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**CHAPTER 76
CIVIL SERVICE LAW**

This chapter is based upon L 1955, c 274, §1, which completely reenacted RL 1945, chapter 2. Chapter 2 was based upon L 1939, c 187, and was amended by L 1947, cc 110, 119; L Sp 1949, cc 4, 45; L 1951, cc 155, 262, 319; L 1953, c 212. Source notes following each section commence as of L 1955, c 274.

This chapter is revised to conform to L Sp 1959 2d, c 1, §11, which changed the state civil service administration by vesting in the state director of personnel services the administration of the state department of personnel services, including the authority to prescribe rules and regulations, and established the state civil service commission as an appellate body. The civil service law as to the counties of Hawaii, Maui, and Kauai remains unaffected.

The law is further revised as superseded by the provisions of the Honolulu Charter, Article V, chapter 6.

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DHEW Trans. No. 76-2
 Trans. Date. 1/17/76
 DHEW Approval 1/22/76

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DHEW Trans. No. _____
 Trans. Date _____
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PERSONNEL RULES AND REGULATIONS

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Trans. Date 5/5/78

DHEW Approval 11/27/78

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DHEW Trans. No. 76-4
Trans. Date 5/15/76
DHEW Approval 8/24/76

State of HAWAIINON-DISCRIMINATION

Described below are methods used by the State agency to assure that each program or activity for which it receives Federal financial assistance will be operated in accordance with the provisions of Title VI of the Civil Rights Act of 1964.

- (1) Agencies, organizations and contractors who provide care and services to recipients will sign written agreements that they will comply with the non-discrimination provisions of Title VI. ✓
- (2) Written information regarding the non-discrimination provisions is disseminated to applicants, recipients and providers of medical services. ✓
- (3) Applicants and recipients and interested organizations are provided the opportunity to present complaints, either orally or in writing, concerning discrimination encountered because of race, color or national origin.
- (4) Prompt investigation will be conducted by a staff officer of the State Office. A report of his findings will be submitted to the Director who shall determine whether or not there was any failure on the part of agency staff or the provider of service to comply with the Civil Rights requirements. ✓
- (5) The Director will require corrective action if he, based on the report, finds that there was discrimination.
- (6) Annual onsite Civil Rights compliance reviews are conducted at participating SNF's and ICF's.
- (7) Employees of the Department are required to participate actively in carrying out the content of the Civil Rights Act by not engaging in any acts of discrimination and reporting any instances of alleged discrimination to the Director.
- (8) Title XIX agreements with Title V and Vocational Rehabilitation agencies contain a provision for inter-agency reporting of alleged discrimination by providers of medical services.

TRANSMITTAL # <u>83-1</u>	EFFECTIVE <u>1-1-83</u>
REC'D RO <u>3-25-83</u>	SUPERSEDED BY TRANSM # _____
APPROVED <u>5-13-83</u>	EFFECTIVE _____

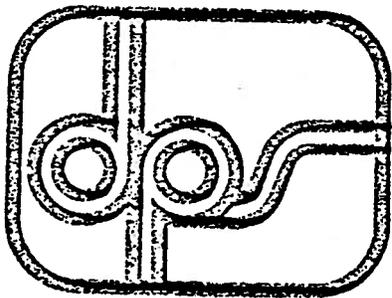
STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State HAWAIIMETHODS OF ADMINISTRATION ASSURING COMPLIANCE WITH
SECTION 504 OF THE REHABILITATION ACT OF 1973

1. As an employer of 15 or more persons, the Department of Social Services and Housing, State of Hawaii, has designated its Personnel Officer to be Coordinator of Compliance Activities.
2. Existing grievance procedures are described in the State's Personnel Rules and Regulations Manual, Chapter 14, revised May 1, 1978. The applicable pages are attached. These procedures provide due process and complaint resolution under the Personnel Officer's coordination.
3. Notices of non-discrimination which conform with the provisions of Section 504 is being sent periodically to program beneficiaries. Applicants shall be notified, in writing, of the non-discrimination requirement at the time of application and the provision shall be a part of the provider agreement or contract. Departmental employees and agents are notified verbally and by written manual materials. Department employees are provided with orientation and training on matters related to non-discrimination. All Medicaid providers shall be provided with a periodic reminder bulletin or addendum to memoranda stipulating the non-discrimination requirements. Professional organizations shall be advised by program bulletins or memoranda. The general public is notified by dissemination of program brochures as well as verbally upon an office visit.
4. This agency has evaluated its policies and practices and has begun to modify its forms and contracts to comport with the provisions of Section 504.
5. With subsequent provider agreements or contracts, Medicaid providers shall be required to submit a statement of compliance to this agency by personal signature. A provider may not be assigned a valid provider number under Medicaid until his signed agreement is on file in this office.
6. Procedures to assure compliance within the State agency include mandatory participation in orientation and training programs and dissemination of manual materials that prohibit discrimination and describe in detail grievance and appeal procedures. Procedures to assure compliance

by health care providers include information and education via program bulletins and manuals, inclusion of a responsibility by the State Survey Agency to monitor for 504 compliance to the annual certification survey, statement of compliance inserted in provider agreements, and periodically obtain responses from a sampling of recipients to assure provider compliance.

PERSONNEL RULES AND REGULATIONS



Department of Personnel Services

Donald Botelho, Director

State of Hawaii

Revised: May 1, 1978

CHAPTER 14: GRIEVANCE, APPEALS TO THE CIVIL SERVICE COMMISSION

STATEMENT OF POLICY

The purpose of this chapter is to provide a mechanism for review of certain decisions of the Director or the appointing authority.

14A. GRIEVANCES14A.1 Applicability

The regulations in this Section shall apply to employees of all positions in the State service not exempted by the provisions of HRS Section 76-16, as amended, unless otherwise specified.

14A.2 General Provisions

- a. Grievance Defined. A grievance is a complaint filed by a regular or non-regular employee alleging that there has been a misinterpretation, misapplication or violation of a personnel statute, rule, regulation or written policy as to him.
- b. Dissatisfaction with respect to matters of classification and pricing shall not be considered a grievance under this section.
- c. Except for matters covered under HRS Sections 76-41 and 76-47, any complaint by a regular or non-regular employee alleging a misinterpretation, misapplication, or violation of any of the provisions contained in HRS Chapters 76 and 77, to him shall not be subject to the procedure contained in this section. (See 14C. Appeals to the Civil Service Commission.)
- d. Actions taken by an appointing authority in the termination of services of a probational employee pursuant to Chapter 4, Filling Positions in the Civil Service, shall not be subject to the procedure contained in this section.

14A.3 Establishment of Grievance Procedure

- a. Each department head shall establish a uniform grievance procedure applicable to regular and non-regular employees.

b. Every department's grievance procedure shall be established in accordance with the following guidelines:

- (1) There shall be no more than three formal steps from inception before the department head's level.
- (2) There may be consultation with employees or employee groups in the establishment of such procedures.
- (3) No more than ten working days shall elapse between initiation at each step and notification of decision.
- (4) Employees shall be allowed a maximum of seven working days from the date of the decision to initiate further action.
- (5) The procedure shall specify that the employee shall be assured freedom from coercion, discrimination or reprisal.
- (6) The procedure shall allow for an employee's right to be represented by a person or persons of his own choosing at any step in the presentation of his grievance.
- (7) The procedure shall allow for the handling of employee grievance during office hours insofar as practicable.
- (8) The department shall prepare a standardized form to be used by an employee in the submission of his grievance.
- (9) The grievance shall be filed at the first formal step within twenty (20) calendar days after the occurrence of the alleged misinterpretation, misapplication, or violation, or, if it concerns an alleged continuing violation, then it must be filed within twenty (20) calendar days after the alleged violation first became known, or should have become known to the employee involved.

- (10) The grievance procedure for each department shall be submitted to the Director for review and approval. A department may amend its grievance procedure provided that such shall not be effective unless approved by the Director.
- (11) Upon initiation of a formal grievance, the department head shall submit a copy of the grievance to the Director. Any subsequent official correspondence related to the grievance shall be submitted to the Director upon resolution of the grievance or upon request of the Director.
- (12) Notwithstanding any of the foregoing regulations, an employee may discuss his grievance informally with his supervisor. If the grievance is still unresolved, he may file a formal grievance in accordance with the departmental procedure.

14A.4 Conclusion of a Grievance

a. Civil Service Commission

- (1) A regular employee, who was suspended, demoted or dismissed and subsequently filed a grievance, may, if the grievance is not adjusted to the employee's satisfaction, refer his grievance to the Civil Service Commission.
- (2) Any employee who is denied a step increment and subsequently filed a grievance, may, if the grievance is not adjusted to the employee's satisfaction, refer his grievance to the Civil Service Commission.
- (3) Such referrals mentioned in (1) and (2) above, shall be in writing and submitted to the Civil Service Commission within twenty (20) days from the date of the department head's decision on an employee's grievance.

b. Referral to the Governor

- (1) For grievances other than those mentioned in 14A.4a (1) and (2) above, if a grievance is not adjusted to the satisfaction of the employee, the employee may refer his

grievance to the Governor. Such referral shall be made in writing and within fifteen (15) working days from the date the department head's decision is sent to him.

- (2) The Governor shall designate such person or persons as he deems fit to serve as a grievance review committee. The committee shall review the grievance and submit a report to the Governor, including a recommendation or recommendations for the disposition of the grievance. The Governor's disposition of the grievance shall be final and binding on all persons concerned.

14B. APPEALS FROM SUSPENSION, INVOLUNTARY DEMOTION, DISABILITY DEMOTION, OR DISMISSAL

Regular employees who are suspended, involuntarily demoted, or dismissed may, in writing, appeal such action directly to the Civil Service Commission within twenty (20) days from the date the affected employee is given notice of such action, provided that the 20-day period shall be extended to 20 days from the appointing authority's decision should the employee exercise the grievance channel.

14C. APPEALS TO THE CIVIL SERVICE COMMISSION

14C.1 Any person suffering legal wrong, adversely affected or aggrieved by any action of the Director or an appointing authority in the application of HRS Chapters 76 and 77 may appeal to the Civil Service Commission.

14C.2 All appeals shall be in writing, shall contain the specific reasons for the appeal, and shall be filed with the Civil Service Commission within twenty (20) calendar days after notice of the action has been sent to the person. All appeals to the Civil Service Commission shall conform to any rules and/or regulations of the Commission.

corrective actions, the appointing authority concerned shall comply with the Director's orders and make a report thereon to the Director. If the appointing authority fails to do so, the Director shall certify the facts to the Comptroller of the State of Hawaii, with a copy to the department concerned, and thereafter no payment shall be made of salary or wages accruing to the appointing authority.

- 1F.2 Whenever the Director finds that any officer or employee has violated the laws, rules, and regulations administered by the Director, he shall take such action in accordance with law as may be appropriate to secure compliance.
- 1F.3 Whenever the Director finds that the regulations prescribing procedures contained in Chapter 14 have not been followed, he may instruct the agency to take corrective action.

1G. EQUAL EMPLOYMENT OPPORTUNITY

There shall be no discrimination in employment against any person on the basis of race, religious beliefs, political beliefs, color, age, sex, national origin, marital status, or physical and mental handicap, except for bona fide occupational or legal requirements.

IH. GENDER

Words used in the masculine gender include the feminine and neuter.