exception is based are found to be false.
  2. The grounds upon which a district exception is based are no longer valid because of changed circumstances.
  3. The recipient of a district exception fails to inform the principal of the receiving school of changes in the circumstances that would affect the continuance of a district exception.
- B. Form OIS-066-76 shall be used.

INSTRUCTIONS FOR COMPLETING FORM OIS-066-76

1. To be completed by the Principal.
2. Complete in quadruplicate.
3. Distribute copies as shown on the form.



STATE OF HAWAII  
DEPARTMENT OF EDUCATION

\_\_\_\_\_  
Date

TO: \_\_\_\_\_  
Receiving School District Superintendent

FROM: \_\_\_\_\_, Principal  
\_\_\_\_\_  
School

SUBJECT: Revocation of District Exception and Principal's Recommended Action

\_\_\_\_\_  
Name of Student (Last name first)

\_\_\_\_\_  
Birthdate

District Exception

Granted From \_\_\_\_\_ to \_\_\_\_\_  
School School

I recommend ☐ continuation ☐ cancellation of a district exception for the above-named student for the following reason(s):

- ☐ a. The grounds upon which a district exception is based are found to be false.

Facts:

- ☐ b. The grounds upon which a district exception is based are no longer valid because of changed circumstances.

Facts:

- ☐ c. The recipient of a district exception has failed to inform the principal of the receiving school of changes in the circumstances that would affect the continuance of the district exception.

Facts:

DISTRIBUTION: White to Receiving School District Superintendent  
Canary to Home-School Principal  
Pink to OIS, Pupil Personnel Services Section  
Goldenrod to Receiving School Principal



INSTRUCTIONS FOR FORM OIS-067-76

Notice of Revocation of District Exception

REFERENCE: Rule 26.10b(1), (2), (3), (4), (5)

GENERAL INSTRUCTIONS:

1. Revocation of a district exception shall be initiated in writing by the receiving school District Superintendent.
2. Upon receipt of Form OIS-066-76, Revocation of District Exception and Principal's Recommended Action, the receiving school District Superintendent shall initiate revocation proceedings.
3. The required contents of the notice shall be as stipulated in Rule 26.10b (1), (2), (3), (4), (5) (Refer to Rule 26.)
4. The notice shall be mailed by certified mail (return receipt requested) to the student or to his parents, legal guardian or other custodian.

INSTRUCTIONS FOR COMPLETING FORM OIS-067-76

1. To be completed by the District Superintendent.
2. Complete in quintuplicate (5).
3. Distribute copies of each letter as shown on the form.
4. Attach returned receipts to the receiving school District Superintendent's copies.



STATE OF HAWAII

DEPARTMENT OF EDUCATION

Date of Mailing \_\_\_\_\_

Certified Mail  
Return Receipt Requested

Student \_\_\_\_\_ Birthdate \_\_\_\_\_

Home School \_\_\_\_\_

Receiving School \_\_\_\_\_

Dear \_\_\_\_\_

Subject: Notice of Revocation of District Exception

This is to inform you that revocation proceedings are being initiated for the above-named student as recommended by the principal. The recommended action is to revoke the district exception. The reason(s) for revoking the district exception which forms the basis of the recommended action are:

- a. The grounds upon which a district exception is based are found to be false.

Facts:

- b. The grounds upon which a district exception is based are no longer valid because of changed circumstances.

Facts:

- c. The recipient of a district exception failed to inform the principal of the receiving school of changes in the circumstances that affect the continuance of the district exception.

Facts:

You have a right to request a conference before the receiving school district superintendent, and you may discuss the reasons for the district exception and the reasons for revocation. At the review conference, all parties shall have the right to present evidence, cross-examine witnesses, and submit rebuttal testimony. Your request can be made in writing or orally, by personal visit or telephone call, to the receiving school district superintendent.

Upon receipt of your request for a review by the receiving school district superintendent, a conference will be scheduled within ten (10) school days. You will be notified of the time, date, and place of the conference.

If a review is not requested by \_\_\_\_\_ (not less than five (5) school days after notice is mailed), the recommended action of the principal shall be implemented without such conference.

Sincerely,

\_\_\_\_\_  
Signature of Receiving School District Superintendent

\_\_\_\_\_  
District

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone No.

INSTRUCTIONS FOR FORM OIS-068-76

Notice of Conference to Review District Exception  
Revocation

REFERENCE: Rule 26.10c

GENERAL INSTRUCTIONS:

1. The District Superintendent shall schedule a conference to be held within 10 school days of the receipt of a request for a review.
2. The District Superintendent shall notify all "interested parties" (the 18 year old student, his parents, and others previously involved in the case) of the date, time, and place of the hearing in writing.
3. The hearing shall be conducted in accordance with Rule 26.10c. (Refer to Rule 26.)
4. The notice shall be mailed by certified mail (return receipt requested) to the 18 year old student and to his parents.
5. Additional notices shall be mailed to others previously involved in the case.
6. Complete Form OIS-068-76.

INSTRUCTIONS FOR COMPLETING FORM OIS-068-76

1. To be completed by the District Superintendent.
2. Complete form in quintuplicate (5).
3. Complete additional forms addressed to others previously involved in the case.
4. Xerox an additional copy for the 18 year old student.
5. Distribute copies as indicated on the form.
6. Attach returned receipts to the Receiving School District Superintendent's copies.



STATE OF HAWAII  
DEPARTMENT OF EDUCATION

Certified Mail  
Return Receipt Requested

\_\_\_\_\_  
(Date of Mailing)

Student \_\_\_\_\_ Birthdate \_\_\_\_\_

Home School \_\_\_\_\_

Receiving School \_\_\_\_\_

Dear \_\_\_\_\_

Subject: Notice of Conference to Review District Exception Revocation

This is to inform you that a conference has been scheduled based on your request dated \_\_\_\_\_.

The conference has been scheduled for \_\_\_\_\_ at \_\_\_\_\_ at \_\_\_\_\_,  
(Date of Conference) (Time) (Place)

\_\_\_\_\_  
(Address). At the conference you may present evidence, cross-examine witnesses, and submit rebuttal testimony. The conference shall be conducted as stipulated in Department of Education Rule 26, Relating to District Exception for School Attendance, Section 26.10 -- Revocation of District Exception, Part C.

Sincerely,

\_\_\_\_\_  
Signature of Receiving School  
District Superintendent

\_\_\_\_\_  
District

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone No.

INSTRUCTIONS FOR FORM OIS-069-76

Notice of Conference Review Decision Regarding  
Revocation of District Exception

REFERENCE: Rule 26.10c

GENERAL INSTRUCTIONS:

1. Based upon evidence given at the conference, the receiving school District Superintendent shall render his decision in writing, no later than three school days after the close of the conference, stating clearly the action to be taken and reasons therefor.
2. The notification of the decision shall be mailed by certified mail (return receipt requested) or personally delivered to the 18 year old student and to his parents.
3. Complete Form OIS-069-76.

INSTRUCTIONS FOR COMPLETING FORM OIS-069-76

1. To be completed by the District Superintendent.
2. Complete in quintuplicate (5).
3. Xerox an additional copy for the 18 year old student.
4. Distribute copies as shown on the form.
5. Attach returned receipts to the District Superintendent's copies.



STATE OF HAWAII

DEPARTMENT OF EDUCATION

Certified Mail  
Return Receipt Requested

\_\_\_\_\_  
(Date of Mailing)

Student \_\_\_\_\_ Birthdate \_\_\_\_\_

Home School \_\_\_\_\_

Receiving School \_\_\_\_\_

Dear \_\_\_\_\_

Subject: Notice of Conference Review Decision Regarding Revocation of District Exception

On \_\_\_\_\_, a conference review concerning the revocation of a district exception for the above-named child was held.

Based upon evidence given at this conference review, it is my decision that the district exception ☐ be ☐ not be revoked.

This decision is made for the following reasons:

You are hereby notified that this decision is final.

Sincerely,

\_\_\_\_\_  
Signature of Receiving School  
District Superintendent

\_\_\_\_\_  
District

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone No.

DISTRIBUTION: WHITE--Addressee; GREEN--Receiving School Principal; CANARY--Receiving School District Superintendent; PINK--Home-School Principal; GOLDENROD--OIS, Pupil Personnel Services Section.

STATE OF HAWAII  
BOARD OF EDUCATION

## PART II. RULES FOR DEPARTMENT OPERATIONS

RULE 26. RELATING TO DISTRICT EXCEPTIONS  
FOR SCHOOL ATTENDANCE26.1 Philosophy

Under Hawaii's laws, students are required to attend the school of the district in which they reside, however, attendance at a school in another school district may be granted at the discretion of the Department of Education, with the welfare of the student as a major consideration. When a student is granted a district exception, the student shall belong to the receiving school.

26.2 Definitions

"He" or "his" in this rule may denote either the masculine or feminine gender.

"Legal Residence" means the school district in which the parent or legal guardian resides. A student living alone with no intention of returning to his parents' residence or if the student is married and not living with his parents, then the student's residence shall be deemed to be the district in which he is living irrespective of the residence of his parents.

"School District" means an administrative unit encompassing a group of schools administered by a district superintendent.

"District Exception" means attendance at a school in a school attendance area other than the one in which a student has legal residence or attendance at a school in another school district.

"Home School" means the school within a school attendance area which the student shall attend according to his legal residence.

"Home District" means the school district in which the student legally resides.

"Receiving School" means the school, outside the school attendance area in which the student resides, which the student wishes to attend.

"Visiting Student" means a student temporarily enrolled in a school other than the one in which the student has legal residence, pending approval of a district exception.

26.3 Applicability

No district exception or revocation of district exception shall be granted except in accordance with this rule.

The transfer of an exceptional student to a school outside his attendance area, under the provisions of Rule 49, shall not require a district exception.

26.4 Authority

Principals of the home schools are authorized to approve or disapprove district exceptions. The principal of the home school shall not grant his approval without the consensus of the principal of the receiving school.

The district superintendent of the receiving school shall have the authority to revoke a district exception.

26.5 Duration

District exceptions are granted for one academic year. However, when it appears that conditions will remain the same, and when both principals agree, the home school principal may approve the exception for another year; he may also consider approving the district exception for two or more years. In such cases, he will clearly indicate the number of years on the district exception form. A request for the next to the terminal year should always be approved for the terminal year also, unless some unusual condition would not warrant it.

26.6 Notification

The Department shall inform parents and students 18 years of age or older of the procedure to request district exceptions under this rule.

26.7 Procedure

a. Initiation of District Exception. Only the parents, legal guardian or other legal custodian authorized to represent the student may initiate and complete action for a district exception.

(1) The request for a district exception shall originate in the home school district.

(a) The form (provided by the Department) for a district exception request shall be completed and signed by the parents, legal guardian or other legal custodian.

(b) Reasons offered as grounds for a district exception shall be stated. In cases of serious physical or emotional problems, the home school principal will include a brief statement of the problem on the district exception form.

(c) Parents should be urged to file the application for district exception before the end of May preceding the school term for which such exception is sought, except where the need for district exception arises subsequent to that date.

- (2) Where the applicant for district exception originally contacts the principal of the receiving school to which admission is requested, such principal may provide district exception forms and refer the applicant to the principal of the school in the home district.

b. Approval or Disapproval

- (1) The principal of the home school shall contact the principal of the receiving school. District exception shall be granted where both principals concur that granting a district exception shall further the educational interest and welfare of the student.
- (2) Notification. In all cases, parents shall receive written notification by mail of the final action taken.
- (a) Approved cases shall be signed by the home school principal and include the effective and expiration dates of the district exception.
- (b) In the case of a denial, such notice shall contain the reasons why the request was rejected and the signature of the home school principal. Included with this must be a statement that applicant may request a review by the district superintendent of the home school.
- (c) Parents may also be notified by telephone or in person of the actions taken.

c. Request for Review of Denial of District Exception

Parents or 18 year old students may request a review if the district exception is denied.

- (1) Parents or 18 year old students may request in writing (within 10 school days of the postmark date on the notice) that the home school district superintendent review the decision of the principal.
- (a) The request must clearly state why the parents or students believe a district exception should be granted.
- (b) The district superintendent of the home school district shall review the case.
- (c) The district superintendent will render a written decision within 5 school days. His decision will be final.

26.8 Change in District Exception Conditions

- a. When there is a change in the conditions upon which the granting of a district exception is based, the parents or other authorized applicant for the exception shall inform the principal of the home

district and the principal of the receiving school to which the student was granted a district exception.

- b. If it comes to the attention of either of the principals of the schools affected that the reasons for granting a district exception are no longer valid, such principal is to so inform the receiving school district superintendent in writing, indicating whether or not the district exception should be cancelled and the date cancellation should become effective.

26.9 Grounds for Revocation of District Exception

The receiving school district superintendent may at his discretion revoke a district exception for any of the following reasons:

- a. Where the grounds upon which a district exception is based are found to be false.
- b. Where the grounds upon which a district exception is based are no longer valid because of changed circumstances.
- c. Where the recipient of a district exception fails to inform the principal of the receiving school of changes in the circumstances that would affect the continuance of the district exception.

26.10 Revocation of District Exception

- a. The principal recommends cancellation of a district exception in writing to receiving school district superintendent.
- b. The district superintendent shall initiate revocation proceedings. Written notification (return receipt required) to the student, the parents, legal guardian or custodian shall contain the following:
- (1) the reason(s) for revoking the district exception which forms the basis of the recommended action;
- (2) a statement and date of the recommended action. The date of the recommended action shall be not less than 18 school days after the date the notice is mailed, except that when the parent requests a review, the effective date of the recommended action will be the last date the receiving school district superintendent has to render his decision in writing;
- (3) a statement that the parent or 18 year old student has a right to request a conference before the receiving school district superintendent at which he may discuss the reasons for the district exception and the reasons for revocation;



- (4) a statement that such a review may be requested in writing or orally by personal visit or telephone call to the receiving school district superintendent;
- (5) a statement that unless the review is requested by a date specified in the notice (which shall be not less than 5 school days after the date the notice is mailed) the recommended action of the receiving school principal shall be implemented without such conference.
- c. Review. Upon receipt of a request for a review, the receiving school district superintendent shall schedule a conference date within 10 school days and shall notify all interested parties of its date, time and place. The review shall be conducted by the receiving school district superintendent or by a disinterested person designated by him who may be an official of the Department. Reviews shall be conducted as follows:
- (1) it shall be private unless the student or his parents request that it be public;
  - (2) the receiving school district superintendent or his designee shall impartially weigh the evidence; he may request and consider any records or information relevant to the revocation of the district exception provided that such record or information shall be made available to the student and his parents;
  - (3) all parties shall have the right to present evidence, cross-examine witnesses and submit rebuttal testimony;
  - (4) such a conference may be formal;
  - (5) parents may at their own expense make or obtain a transcript or tape recording of the hearing; the Department shall, however, make a transcript or tape recording of the hearing;
  - (6) no later than 3 school days after the close of the conference, the receiving school district superintendent shall render a decision in writing stating clearly the action to be taken and the reasons therefor; such decision shall be mailed (return receipt required) or personally delivered to the student and his parents, guardian or other custodian;
  - (7) in the event that the conference is conducted by a person other than the receiving school district superintendent, the recommended decision and record shall be reviewed by the district superintendent who may accept, reject or modify the decision, provided that, in the event any change is made, the receiving school district superintendent shall state his reasons therefor in writing. The decision of the receiving school district superintendent shall be final.

Effective Date: The foregoing amendments to Rule 26 shall become effective ten days after filing with the Lieutenant Governor of the State of Hawaii.

Adopted: August 7, 1975

*Richard E. Ando*  
 RICHARD E. ANDO, M.D.  
 Chairman, Board of Education

Approved as to Form:

*Robert Y. Kawai*  
 Deputy Attorney General

Date: *Sept. 5, 1975*

Notice of public hearings published in the Honolulu Star Bulletin on Tuesday, July 8, 1975 and the Sun Press on Wednesday, July 9, 1975

APPROVED:

*George R. Rungtshi*  
 GOVERNOR OF HAWAII  
 Date: SEP 20 1975

RECORDED BY *fb*  
 100-100000-100000

D. Release of Educational Records to the Family Court

The provisions in Rule 50, Relating to the Protection of Educational Rights and Privacy of Students and Parents, and the Hawaii Revised Statutes, which gives us the authority to release such information, follow:

1. Rule 50.13 a.8. "Those authorized by State statutes either to receive or to disclose such information prior to November 19, 1974 (effective date of the new Federal Privacy Rights of Parents and Students Act)."
2. Hawaii Revised Statutes Section 571-86 Cooperation. "Every public official or department shall render all assistance and cooperation within his or its jurisdictional power which may further the objects of this chapter. The court may seek the cooperation of organizations whose object is to protect or aid children and family life."

Hawaii Revised Statutes Section 571-86 was in effect prior to November 19, 1974 and therefore, the Department shall release information to the Family Court.

A sample of an official request is found on pages 162-164.  
(Effective July, 1976)

- a. Educational records are to be released in accordance with Rule 50 and Court orders throughout the school year and during the summer months.

- b. During the summer months, office staff shall request district assistance and guidance (when the principal is on vacation) regarding Court orders and requests.
- c. Clerical staff may assist in completing Court requests but they shall not be directly responsible for completing reports to the Court.



BETTY M. VITOUSEK  
Senior Judge  
JOHN C. LANHAM  
Judge  
MARY JANE LEE  
Director

STATE OF HAWAII  
FAMILY COURT  
FIRST CIRCUIT  
P. O. BOX 3498  
HONOLULU, HAWAII 96811

PAUL C. KOKUBUN  
District Judge  
KATSUGO MIHO  
District Judge  
BARRY J. RUBIN  
District Judge  
JOHN T. WEST, JR.  
District Judge  
PATRICK K. S. L. YIM  
District Judge

Dear

RE:  
DOB:

May we request your assistance in having the attached form completed and returned in ten days on the above-named minor who may come within the Court's jurisdiction.

This report will be helpful in understanding the child's school situation so that an appropriate disposition may be made by the Court.

For your guidance, the following statutory provisions are quoted:

§571-84. Records. ... "No information obtained or social records prepared in the discharge of official duty by an employee of the court shall be disclosed directly or indirectly to anyone other than the judge or others entitled under this chapter to receive such information, unless and until otherwise ordered by the judge."...

§571-86. Cooperation. "Every public official or department shall render all assistance and cooperation within his or its jurisdictional power which may further the objects of this chapter. The court may seek the cooperation of organizations whose object is to protect or aid children and family life."

Thank you very much for your cooperation in this matter.

Very truly yours,

*Betty M. Vitousek*  
Betty M. Vitousek  
Senior Judge

Refer to: Probation Officer  
Phone: 548-

## SCHOOL REPORT

2. SCHOOL \_\_\_\_\_ Grade \_\_\_\_\_

[illegible]

5. List known or significant health problems.

7. Are there any confidential reports on this minor? Yes \_\_\_\_\_ No \_\_\_\_\_

a. Truancy, cutting classes, disciplinary actions.

b. Has child been retained or accelerated in any grade placement.

SCHOOL REPORT

9. COMMENTS CONCERNING STUDENT'S EMOTIONAL AND SOCIAL STATUS. (Please give as much detail as possible so that understanding of and planning for the student can be achieved. Emphasize your impressions of student's current status.)
10. COMMENTS CONCERNING STUDENT'S ATHLETIC AND ACADEMIC ACHIEVEMENTS. (Please give as much detail as possible so that understanding of and planning for the student can be achieved. Emphasize your impressions of student's current status.)

11. ALL OTHER SCHOOLS ATTENDED	Grade Placements	Dates	Attendance	
			Days Present	Days Absent

If insufficient space is allowed for information requested, a supplemental sheet may be submitted.

Refer to Probation Officer \_\_\_\_\_  
Phone: 548-\_\_\_\_\_

Completed by \_\_\_\_\_  
Name and title (Please print or type) \_\_\_\_\_ Date prepared \_\_\_\_\_

STATE OF HAWAII  
BOARD OF EDUCATION

## PART II. RULES FOR DEPARTMENT OPERATIONS

RULE 50. RELATING TO THE PROTECTION OF  
EDUCATIONAL RIGHTS AND PRIVACY  
OF STUDENTS AND PARENTS50.1 Philosophy

Schools maintain extensive information about students for such legitimate educational use as instruction, guidance, counseling and research. However, if released or used improperly, such information may intrude upon the privacy of students and their families. It, therefore, is imperative that there be recognition of the school's needs for relevant data for the student's benefit and the protection of an individual's rights of privacy.

50.2 Purpose

This rule sets forth requirements to insure the protection of the educational rights and privacy of students and parents in conformance with Federal laws. Should any change occur in the Federal laws, however, this rule automatically shall be revised to conform to amendments.

## 50.3 As used in this rule:

- a. "Department" refers to the Department of Education.
- b. "Education records" means all records, files, documents and other materials maintained by the Department, which contain information directly related to an individual student. Excluded are the following:
  1. Private notes and records in the possession of instructional, supervisory, administrative and support personnel of the Department, which are not accessible or divulged to anyone except to the person who substitutes in a particular job.
  2. Confidential communication protected by law.
  3. Records maintained by law enforcement units on a school campus used only for law enforcement purposes. The records shall be kept apart from the education records and shall be available only to law enforcement officials of the same jurisdiction.
  4. Department personnel employment records.
  5. Records of a physician, psychiatrist, psychologist or other recognized professional or para-professional maintained for the treatment

of a student 18 years or older. They may be reviewed by a physician or other professional designated by the student.

- c. "Student"\* is a person who is/has been in attendance in school and whose education records are maintained by the Department.
- d. "Eligible student" is one who is/was a student, at least 18 years of age.
- e. "Parent" means the natural or legal parent, guardian or other legal custodian of the student.
- f. "Days" refers to school days.
- g. "Directory information" includes the student's name, date and place of birth, address, telephone, dates of attendance, class level, major field of study, participation in officially recognized activities and sports, weight and height if member of an athletic team, awards received, graduation date, and the most recent previous educational agency or institution attended.
- h. "Right to inspect" allows a parent, eligible student or his designated representative to inspect under the supervision of personnel of the Department information concerning the student in question.

#### 50.4 Rights of Parents and Students

- a. Parents shall have the following rights with respect to the education records of their children:
  - 1. Inspect, review, challenge or obtain copies thereof
  - 2. Allow others to review them
  - 3. Grant permission for their release
- b. The rights of parents as defined in Section 50.4a. shall be transferred to the student when he attains age 18.
- c. Students under 18 years of age shall have the right to receive all educational data pertinent to facilitating instruction, guidance and counseling.

#### 50.5 Applicability

This rule shall apply to the education records of all students who are or have been enrolled in Hawaii's public schools.

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 4/. Sec. 1.2(d), Sub-Part A. Rules of General Applicability, Board of Education, states: "Words importing the singular number may extend and be applied to several persons or things; words importing the plural may include the singular; and words importing the masculine gender may be applied to females."



50.6 Access Rights to Education Records

An eligible student or his parents shall have these rights:

- a. To obtain a list of his education records maintained by the Department
- b. To inspect or review them
- c. To secure copies of such records at one's own expense, such charge not to exceed the actual reproduction cost. In case of financial hardship, the Department may waive the reproduction cost.
- d. To receive from the Department - when requested - an explanation or interpretation of such records. (See Sec. 50.9a.)
- e. To challenge their contents at a hearing
- f. If any material or files contain data on more than one person, to inspect, review or obtain information that pertains only to the student in question.

50.7 Destruction of Records

The Department may destroy or expunge any records of a student when they no longer are appropriate, relevant or required under Department rules and regulations. However, when an eligible student or parent requests access to the records, access shall be granted prior to the destruction of the records.

50.8 Notification

- a. The Department shall inform eligible students or parents annually of:
  1. Kinds of education records that are maintained by the Department
  2. Name and position of official responsible for maintenance of each type of records, who has access to each type and why they are needed
  3. Department rules and policies governing review and expunging of such records
  4. Procedures for challenging their contents
  5. Charge to be made for reproducing copies
  6. Categories of data designated as directory information
  7. Other rights and requirements under this rule.
- b. The notice provided to a parent or eligible student under this section shall be in the language of the parent or eligible student.

50.9 Procedure for Granting Access

- a. Request for Records. When an eligible student or parent requests access to the student's education records, they shall be made available within a reasonable period of time but in no case more than forty-five (45) days after such request.
- b. Notice of Meeting. The Department shall notify the eligible student or parent in writing of the time, date and place for the review of the records.

50.10 Review and Challenge of Record Contents

An eligible student or parent may request:

- a. A meeting with school personnel to review the student's education records. Every effort shall be made to resolve differences through informal meetings and discussions.
- b. The right to file a written explanation on points in question should the school disagree on expunging or changing the contents.
- c. In all matters, if agreement is not reached, a hearing may be requested to challenge, correct or delete data considered inaccurate, inappropriate or misleading.
- d. Such hearing shall not be conducted unless specifically requested orally or in writing within ten (10) school days after the conference.

50.11 Hearing

After receiving the request, the District Superintendent shall schedule such a hearing within ten (10) days. He shall notify all interested parties of its date, time and place. He or a disinterested designee, who may be an official of the Department, shall conduct this hearing under the following conditions:

- a. It shall be private unless requested otherwise by eligible student or parent.
- b. All parties shall have the right to present evidence, cross-examine witnesses and/or submit rebuttal testimony.
- c. The District Superintendent or his designee need not follow the formal rules of evidence. He shall weigh the data impartially, may request and consider any additional information relevant to the education records, provided such material first has been made available to the eligible student, parent or representative.
- d. The Department shall make a transcript or tape recording of such hearing. The eligible student or parent may record or obtain a copy of the proceedings at his own expense.

- e. The District Superintendent shall render a decision in writing no later than five (5) school days after the close of such hearing. This decision, based on the hearing record and supportive evidence, shall state clearly the action to be taken and the reasons therefor. It shall be mailed (return receipt requested) or personally delivered to the eligible student or parent.
- f. If the hearing is conducted by a person other than the District Superintendent, the District Superintendent shall review the recommended decision and proceedings. He may accept, reject or modify the decision. In the event of any change, he shall state his reasons in writing. In reviewing the recommended decision, the District Superintendent shall not consider matters outside the case record except with the consensus of both the student and parent.

#### 50.12 Appeal to the Superintendent

The eligible student or parent may appeal to the Superintendent of Education within ten (10) school days of the receipt date of the District Superintendent's notification of action.

The Superintendent's determination of each act or law at issue shall be sent to the eligible student or parent by certified mail (return receipt requested). Such notification shall inform such party of the right to file exceptions to the decision and to present argument to the Superintendent at a specified date, time and place.

#### 50.13 Consent to Release Records

- a. The Department shall not make accessible nor release any education records or personally identifiable information without the written consent of the eligible student or parent. Exceptions to this are:
  - 1. Department officials who have a legitimate educational interest in such records.
  - 2. Officials of other schools where the student intends to matriculate, provided, however, that the eligible student or parent has prior notification of a request for such information. The eligible student or parent may request a copy of such records for review; also, for an appointment for a hearing to challenge the contents thereof.
  - 3. Authorized representatives (including contractors) of:
    - (a) The Comptroller General of the U. S.
    - (b) The U. S. Secretary of Health, Education and Welfare.

4. Department staff (including contractors) who by the nature of their responsibilities must have access to education and other records for audit and evaluation purposes or for the enforcement of certain Federal regulations. Such data collected shall protect the personal identity of students or their parents and shall be destroyed when the particular project needs or requirements are met.
  5. Organizations of educational agencies or institutions for the purpose of developing, validating, and administering predictive tests, if such information will not permit the identification of any person by the organization receiving such information.
  6. Department approved accrediting organizations to facilitate the accreditation process.
  7. The Department may release information from the education records to appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other persons. The factors which should be taken into account in determining whether records may be released under this section include the following:
    - (a) Seriousness of the threat to the health or safety of the student or other persons
    - (b) Need for such records to meet the emergency
    - (c) Whether the persons to whom such records are released are in a position to deal with the emergency
    - (d) Extent to which time is of the essence in dealing with the situation.
  8. Those authorized by State statutes either to receive or to disclose such information prior to November 19, 1974 (effective date of the new Federal Privacy Rights of Parents and Students Act).
  9. Parents of a dependent student of such parents, as defined in Section 152 of the Internal Revenue Code of 1954.
  10. Appropriate authorities when such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parent(s) or the eligible student are notified of all such orders or subpoena in advance of the compliance therewith by the Department.
- b. Authorization for written consent shall contain the following:
1. Date and signature of person authorizing release of such record

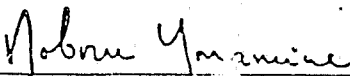
2. Kinds of records to be released
  3. Reasons for release
  4. Name of person to receive or examine such records.
- c. Where parents are separated or divorced, a written parental consent may be obtained from either parent, subject to any agreement between such parents, or court order governing the rights of such parents.
  - d. In the case of a student, except as provided in 50.13e., whose legal guardian is an institution, a party independent of the institution shall be appointed pursuant to State and local law to give a written "parental" consent.
  - e. In the case of an exceptional student, as defined in DOE Rule 49, whose legal guardian is not known, unavailable, or is an institution, a party appointed pursuant to State law and independent of the institution and the Department of Education shall have authority to give a written "parental" consent.
  - f. Personal information shall be transferred to a third party only on condition it will not be shared without the written consent of the eligible student or parent.
  - g. The Department shall give public notice of the kinds of directory information on students that are available. Within ten (10) school days after such notice, a parent may request that certain data be withheld except with his prior consent.

#### 50.14 Recording of Requests

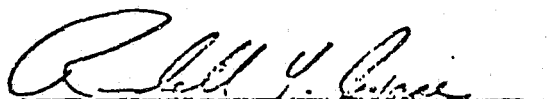
The Department shall maintain with each student's education records a log of all requesting access to such data and the reasons therefor. Exceptions to this are covered under Sec. 50.13.a.1.

Effective Date: This rule shall become effective ten days after filing with the Lieutenant Governor of the State of Hawaii.

Adopted: February 5, 1976

  
 Noboru Yonamine, Chairman  
 Board of Education

Approved as to Form--

  
Deputy Attorney General

Date: *March 12, 1976*

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Notice published of public  
hearing: Friday issue of the  
Honolulu Advertiser -  
October 10, 1975

APPROVED:

  
GOVERNOR OF HAWAII

Date: MAR 15 1976



**STATE OF HAWAII**  
**DEPARTMENT OF EDUCATION**  
 Office of Instructional Services  
 1270 Queen Emma Street  
 Honolulu, Hawaii 96813

## PARENTAL REQUEST TO WITHHOLD STUDENT DIRECTORY INFORMATION

Department of Education Rule Sec. 50.3.g. states that "Directory information" includes the student's name, date and place of birth, address, telephone, dates of attendance, class level, major field of study, participation in officially recognized activities and sports, weight and height if member of an athletic team, awards received, graduation date, and the most recent previous educational agency or institution attended.

Department of Education Rule Sec. 50.13.f. states that the Department shall give public notice of the kinds of directory information on students that are available. Within ten (10) school days after such notice, a parent or eligible student may request that certain data should not be released without the parent's or eligible student's prior consent.

The Department of Education is requested to withhold the following directory information for fiscal year July 1, 19\_\_\_\_ to June 30, 19\_\_\_\_ concerning:

\_\_\_\_\_, Birthdate \_\_\_\_\_  
 (First) (Middle) (Last Name) (Month) (Day) (Year)

Directory Information: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 Signature of parent/guardian/eligible student\*

\_\_\_\_\_  
 (Witnessed by)

\_\_\_\_\_  
 (School Official)

\_\_\_\_\_  
 (Date)

\*An "eligible student" is a student, at least 18 years of age.

**DISTRIBUTION:** WHITE - School, CANARY - Parent/guardian/eligible student.



**STATE OF HAWAII**  
**DEPARTMENT OF EDUCATION**  
 Office of Instructional Services  
 1270 Queen Emma Street  
 Honolulu, Hawaii 96813

## CONSENT FOR OTHERS TO REVIEW STUDENT EDUCATION RECORDS

Date \_\_\_\_\_

Permission is granted to:

\_\_\_\_\_  
 Name of Person

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 City

\_\_\_\_\_  
 State

\_\_\_\_\_  
 Zip Code

to review the education records of \_\_\_\_\_  
 (First) (Middle) (Last Name)

Birthdate \_\_\_\_\_  
 (Month) (Day) (Year)

\_\_\_\_\_  
 Signature of Parent, Guardian, or Eligible Student\*

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 City

\_\_\_\_\_  
 State

\_\_\_\_\_  
 Zip Code

\_\_\_\_\_  
 Witnessed by

\_\_\_\_\_  
 School

\_\_\_\_\_  
 Date

\*An "eligible student" is a student, at least 18 years of age.

**DISTRIBUTION:** WHITE - Custodian of records, CANARY - Parent/Guardian/Eligible Student





STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
Office of Instructional Services  
P.O. Box 2360  
Honolulu, Hawaii 96804

REQUEST FOR COPIES OF  
STUDENT EDUCATION RECORDS

Date \_\_\_\_\_

TO \_\_\_\_\_

I request that the Department of Education provide me with copies of the education record of

\_\_\_\_\_  
(First) (Middle) (Last) Birthdate (Month) (Day) (Year)  
\_\_\_\_\_  
(Grade) (School)

I am requesting the following:

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---

---

---

\_\_\_\_\_  
Signature of parent/guardian/eligible student\*

\_\_\_\_\_  
Address of parent/guardian/eligible student\*

\_\_\_\_\_  
(Telephone Number)

\* An "eligible student" is a student 18 years of age.

Distribution: White—School, Canary—District Office, Pink—Parent/guardian/eligible student.



STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
Office of Instructional Services  
1270 Queen Emma Street  
Honolulu, Hawaii 96813

## REQUEST FOR STUDENT EDUCATION RECORDS

Date \_\_\_\_\_

TO: \_\_\_\_\_

I request that the Department of Education permit me to examine the education record of

\_\_\_\_\_, Birthdate \_\_\_\_\_  
(First) (Middle) (Last Name) (Month) (Day) (Year)

\_\_\_\_\_  
Signature of parent/guardian/eligible student\*

\_\_\_\_\_  
Address of parent/guardian/eligible student\*

\_\_\_\_\_  
(Telephone Number)

\*An "eligible student" is a student, at least 18 years of age.

**DISTRIBUTION:** WHITE - Custodian of records, CANARY - Parent/guardian/eligible student.



**STATE OF HAWAII**  
 DEPARTMENT OF EDUCATION  
 Office of Instructional Services  
 1270 Queen Emma Street  
 Honolulu, Hawaii 96813

## NOTICE OF MEETING: REVIEW OF RECORDS

Date \_\_\_\_\_

TO: \_\_\_\_\_

Your request dated \_\_\_\_\_ for permission for you to examine  
 the education record of

\_\_\_\_\_, Birthdate \_\_\_\_\_  
(First) (Middle) (Last Name) (Month) (Day) (Year)

is hereby granted. The records may be examined at \_\_\_\_\_, date \_\_\_\_\_  
(Time) (Month) (Day) (Year)

at \_\_\_\_\_  
(Location)

\_\_\_\_\_  
 Department Official

\_\_\_\_\_  
 Office/School

\_\_\_\_\_  
 Address

\*An "eligible student" is a student, at least 18 years of age.

**DISTRIBUTION:** WHITE - Parent/guardian/eligible student\*, CANARY - Custodian of records



**STATE OF HAWAII**  
 DEPARTMENT OF EDUCATION  
 Office of Instructional Services  
 1270 Queen Emma Street  
 Honolulu, Hawaii 96813

## CHALLENGE OF EDUCATION RECORDS REQUEST FOR HEARING

TO: \_\_\_\_\_ District \_\_\_\_\_ Date \_\_\_\_\_  
 (Name of District Superintendent)

Concerning: \_\_\_\_\_ Birthdate \_\_\_\_\_  
 (First) (Middle) (Last Name) (Month) (Day) (Year)

Sex \_\_\_\_\_ School \_\_\_\_\_ Grade \_\_\_\_\_

FROM: \_\_\_\_\_ Business Phone \_\_\_\_\_ Home Phone \_\_\_\_\_  
 Full name of parents/guardians or eligible student\*

Address \_\_\_\_\_ Zip Code \_\_\_\_\_

According to the Department of Education's Rule 50, if after a conference to review the student's education record and still being unable to agree with school officials on expunging or changing the content, the parents/guardians or eligible student\* may request a hearing. The following procedures are to be followed:

1. Request may be made by returning this completed form, by telephoning or calling in person not later than ten (10) school days after the conference.
2. At the hearing, evidence may be presented, witnesses called and cross-examined; and attorney or others may represent the parents/guardians/eligible student.\*
3. The District Superintendent shall schedule a hearing within 10 school days upon receipt of request, and shall notify all persons concerned.

A hearing is requested to challenge the education record of the above named student under the provisions of Rule 50, Sec. 50.11.

1. Private \_\_\_\_\_ Public \_\_\_\_\_ (Private, if public hearing is not requested)
2. Will tape/transcribe at own expense \_\_\_\_\_
3. Will be represented by \_\_\_\_\_
4. Request the following witness(es) \_\_\_\_\_
5. The conference with school officials was conducted on \_\_\_\_\_ (Date)

Signature \_\_\_\_\_ (Date)  
 Parents/guardians/eligible student\*

\*An "eligible student" is a student, at least 18 years of age.

**DISTRIBUTION:** WHITE - District Office, CANARY - Parent/Guardian/Eligible Student, PINK - School.



**STATE OF HAWAII**  
DEPARTMENT OF EDUCATION  
Office of Instructional Services  
1270 Queen Emma Street  
Honolulu, Hawaii 96813

## CHALLENGE OF EDUCATION RECORD HEARING REPORT

To: \_\_\_\_\_  
Parents/Guardian/Eligible Student\*

Address \_\_\_\_\_ Zip Code \_\_\_\_\_

In accordance with Department of Education Rule 50, Section 50.11, a hearing to challenge the education record of the following student was conducted:

\_\_\_\_\_  
(First) (Middle) (Last Name) Birthdate \_\_\_\_\_  
(Month) (Day) (Year)  
\_\_\_\_\_  
(District) (School) (Grade) (Sex)

### Details of Hearing:

Conducted by \_\_\_\_\_ Date \_\_\_\_\_  
(Hearing Officer)

Time \_\_\_\_\_ Place \_\_\_\_\_

### Participants:

School Personnel \_\_\_\_\_

Student/Family representative(s) \_\_\_\_\_

Relationship \_\_\_\_\_

Witness(es) \_\_\_\_\_

Others \_\_\_\_\_

**Hearing Decision** (Must be rendered no later than five (5) school days after the close of such hearing.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You may appeal this decision by writing or telephoning the Superintendent of Education within ten (10) school days of the receipt date of the District Superintendent's Hearing Report.

District Superintendent \_\_\_\_\_ Date \_\_\_\_\_  
(Signature)

Decision must be hand delivered and receipt obtained or sent by registered mail, return receipt requested to parent(s)/eligible student.\*

\*An "eligible student" is a student, at least 18 years of age.

**DISTRIBUTION:** WHITE - Parents, CANARY - District Office, PINK - OIS-Student Affairs, GOLDENROD - School.



**STATE OF HAWAII**  
DEPARTMENT OF EDUCATION  
Office of Instructional Services  
1270 Queen Emma Street  
Honolulu, Hawaii 96813

# AUTHORIZATION TO RELEASE STUDENT EDUCATION RECORDS

Authorization is granted to the Department of Education to release the following  
education records of \_\_\_\_\_,  
(First) (Middle) (Last Name)

Birthdate \_\_\_\_\_ :  
(Month) (Day) (Year)

to \_\_\_\_\_  
Name of agency or person(s)

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

for the purpose of \_\_\_\_\_

This personal information will be transmitted to the above named agency or person(s) only on the condition that it will not be shared with another agency or other person(s) without the written consent of the eligible student\* or parent(s).

Signature of parent or legal guardian \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Signature of parent or legal guardian

\_\_\_\_\_  
Date

---

Signature of eligible student\*
Date

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(Witnessed by)

(School official) \_\_\_\_\_ (Date) \_\_\_\_\_

\*An "eligible student" is a student, at least 18 years of age.

**DISTRIBUTION:** WHITE - Custodian of records, CANARY - Parent/guardian/eligible student.



**STATE OF HAWAII**  
**DEPARTMENT OF EDUCATION**  
 Office of Instructional Services  
 1270 Queen Emma Street  
 Honolulu, Hawaii 96813

# **NOTIFICATION OF COURT SUBPOENA FOR STUDENT EDUCATION RECORDS**

Date \_\_\_\_\_

\_\_\_\_\_  
 Name of parent/guardian/eligible student\*

\_\_\_\_\_  
 Address of parent/guardian/eligible student\*

Dear \_\_\_\_\_ :  
 Parent/guardian/eligible student\*

This is to inform you that a court subpoena or order has been issued for the education records of

\_\_\_\_\_  
 (First) (Middle) (Last Name) Birthdate (Month) (Day) (Year)

The Department of Education will comply with the court order.

\_\_\_\_\_  
 Principal

\_\_\_\_\_  
 School

\_\_\_\_\_  
 Address

\*An "eligible student" is a student, at least 18 years of age.

**DISTRIBUTION:** WHITE - Parents, CANARY - District Office, PINK - OIS-Student Affairs, GOLDENROD - School.



**STATE OF HAWAII**  
DEPARTMENT OF EDUCATION  
Office of Instructional Services  
1270 Queen Emma Street  
Honolulu, Hawaii 96813

## RECORD OF REQUESTS FOR ACCESS TO STUDENT EDUCATION RECORDS

Student \_\_\_\_\_

Birthdate \_\_\_\_\_  
(Month) (Day) (Year)

Date of Request	Name of Requestor	Agency and Address	Reason	If records inspected, date shared	Signature of Requestor	School Official Supervising Request

**Instructions:**

This Record of Requests shall be placed with the Student's education records as needed and all requests for access must be logged.

DOE Rule Sec. 50.14 states that the Department shall maintain with each student's education records a log of all requesting access to such data and the reasons therefor. Exceptions to this are covered under Sec. 50.13.a.1., e.g., Department officials and staff and contractors, representatives and contractors of the U.S. Comptroller General and U.S. Secretary of HEW, DOE approved accrediting organizations, and organizations developing and validating tests if such information will not identify an individual student.



APPENDIX A

1. Family Courts - HRS 571
2. "A Guidebook for the Public Schools  
on Oahu: A Tour of the Honolulu  
Family Court

## FAMILY COURTS

### PART III. JURISDICTION

Sec. 571-11 Jurisdiction; children. Except as otherwise provided herein, the court shall have exclusive original jurisdiction in proceedings:

- (1) Concerning any person who is alleged to have committed an act prior to achieving eighteen years of age which would constitute a violation or attempted violation of any federal, state or local law or municipal ordinance. Regardless of where the violation occurred jurisdiction may be taken by the court of the circuit where the person resides, is living or is found, or in which the offense is alleged to have occurred.
- (2) Concerning any child living or found within the circuit.
  - (A) Who is neglected as to proper or necessary support, or as to medical or other care necessary for his well-being, or who is abandoned by his parent or other custodian; or
  - (B) Who is subjected to physical or emotional deprivation or abuse as a result of the failure of any person or agency to exercise that degree of care for which he or it is legally responsible; or
  - (C) Who is beyond the control of his parent or other custodian or whose behavior is injurious to his own or others' welfare or
  - (D) Who is neither attending school nor receiving educational services required by law whether through his own misbehavior or nonattendance or otherwise.

A GUIDEBOOK FOR THE PUBLIC SCHOOLS ON OAHU:  
A TOUR OF THE HONOLULU FAMILY COURT, FIRST CIRCUIT

(Revised, 8/78)

## SECTION I

### INTRODUCTION

As a member of the Department of Education, you may come into contact with the Family Court, directly or indirectly. Therefore, a working knowledge of Family Court procedures and functions will be helpful.

The Court has an important role to play when called upon. But if any "rule of thumb" were to apply, it might read, "Think of the Court as a last resource." There are many other alternatives to consider first, and for good reason. Government departments (DOE included), such as Department of Health, Department of Social Services and Housing, Honolulu Police Department (Juvenile Crime Prevention Division) and private social welfare agencies have services often better-suited to a given situation. Furthermore, although in theory an adjudication of deviant behavior should not be a future handicap to a child, in practice it often is.

The last resort decision of referring a case to Court and requesting authorization to file a petition requires careful consideration. The initial determination, of course, is the need for such action; other determinations include the nature of the action and the probable consequences of such a move, the purpose it will serve, the availability of evidence to substantiate the action, and the attitudes of the child and his/her parents (guardian).

When appropriate public and private resources have been exhausted and little or no progress has been made with the child and his/her family, it is appropriate that the Department of Education enlist active intervention of the Family Court. In such event, established DOE procedures should be implemented.

## SECTION II

### DEFINITIONS

Familiarization with these definitions will provide better understanding of the sections which follow in this guide.

#### Family Court

A court of law of the State which affords to children, minors and adults under its jurisdiction all possible help in resolving their justiciable problems and conflicts.

#### Judge

A judge of the Family Court.

#### Child

A person less than 18 years old.

#### Minor

A person less than 18 years old.

#### Adult

A person 18 years of age or older.

#### Detention

Temporary care of children in need of secure custody for their own or the community's protection in physically restricting facilities pending court disposition.

#### Shelter

Temporary care of children in physically unrestricting facilities pending Court disposition.

### Adjudicate

To hear or try and determine legally.

### Referral

A request to petition court participation or intervention.

### Jurisdiction

The statutory right and authority to interpret and apply the law. In the case of the Family Court, it assumes jurisdiction as set forth in Hawaii Revised Statutes, 1976 Replacement, Volume 7, Title 31, Family, Chapter 571, Family Courts, and supplements thereto.

### Probation

A legal status of a person created by Court order following adjudication of a case involving a violation of law, in which a minor is permitted to remain in his/her home subject to supervision by the Court or an agency designated by the Court and subject to return to the Court for violating any provision of the probation at any time during the period of the probation.

### Legal Custody

The condition created by the Court's decree which imposes on the custodian the responsibility of physical possession of the minor and the duty to protect, train, and discipline him/her, and to provide him/her with food, shelter, education, and ordinary medical care, all subject to residual parental rights and responsibility of any legally appointed guardian of the person.

### Protective Supervision

A legal status created by Court order in proceedings not involving violations of law but where the legal custody of the minor is subject to change. The minor is permitted to remain in his home under the supervision of the Court or an agency designated by the Court and subject to return to the Court during the period of protective supervision.

### Commit

To transfer legal custody.

### Offense

As used in the laws of the State, means doing what a law forbids or not doing what a law requires.

### Felony

An offense which may be punishable by imprisonment of more than one year.

### Misdemeanor

An offense which may be punishable by imprisonment, the maximum of which is one year.

### Guardian Ad Litem

A person appointed by the Court to protect the interests of a minor whenever necessary for the welfare of the minor, whether or not a parent or guardian is present.

### Guardianship of the Person

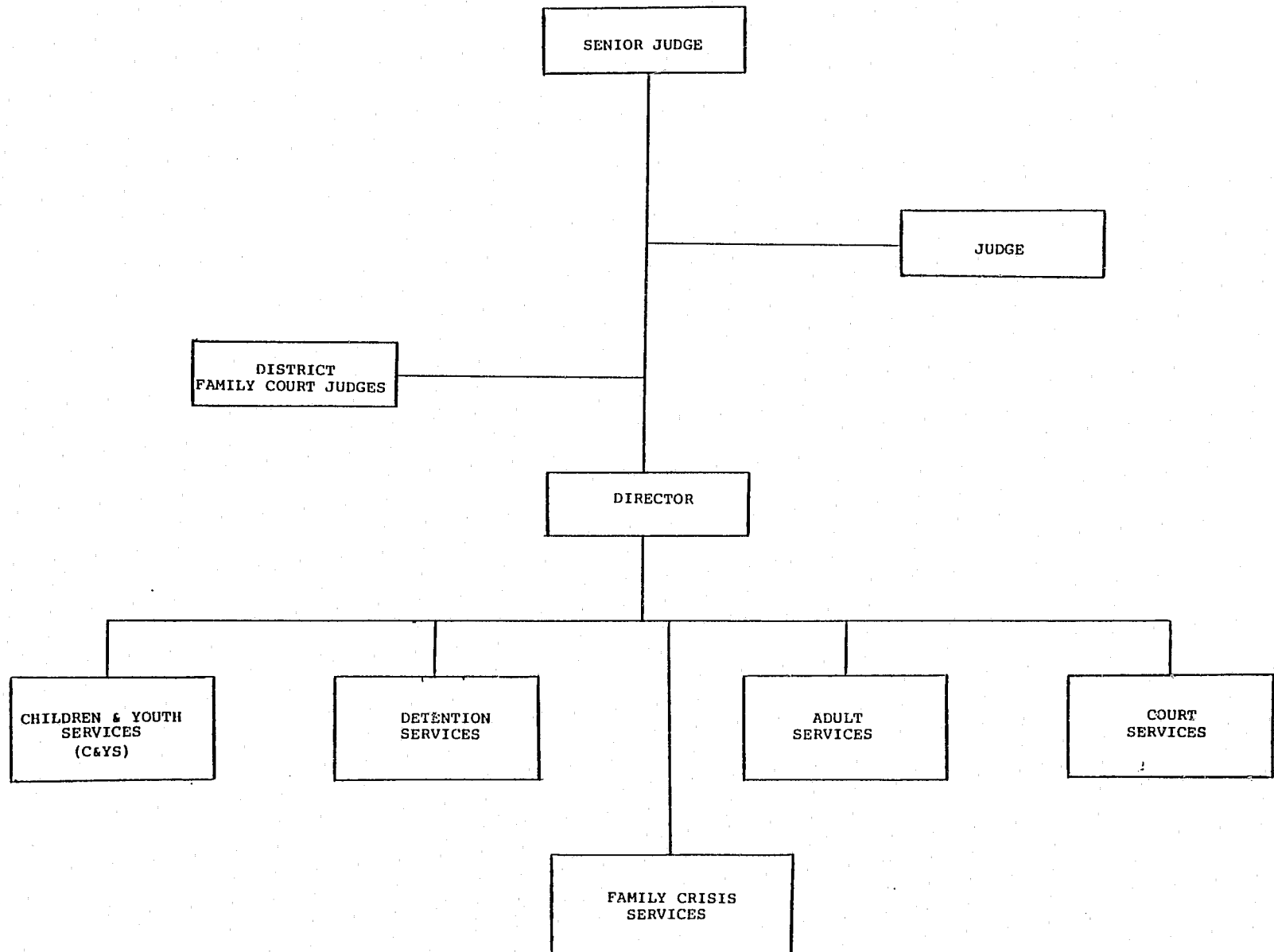
A person appointed by the Court, having the duty and authority to make important decisions in matters having



a permanent effect on the life and development of the minor and to be concerned about his general welfare. It includes but shall not necessarily be limited in either number or kind to: the authority to consent to marriage or to enlist in the armed forces or major psychiatric or surgical-medical treatment; represent the minor in legal actions; and make other decisions concerning the minor of substantial legal significance.

SECTION III

COURT STRUCTURE



### Director

- Directs and coordinates all Court programs and activities.
- Directs Court services in support of judicial functions.

### Children and Youth Services Branch

- Receives and reviews complaints and petitions.  
Conducts investigations to determine whether interest of public or minor requires further action.
- Renders probation supervision and protective supervision to children and minors referred by the Court.
- Monitors protective supervision and legal custody awarded to other agencies.

### Detention Services Branch

- Conducts detention services for children requiring detention.
- Responsible for detention services of children in need of this legal custodial care.

### Adult Services Branch

- Conducts counseling services necessary to reduce or ameliorate adult and family problems.
- Provides counseling and investigative service to assist the Court in marital and family actions.
- Conducts activities to enforce payment of support as required by Court orders.

### Court Services Branch

- Provides clerical, bailiff, documents receiving, file, and other services necessary to support the judicial mission of the Court.

## SECTION IV

### JURISDICTION (See Chart No. 1)

#### Children and Minors.

The Court has jurisdiction, upon receipt of complaints or petitions, over children who violate or attempt to violate any federal, state or municipal law; and over children who are neglected or abandoned, beyond the control of their parents or other custodians, or whose environment is injurious to their welfare, or whose behavior is injurious to their own or others' welfare or who is neither attending school nor receiving educational services required by law whether through his own misbehavior, nonattendance or otherwise.

The Family Court also handles cases for determination of the custody of any minor, or for appointment of a guardian of a minor's person. In addition, it handles adoption cases; termination of parental rights; consent to marriage; employment or enlistment; treatment or commitment of mentally defective, retarded or mentally ill minors to Waimano Training School and Hospital. An additional function involves all cases arising under the Interstate Compact on Juveniles, a Compact agreed to by a certain number of states regarding the responsibility of members in cases where children from one jurisdiction flee to another jurisdiction.

### Retention of Jurisdiction

The Court may retain jurisdiction over a minor until he/she reaches the age of eighteen years (age of majority in Hawaii), unless jurisdiction is otherwise terminated before the minor attains majority. However, in certain situations when jurisdiction is established over a minor prior to age eighteen, the Court may retain jurisdiction until he/she reaches age nineteen.

### Waiver of Jurisdiction

The Court may, after full investigation and hearing, waive its jurisdiction and permit criminal prosecution of any child sixteen years of age or older who has allegedly committed a felony. The Court may also waive jurisdiction, in the same manner, of a minor over eighteen years of age who has allegedly committed a crime before reaching the age of eighteen.

### Adults

The Court has jurisdiction over adults in limited kinds of criminal cases, such as: any offense committed against a minor by his/her parent, guardian, or legal or physical custodian; desertion, abandonment or failure to provide support for any person in violation of law; and misdemeanor offenses by a spouse against the person of a spouse.

In civil matters of the Court's jurisdiction over adults covers divorce, annulment and support proceedings, including cases arising under the Uniform Reciprocal Enforcement of Support Act, initiated in this state or received from other

states. Conciliation services are offered by the Court in certain situations, if requested by one of the parties involved. Marriage counseling services are available to those persons who feel their marriage is threatened but who have no wish to institute divorce proceedings immediately. Although counseling in this area is initially undertaken by Court staff, the cooperation of other community agencies is frequently sought.

The Court handles paternity cases. The commitment of adults to Waimano Training School and Hospital is within the Court's jurisdiction, also.

CHART NO. 1  
FAMILY COURT JURISDICTION

JURISDICTION: Children and Minors, HRS 571-11		JURISDICTION: OTHERS, HRS 571-14
CHILDREN	CHILDREN OR MINORS	
<p>1. Any child who is alleged to have violated or attempted to violate any Federal, State, or local law or municipal ordinance regardless of where the violation occurred.</p>	<p>*1. Any child living or found within the circuit.</p> <p>a. Neglected as to proper or necessary support, or as to medical or other care necessary for his well-being, or who is abandoned.</p> <p>b. Subjected to physical or emotional deprivation or abuse as a result of the failure of any person or agency to exercise that degree of care for which he or it is legally responsible.</p> <p>c. Beyond control of parents or other custodian or behavior injurious to his own or others' welfare.</p> <p>d. Neither attending school nor receiving educational services required by law whether through his own misbehavior or non-attendance or otherwise.</p> <p>2. Custody determination.</p> <p>3. For adoption.</p> <p>4. Termination of parental rights..</p> <p>5. Consent to marriage, employment or enlistment.</p> <p>6. Commitment or treatment of mentally retarded, deficient, or ill minors.</p> <p>7. Interstate Compact, juveniles.</p>	<p>1. Paternity proceedings.</p> <p>2. Annulment or divorce.</p> <p>3. Support, non-support, enforcement, desertion, abandonment.</p> <p>4. Commitment of mentally ill or deficient adults.</p> <p>5. An offense, other than a felony, against the person of the defendant's husband or wife.</p> <p>6. To try any offense committed against a minor by his parents or guardians, such as contributing to the delinquency of, ill treatment, etc.</p>

\*The Court may retain jurisdiction of a child already under its jurisdiction through the "child's" minority (less than 18 years old). The Court may not exercise initial jurisdiction over a person 18 years of age or older.

## SECTION V

### REFERRALS (See Chart No. 2)

Children arrested for alleged law violations are referred to the Court on a petition. Children considered to be in need of supervision by government departments, private social agencies, Federal authorities, parents or custodians, may also be referred to the Court on a petition.

Referrals involving children who violate or attempt to violate a law or children in need of supervision are initially handled by the intake probation officers of the Children and Youth Services Branch (C&YS) of Family Court. The intake probation officer conducts a preliminary investigation and may make an informal adjustment (with the consent of the child and his parents), or may take further action.

If further action is decided upon, the petitioner (police officer, department social worker, school officials, and others) shall verify the facts which allegedly bring the child within the purview of the Family Court Act (HRS, 1969 Chapter 571), and an "adjudication hearing" before a judge is set. This hearing is held to acquire jurisdiction on the basis of the age of the child, his residency, and the validity of the facts contained in the petition.

After jurisdiction is determined, the case is assigned to a field probation officer of C&YS for a social study of



the child and his family. Upon completion, the field probation officer prepares a written report and a recommendation regarding what court action should be taken at a "disposition hearing." The "disposition hearing" is held before a judge to determine court action in a given case.

CHART NO. 2  
FAMILY COURT  
SEQUENCE OF ACTION ON REFERRALS

REFERRAL SOURCE	COURT INTAKE	ADJUDICATION HEARING	SOCIAL STUDY BY FIELD PROBATION OFFICER	DISPOSITION HEARING
<p>Intake Probation Officers of Children and Youth Services Branch investigates each referral and may:</p> <ol style="list-style-type: none"> <li>Return to referral source.</li> <li>Make informal adjustment, such as settle without petition.</li> <li>Recommend waiver and transfer to criminal court.</li> <li>File or authorize a petition in which case a report of the preliminary investigation is presented at the adjudication hearing.</li> <li>Arrange for medical or psychological examination.</li> <li>Authorize initial placement in the detention facility.</li> </ol>		<p>Judge conducts hearings and may:</p> <ol style="list-style-type: none"> <li>Dismiss petition.</li> <li>Adjudicate and counsel and release.</li> <li>Adjudicate and proceed by continuing for disposition.</li> </ol>	<p>Gathers pertinent diagnostic information from schools, family, community, etc.; evaluates and makes appropriate recommendations to the court for disposition.</p>	<p>Judge conducts hearings and may:</p> <ol style="list-style-type: none"> <li>Dismiss petition counsel and release.</li> <li>Place on probation.</li> <li>Place minor on protective supervision.</li> <li>Vest legal custody to HYCF or other institution.</li> </ol>

## SECTION VI

### COURT HEARINGS

Most cases involving children who violate the law, and those in need of supervision, are heard by district family judges.

Hearings are closed to persons having no legitimate interest in the case. A copy of the judge's decree is given to the parents, child, and to the child's attorney if he/she has one. Any child or parent not satisfied with the decree of the Court may file a motion (not later than 10 days after the entry of the decree) for a new trial based upon affidavits served with the motion. If a new trial is denied an appeal may be made to the Hawaii State Supreme Court.

## SECTION VII

### DETENTION

#### Facility:

The Court operates Hale Ho'omalu, "The House for Care, Protection and Restriction," a detention facility for children who require secure custody pending disposition of their cases by the Court. The detention home is located at 902 Alder Street, one block Diamond Head of the intersection of Piikoi and King Streets. It is staffed by an administrator, supervisor, charge detention officers, and service personnel.

#### Procedure in Detention:

Any person who brings a child to a detention facility shall give the person in charge of the facility a signed report setting forth the reasons why the child was not released to his/her parents, guardian, or custodian.

The person in charge shall, unless the immediate welfare of the child or the protection of the community otherwise requires, release the child to the care of his/her parents, guardian, or custodian, or may admit the child to the facility subject to further order, or may place the child in some other appropriate facility.

A copy of the report, noting the time when the child was brought to the facility and stating the reasons why the child was admitted to the facility, if he/she was so admitted, shall be filed with the Court without delay.

No child may be detained longer than 48 hours (not counting Sundays and Court holidays) without a detention hearing conducted by a judge, unless such child is sooner released by a court officer, the director of detention services, or a judge. Two factors, the immediate welfare of the child and the protection of the community, must be considered in determining whether a child is to be released or continued in detention.

Upon taking a child into custody, the police and representatives of institutions or agencies vested with the child's legal custody, and probation officers must immediately notify the child's parents, guardian or legal custodian.

Upon accepting a child for detention, the Court must immediately notify the child's parents, guardian or legal custodian of the detention and of the date, time and place of the detention hearing.

Detention Hearing:

At a detention hearing the judge may order the child released to his/her parents, guardian or other responsible adult, or may order the child's continued detention for no more than one week.

If the child is not released sooner, a second detention hearing must be held at the end of the one-week period to determine whether the child is to be released or further continued in detention.

In a detention hearing, the two standards the judge follow in determining whether a child should be released or continued

in detention are the child's immediate welfare, and the protection of the community.

School Program:

The classroom at Hale Ho'omalu, receives its teachers from Olomana School, Windward District, State Department of Education. Teachers are assigned as a team to provide educational guidance to children who remain in Hale Ho'omalu.

## SECTION VIII

### THE PROBATION OFFICER

Probation Officers (commonly referred to as "P.O.s") of the Family Court, in fact are officers of the Court. As such, they perform "probation services," to supervise, counsel and assist children on probation.

In every case referred, the Probation Officer tells the child of his/her rights: the right to adequate notice of the acts allegedly giving the Court jurisdiction over the child, the right to appear by counsel and to have counsel appointed if indigent, the right to remain silent in face of an accusation, and the right to confront and cross-examine witnesses against him.

The majority of cases referred to the Court are law violators. However, the Probation Officer also assists children needing supervision. These children are not law violators but usually are parties to "status offenses." The Probation Officer investigates and reports to the Court about children who are on probation and their social situations. This assists the Court in making individualized decisions necessary to assist each child and protect the community. The Probation Officer also helps in the child's social activities, encouraging growth and self-confidence.

Representative case illustrations of a law violation situation and a child in need of supervision situation follow.

### Law Violation Situation

Jimmy Doe, 16, and a 10th grader, was referred to the C&YS Branch of the Family Court for unauthorized control of propelled vehicle--car theft. According to the police report, Jimmy and an adult male, 25, were responsible for stealing two cars. It appeared that Jimmy had not been coerced nor unduly influenced by the adult in stealing and driving the cars.

When Jimmy appeared before a Probation Officer for the first time with his widowed mother, he was sullen, curt and angry. He did not deny his responsibility in the commission of the act. He took and drove the cars because he wanted "transportation." Throughout the interview he appeared angry at his mother, especially when she appealed to the Probation Officer for help.

According to Jimmy's mother, she and her two youngest children were receiving supplementary financial assistance from the Department of Social Services and Housing. She stated that they were managing as well as possible within their limited budget. She felt that if Jimmy were able to find any type of employment, their situation might improve. In answer to the Probation Officer as to how the children were getting along in general, Mrs. Doe stated that the younger children were alright but she "really needed help with Jimmy." Jimmy was not attending school regularly and was beginning to keep late hours.



### Activities of the Probation Officer

One of the first things the Probation Officer did was send a letter of inquiry to the school Jimmy was last attending to request information about his academic and social adjustment. In addition, he contacted the social worker at DSSH to explore what both agencies could do for this family. It was decided that the DSSH worker was active with the family primarily because of financial need. Mrs. Doe felt that probation would be beneficial because of the nature of the offense and the role Jimmy played. A decision was made to present the case to the Court and recommend probation.

### Child in Need of Supervision Situation

Joanne S., 14, was referred to the Detention Facility (Hale Ho'omalulu) by the police for being a runaway. They were unable to locate her parents due to misinformation presented by the child.

A Court worker at Hale Ho'omalulu learned that Joanne was the younger of two daughters, and that Joanne felt her parents were uninterested in her activities and favored the older sister, a recent University graduate. Joanne complained her parents were critical of her friends and did not trust her. She had a number of prior runaways.

It was felt that Joanne's situation merited intervention by the Family Court because Joanne's parents, upon contact, requested help. They said Joanne did not listen to them, was unmanageable and truant from school. They were afraid

that she might be "persuaded" to take drugs by her undesirable friends. Joanne was returned to her home rather than further detained or placed in a shelter facility because her parents were able to accept her.

#### Activities of the Probation Officer

Although the Probation Officer tentatively considered referral to a social agency on behalf of Joanne and her parents, he decided to delay the referral until able to obtain more information from Joanne herself about things in general, and her parents, school, her sister and her peers. This was considered essential because of the information Joanne's mother had given. Then, too, it was felt to be in the best interest of Joanne if time were spent in motivating her, as well as her parents, to be receptive to services from another agency, aside from the Court. Joanne needed an opportunity to vent her feelings and also be regarded as an individual. In the meantime, the Probation Officer contacted the school to obtain pertinent information which would help the Court determine the most appropriate helping agency. Subsequently, a referral was made to a suitable social agency for services.

As a formal supervising figure in the child's life, the Probation Officer clearly works with the other adults associated with the child (parents, teachers, employers, social workers, police, etc.). In this way, the adults in the life of a child are made aware of their responsibilities to be part of a supportive team, necessary for providing social controls and appropriate resources to the child.

ROSTER AND PHONE NUMBERS

Adult Services Branch .....	548-4519
Children & Youth Services Branch .....	548-4600 7673, 7681
Department of Education Liaison Officer to Family Court .....	548-4635
Department of Health, Mental Health Services Division .....	548-6335 548-6336
Department of Social Services & Housing, Children's Protective Services Center .....	947-8511
Department of Social Services & Housing, Public Welfare Division .....	548-6383
Deputy Attorney General .....	548-4740
Detention Services (Hale Ho'omalū) .....	531-3581
Director .....	548-7661 533-1674 (Direct)
District Family Court Judges .....	548-7662 7663, 7665, 7676, 7679
Honolulu Police Department .....	955-8111
Judge .....	548-4705
Senior Judge .....	548-6305 536-9179 (Direct)
State Operator .....	548-2211

END