

TITLE 14

DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT

SUBTITLE 1

STATE OF HAWAII HUMAN RESOURCES RULES

CHAPTER 2

PUBLIC INFORMATION; PETITION FOR REVISION
OF RULES AND DECLARATORY RULINGS

- \$14-2-1 Public information
- \$14-2-2 Petition for adoption, amendment, or repeal
of rules
- \$14-2-3 Declaratory ruling

\$14-2-1 Public information. (a) The public may obtain information as to matters within the jurisdiction of the department of human resources development by inquiring in person at the department or by submitting a request in writing to the director of human resources development.

(b) All rules, orders, or opinions of the department of human resources development are on file and available for public inspection at the department.

(c) Rules of the department of human resources development are available to the public on the lieutenant governor's internet website.

(d) Printed copies of rules are available to the public at a price fixed by the department of human resources development in accordance with section 91-2.5, HRS, to cover mailing and publication costs. [Eff 6/22/81; am 5/19/89; comp 8/1/91; comp 6/11/92; am and comp 4/1/02; comp ^{DEC 01 2003}] (Auth: HRS §§76-17, 91-2, 91-2.5, 91-2.6) (Imp: HRS §§91-2, 91-2.5, 91-2.6)

§14-2-2 Petition for adoption, amendment or repeal of rules. (a) Any interested person may petition the department of human resources development, requesting the adoption, amendment or repeal of any rule of the department of human resources development.

(b) The petition shall be submitted in three copies to the department of human resources development. It shall include:

- (1) A statement of the nature of the petitioner's interest;
- (2) A draft or the substance of the proposed rule or amendment or a designation of the provisions sought to be repealed; and
- (3) An explicit statement of the reasons in support of the proposed rule, amendment or repeal.

(c) The director, within thirty days after the submission of the petition shall either deny the petition in writing, stating the reasons for the denial, or initiate proceedings in accordance with section 91-3, HRS, for the adoption, amendment, or repeal of the rule, as the case may be. [Eff 6/22/81; am 5/19/89; comp 8/1/91; am and comp 6/11/92; am and comp 4/1/02; comp

DEC 01 2003] (Auth: HRS §§76-17, 91-6) (Imp: HRS §91-6)

§14-2-3 Declaratory ruling. (a) Any interested person may petition the department of human resources development for a declaratory order as to the applicability of any statute which the department administers or of any rule or order of the department.

(b) The petition shall be submitted in duplicate to the department of human resources development. It shall contain:

- (1) The name, address and telephone number of the petitioner;
- (2) A statement of the nature of petitioner's interest, including reasons for the submission of the petition;
- (3) A designation of the specific provision, rule, or order in question;

- (4) A complete statement of the relevant facts;
- (5) A statement of the position or contention of the petitioner; and
- (6) A memorandum of authorities, containing a full discussion of the reasons, including any legal authorities, in support of such position or contention.

(c) Any petition which does not conform to the foregoing requirements may be rejected.

(d) The department of human resources development may, for good cause, refuse to issue a declaratory ruling. Without limiting the generality of the foregoing, the department of human resources development may so refuse where:

- (1) The question is speculative or purely hypothetical and does not involve existing facts, or facts which can reasonably be expected to exist in the near future;
- (2) The petitioner's interest is not of the type which would give the petitioner standing to maintain in action if the petitioner was to seek judicial relief;
- (3) The issuance of the declaratory ruling may adversely affect the interests of the State, the department of human resources development or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise; or
- (4) The matter is not within the jurisdiction of the department of human resources development.

(e) Where any question of law is involved, the department of human resources development may refer the matter to the State attorney general. The department of human resources development may also obtain the assistance of other agencies, where necessary or desirable.

(f) Each petition shall be either rejected pursuant to subsection (c) or acted upon within a reasonable time. Upon the disposition of the petition, the petitioner shall be promptly informed thereof by the director of human resources development.

(g) Orders disposing of petitions shall have the same status as other agency orders. Orders shall be applicable only to the fact situation alleged in the petition or set forth in the order. They shall not be applicable to different fact situations or where additional facts not considered in the order exist.

[Eff 6/22/81; am 5/19/89; comp 8/1/91; am and comp 6/11/92; am and comp 4/1/02; comp

(Auth: HRS §§76-17, 91-7, 91-8) (Imp: HRS §§91-7, 91-8)]

DEC 01 2003