

TITLE MC-04  
DEPARTMENT OF THE CORPORATION COUNSEL  
SUBTITLE 01  
MAUI COUNTY BOARD OF ETHICS  
CHAPTER 101  
RULES OF THE MAUI COUNTY BOARD OF ETHICS

Subchapter 1 GENERAL PROVISIONS

§04-101-1	Title
§04-101-2	Purpose
§04-101-3	Definitions
§04-101-4	Duties of the board
§04-101-5	Severability
§04-101-6	Conflict with State law
§04-101-7	(Reserved)
§04-101-8	(Reserved)
§04-101-9	(Reserved)
§04-101-10	(Reserved)
§04-101-11	(Reserved)
§04-101-12	(Reserved)
§04-101-13	(Reserved)
§§04-101-14 to 04-101-19	(Reserved)

Subchapter 2 OPERATIONS & ORGANIZATION

§04-101-20	Operations
§04-101-21	Organization
§04-101-22	Meetings
§04-101-23	Executive session
§04-101-24	Quorum
§04-101-25	Minutes
§04-101-26	Authentication of board decisions, advisory opinions, and declaratory rulings
§04-101-27	Board records
§04-101-28	Disqualification of member; bias or prejudice

§04-101-29 (Reserved)

Subchapter 3 COMMUNICATIONS, FILING AND SERVICE  
OF DOCUMENTS, WITNESS FEES,  
SUBPOENAS AND CONFIDENTIALITY

§04-101-30 Communications  
§04-101-31 Computation of time  
§04-101-32 Continuances or extensions of time  
§04-101-33 Service of process  
§04-101-34 Subpoenas  
§04-101-35 Witness fees  
§04-101-36 Consolidations  
§04-101-37 Retention of documents by the board  
§04-101-38 Rules of evidence  
§04-101-39 Confidentiality  
§04-101-39.1 Right to appear  
§04-101-39.2 Representative appearance and practice  
before the board

Subchapter 4 FINANCIAL DISCLOSURES

§04-101-40 Persons required to file with the board  
§04-101-41 Persons required to file with the county  
clerk  
§04-101-42 Contents of disclosure  
§04-101-43 Filing deadline  
§04-101-44 Annual disclosure statement update  
§04-101-45 Amendment of disclosure statement or  
annual disclosure statement update  
§04-101-46 Recordation of filing  
§04-101-47 Review by the board  
§04-101-48 Late filings  
§04-101-49 Financial disclosure files; disposition  
§04-101-49.1 Penalties

Subchapter 5 ADVISORY OPINIONS

§04-101-50 Purpose  
§04-101-51 Who may request  
§04-101-52 Request for advisory opinion  
§04-101-53 Consideration and disposition of the

	request
§04-101-54	Opportunity to respond
§04-101-55	Refusal to issue an advisory opinion hearing
§04-101-56	Scope of advisory opinion and recommendations
§04-101-57	Effect of an advisory opinion
§04-101-58	Concurring or dissenting opinions
§04-101-59	Filing of an advisory opinion
§04-101-59.1	Date of issuance
§04-101-59.2	Notice to parties of record
§04-101-59.3	Publication of advisory opinions

#### Subchapter 6 COMPLAINTS

§04-101-60	Purpose
§04-101-61	Complaint initiated by a member of the public
§04-101-62	Complaint initiated by the board
§04-101-63	Processing of complaints
§04-101-64	Informal hearing
§04-101-65	Opinion; service; charge
§04-101-66	Formal hearings; notice of hearing
§04-101-67	Formal hearings; request for an open hearing
§04-101-68	Formal hearings; pre-hearing conference
§04-101-69	Formal hearings; procedures
§04-101-69.1	Motions
§04-101-69.2	Complaint disposition/opinion
§04-101-69.3	Motion to reconsider
§04-101-69.4	Record of the hearing
§04-101-69.5	Petition for impeachment
§04-101-69.6	Exclusion of witness

#### Subchapter 7 PETITIONS FOR ADOPTION, AMENDMENT, OR REPEAL OF RULES

§04-101-70	Petition for adoption, amendment, or repeal of rules
§04-101-71	Form and content of petition
§04-101-72	Processing of the petition
§04-101-73	Rejection of petition
§§04-101-74 to 04-101-79	(Reserved)

Subchapter 8     PETITIONS FOR DECLARATORY ORDER

- §04-101-80       Petition for declaratory order
- §04-101-81       Refusal of petition for declaratory order
- §04-101-82       Consideration     and     disposition     of  
                  declaratory order
- §04-101-83       Declaratory order on board's own motion
- §§04-101-84 to 04-101-89   (Reserved)

Subchapter 9     LOBBYIST REGISTRATION

- §04-101-90       Registration
- §04-101-91       Review by the board
- §04-101-92       Amendments
- §04-101-93       Notice of termination

## SUBCHAPTER 1

### GENERAL PROVISIONS

§04-101-1 Title. These rules shall be known as the "Rules of the Maui County Board of Ethics." [Eff. October 27, 1996] (Auth: Charter §§10-2.2.f, 13-2.15) (Imp: Charter §§10-2.2.f, 13-2.15)

§04-101-2 Purpose. These rules are intended to provide for the efficient administration of the Code of Ethics, as set forth in Article 10 of the Charter of the County of Maui, and implement the declared policy of the Code of Ethics, which Section 10-1 of the Charter sets forth as follows:

Elected and appointed officers and employees shall demonstrate by their example the highest standards of ethical conduct to the end that the public may justifiably have trust and confidence in the integrity of government. [Eff October 27, 1996] (Auth: Charter §10-1) ( Imp: Charter §10-1)

§04-101-2.1 Authorization. These rules are promulgated pursuant to the authority granted to the board of ethics under article XIV of the Hawaii State Constitution, articles 10 and 13 of the Revised Charter of the County of Maui (1983), as amended, chapter 2.56, Maui County Code, and chapters 84 and 91, Hawaii Revised Statutes." [Eff 4/29/13] (Auth: HI Const., art. XIV Code of Ethics; HRS chapter 84; HRS §91-3; Charter, Article 10, §13-2.15; MCC chapter 2.56) (Imp: HI Const., art XIV Code of Ethics; HRS chapter 84, HRS §91-3; Charter §10-1; §13-2.15)

§04-101-3 Definitions. As used in these rules, unless the context clearly requires otherwise:

"Advisory opinion" means an opinion rendered by the board pursuant to a request by a current or former County officer or employee concerning such officer or employee's own affairs; any person concerning the affairs of a current or former County officer or employee; or any person concerning the affairs of a person under

consideration for appointment to County office.

"Board" means the Maui County Board of Ethics.

"Business" includes a corporation, a partnership, a sole proprietorship, a trust or foundation, or any other individual or organization carrying on a business whether or not operated for profit.

"Charter" means the Revised Charter of the County of Maui (1983), as amended.

"Code of ethics" means Article 10 of the Charter of the County of Maui and ordinances adopted thereunder.

"Compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by oneself or another.

"Complainant" means a person who has filed a sworn complaint alleging that a County officer or employee, or former officer or employee, has violated the Code of Ethics.

"Conflict of interest" means a real or seeming incompatibility between one's private interests and one's public or fiduciary duties; it also has meanings as explained in past board opinions, that involve a two-part test and require interpretation of section 10-4.1.c. of the Charter, that no officer or employee of the County shall engage in any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of the officer's, or which may tend to impair the officer's or employee's independence of judgment in the performance of the officer's or employee's official duties.

"Controlling interest" means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest be greater or less than fifty percent.

"County" means the County of Maui.

"Decision" means the written conclusions of the board rendered after a contested case hearing on a complaint.

"Declaratory Order" means that of which is explained in subchapter 8.

"Employee" means any nominated, appointed, or elected officer or employee of the County, including members of boards, commissions and committees, and employees under contract to the County.

"Financial interest" means an interest held by an individual, the individual's spouse, or dependent children which is:

- (1) An ownership interest in a business;
- (2) A creditor interest in an insolvent business;
- (3) An employment or prospective employment for which negotiations have begun;
- (4) An ownership interest in real or personal property;
- (5) A loan or other debtor interest; and
- (6) A directorship or officership in a business.

"Investigation" means that of which is described in subchapter 6, complaints.

"Maui County Code" means the Maui County Code, as amended.

"Officer" includes the following:

- (1) The mayor, members of the council, and all other elected officials of the County;
- (2) Any person appointed as the administrative head of any agency of the County;
- (3) The first deputy or first assistant to the administrative head of any agency of the County;
- (4) Any person appointed as a member of a board or commission specifically provided for in the Charter, but not including boards and commissions having only advisory powers and functions;
- (5) Any person appointed as a member of any board or commission not specifically provided for in

- the Charter, but not including boards and commissions having only advisory powers and functions; and
- (6) The managing director and first assistant to the managing director.

"Lobbyist" means any person who engages himself or herself for pay or other consideration for the purpose of attempting to influence legislative or administrative action of the county.

"Official act" or "official action" means a decision, recommendation, approval or disapproval, or other action, including inaction, which involves the use of discretionary authority.

"Official authority" includes administrative or legislative powers of decision, recommendation, approval, disapproval, or other discretionary action.

"Reasonable" means fair, proper, or moderate, under the circumstances; according to reason.

"Redacted advisory opinion or decision" means a decision or advisory opinion summarized or redacted so as to delete facts disclosing the identity of persons.

"Respondent" means the person who is alleged to have violated the Code of Ethics and who is the subject of a complaint.

"Statute of limitation" means a law that bars claims after a specified period. For purposes of bringing complaints for violations of the code of ethics, the statute of limitation period shall be within one year from the alleged violation of the code of ethics by an officer or employee. The purpose of such a statute is to require diligent prosecution of known claims, thereby providing finality and ensuring that claims will be resolved while evidence is reasonable and fresh. Shall also have the meaning as described in subchapter 6, complaints. [Eff October 27, 1996, am and comp 4/29/13] (Auth: Charter §§10-2.2.f, 13-2.15) (Imp: Charter §§10-2.2.f, 13-2.15)



§04-101-4 Duties of the board. The board shall have authority to administer article 10, code of ethics, including the ability to:

- a) Initiate, receive, hear, and investigate, complaints of alleged violations of the code of ethics;
- b) Initiate impeachment proceedings against elected officers and officers appointed to elective office who are found by the board, after investigation, to have violated the code of ethics. Such proceeding shall be brought in the name of the board which shall be represented by special counsel of the board's choosing;
- c) Render advisory opinions with respect to application of the code of ethics;
- d) Prescribe financial disclosure forms;
- e) Examine all disclosure statements filed and comment on or advise corrective action as to any matters that may indicate a conflict of interest; and
- f) Adopt such rules, having the force and effect of law, as will be necessary to provide for the enforcement of the provisions of the code of ethics. [Eff October 27, 1996; am and comp 4/29/13] (Auth: HI Const., art. XIV code of ethics; HRS Chapter 84; HRS §91-3; Charter, Article 10, §10-2.2, §13-2.15; MCC, Chapter 2.56) (Imp: HI Const., art XIV; code of ethics; HRS Chapter 84, HRS §91-3; Charter §10-1; §13-2.15)

§04-101-5 Severability. If any portion of these rules or the applicability thereof is held invalid for any reason, such invalidity shall not affect other provisions or application and to this end these rules are declared to be severable. [Eff October 27, 1996; am and comp 4/29/13] (Auth: Charter §§10.2.2.f, 13-2.15) (Imp: Charter §§10-2.2.f, 13-2.15)

§04-101-6 Conflict with state law. Where the terms of these rules conflict with state law, chapter 84, Hawaii Revised Statutes, the terms of state law shall prevail. [Eff October 27, 1996; am and comp 4/29/13] (Auth: Charter §§10.2.2.f, 13-2.15) (Imp: Charter §§10-2.2.f, 13-2.15)

§04-101-7 (Reserved)

§04-101-8 (Reserved)

§04-101-9 (Reserved)

§04-101-10 (Reserved)

§04-101-11 (Reserved)

§04-101-12 (Reserved)

§04-101-13 (Reserved)

## SUBCHAPTER 2

### OPERATIONS & ORGANIZATION

§04-101-20 Operations. The offices of the board are located in the Maui County building, 200 S. High Street, Wailuku, Hawaii 96793, c/o department of the corporation counsel, or such other address where the board may be located from time to time. [Eff October 27, 1996; am 5/20/99; am and comp 4/29/13] (Auth: Charter §§10-2.2.f, 13-2.15) (Imp: Charter §§10-2.2.f, 13-2.15)

§04-101-21 Organization. (a) The board shall elect annually a chairperson, vice- chairperson, and secretary from among its members.

(b) The board may appoint standing and select committees to discharge its responsibilities and functions.

(c) The chairperson shall be the presiding officer of the board. The vice-chairperson shall serve as the presiding officer during the temporary absence, illness, or disqualification, of the chairperson. The presiding officer shall:

- (1) Open all meetings of the board at the appointed time by taking the chair and calling the meeting to order;
- (2) Call for the approval of the minutes of any preceding meeting;
- (3) Maintain order and proper decorum;
- (4) Announce all matters properly brought before the board;
- (5) Review all matters properly brought before the board, and, when appropriate, call for votes upon such matters and announce the results;
- (6) Authenticate by signature all acts of the board as may be necessary;
- (7) Perform such other duties as may be required by law; and
- (8) Make known all rules of order when requested, and decide all questions of order as parliamentarian.

(d) The secretary of the board shall, with the assistance of legal counsel and counsel staff:

- (1) Receive, submit, and coordinate all matters properly brought before the board, and oversee

preparation of the agenda, in consultation with the chairperson, legal counsel, and counsel staff;

- (2) Forward or cause to be forwarded to the proper parties all communications and other matters as may be necessary;
- (3) Perform such clerical duties and services as the board shall from time to time direct, and such as by law or these rules shall require; and
- (4) Oversee, with the assistance of legal counsel and counsel staff, the records of the board. [Eff October 27, 1996; am, ren §04-101-4 and comp 4/29/13] (Auth: Charter §§10-2.1, 10-2.2.f) (Imp: Charter §§10-2.2.f, 13-2.9)

§04-101-22 Meetings. (a) The board shall meet at a publicly owned place in the County.

(b) The board may conduct its meetings in accordance with Robert's Rules of Order Newly Revised, a copy of which shall be available at each meeting. The rules of the board shall govern in the event of a conflict between the rules of the board and Robert's Rules of Order Newly Revised.

(c) The board shall comply with chapter 92, HRS. The board shall file with the county clerk written notice of any regular, special, or rescheduled meeting, or any executive meeting when anticipated in advance, at least six calendar days before the meeting. The notice shall include an agenda that lists and describes all items to be considered at the meeting, the date, time, and place of the meeting, and, in the case of any executive meeting, the purpose therefor.

(d) Special meetings may be called by the chairperson, or by a majority of board members.

(e) Social, informal gatherings of two or more members of the board, where official business is not discussed, shall be considered chance meetings and not subject to these rules.

(f) The board shall allow all persons an opportunity to submit data, views, arguments, or oral testimony on any agenda item in a regular session. The board may remove any person who willfully disrupts or prevents and compromises the conduct of a meeting. The board may also provide for the recordation of oral

testimony and may place a reasonable time limit on such testimony.

(g) The board may recommend to the mayor and the County Council the removal of any board member who has three unexcused absences, or a total of four absences from any of the regular scheduled meetings in any County fiscal year. Excused absences shall be determined by the chairperson of the board at each regular meeting. [Eff October 27, 1996; am, ren §04-101-5 and comp 4/29/13] (Auth: HRS §91-2; Charter §§13-9, 13-2.15; MCC §2.40.210) (Imp: HRS §§92-1, 92-3; Charter §13-2.11; MCC §2.40.210)

§04-101-23 Executive session. (a) The board may conduct proceedings in executive session to the extent allowed by chapter 92, Hawaii Revised Statutes. Such proceedings shall be closed to the public, except that the board may allow the attendance, at all or part of the proceeding, of any person whom the board believes will be of assistance in addressing the issue at hand.

(b) When the board conducts proceedings in executive session, the board may condition the attendance of any person on that person's agreement not to disclose to others what occurs at the meeting. If the person does not agree to said condition, the board may receive the testimony of the person and then exclude the person from the remainder of the executive session.

(c) If a person who is the subject of an advisory opinion as provided in subchapter 5, or a complaint as provided in subchapter 6, asks that the matter be considered in executive session in order to preserve that person's privacy, the board may condition the holding of an executive session on the subject's agreement not to reveal to others the testimony of other witnesses or what was said or decided by board members at the meeting. If the subject chooses to later reveal any portion of what occurred at the meeting such that it becomes public knowledge, the board may retroactively convert the meeting to open session and make the minutes of the meeting available to the public. [Eff October 27, 1996; am, ren §04-101-12.1 and comp 4/29/13] (Auth: HRS §91-2) (Imp: HRS §92-5)

§04-101-24 Quorum. A majority of all members to which the board is entitled shall constitute a quorum to

do business. The affirmative vote of a majority of all members to which the board is entitled shall be necessary to take any action. [Eff October 27, 1996; am, ren §04-101-6 and comp 4/29/13] (Auth: HRS §92-15; Charter §13-2) (Imp: HRS §92-15; Charter §13-2)

§04-101-25 Minutes. (a) The board shall keep written minutes and may provide for the audio recording of meetings. The written minutes shall give a true reflection of the matters discussed at a meeting and the views of members. The minutes shall include, but need not be limited to:

- (1) The date, time, and place of the meeting;
- (2) The members of the board recorded as either present or absent;
- (3) The substance of all matters proposed, discussed, or decided; and a record, by individual member, of any votes taken; and
- (4) Any other information that a board member requests be included or reflected in the minutes.

(b) The written minutes of a meeting, and any audio tapes made of a meeting, shall be public records and shall be available, insofar as practicable, at least one week before the next meeting, but in any case no later than thirty days after the meeting, except where such disclosure would be inconsistent with applicable law. It shall not be necessary for the board to transcribe audio recordings unless requested for purposes of rehearing or court review. Any person requesting a copy or transcript of an audio recording, shall pay the costs incurred in the preparation of the copy or transcript. [Eff October 27, 1996; am, ren §04-101-07 and comp 4/29/13] (Auth: HRS §92-9) (Imp: HRS §92-9)

§04-101-26 Authentication of board decisions, advisory opinions, and declaratory rulings. Decisions, advisory opinions, and declaratory rulings of the board shall be signed by three or more members of the board. All other documents and communications of the board may be signed by the presiding officer or secretary of the board. [Eff October 27, 1996; am, ren §04-101-13 and comp 4/29/13] (Auth: HRS §91-2; Charter §§10-2.2.f, 13-2.15) (Imp: HRS §91-2; Charter §§10-2.2.f, 13-2.15)

§04-101-27 Board records. (a) Board records that are "government records", as defined in chapter 92F, Uniform Information Practices Act, Hawaii Revised Statutes, as amended, shall be disclosed to the extent required by chapter 92F, Hawaii Revised Statutes. Board records that are confidential under the constitution of the State of Hawaii, Hawaii Revised Statutes, and Charter or Maui County Code, shall not be disclosed by the board. All reproduction costs required by any law, rule, or ordinance shall be paid by the requesting party.

(b) Legal counsel to the board shall have charge of the board's official records and shall be responsible for the maintenance and custody of the files and records of the board, including the papers, transcripts of testimony, and exhibits filed in proceedings; the minutes of all actions taken by the board, and all its decisions; advisory opinions, interim opinions, rules, and approved forms. The legal counsel or counsel staff shall receive all documents required to be filed with the board and shall promptly stamp the time and date upon papers filed with the board. Legal counsel shall assist in the administration of the affairs of the board. [Eff 4/29/13, ren §04-101-8 and comp 4/29/13] (Auth: HRS §§92F-2, 92F-12, 92F-18; Charter §13-9) (Imp: HRS §§92F-2, 92F-12, 92F-18; Charter §13-9)

§04-101-28 Disqualification of member; bias or prejudice. (a) A party to a hearing or a member of the board may request disqualification of any board member by filing an affidavit alleging that such member cannot act impartially because of personal bias or prejudice or that the participation of such member will create an appearance of impropriety. Every such affidavit shall state the facts and reasons therefore, and shall be filed at least ten days before the date on which the matter will be considered by the board. The board member against whom the affidavit is so filed shall answer the affidavit in writing prior to the meeting or orally at the meeting or file a disqualifying certificate. If the member chooses to answer the affidavit, the remaining members of the board shall decide whether the member should be disqualified.

(b) Any board member may disqualify himself or herself, for good cause, from participating in the discussion and/or voting upon any matter, and shall state

the reasons for disqualification. [Eff 4/29/13, ren §04-101-10 and comp 4/29/13] (Auth: Charter §§10-2.2.f, 13-2.15) (Imp: Charter §§10-2.2.f, 13-2.15)



SUBCHAPTER 3

COMMUNICATIONS, FILING AND SERVICE OF DOCUMENTS,  
WITNESS FEES, SUBPOENAS AND CONFIDENTIALITY

§04-101-30 Communications. (a) Unless otherwise specified, communications to the board shall be directed to:

the Maui County board of ethics  
c/o department of the corporation counsel  
200 South High Street, Wailuku, Maui, Hawaii 96793

The date on which such communications are received by the department of the corporation counsel on behalf of the board shall be the date of filing. Written communications directed to and received by individual board members in their official capacity at an address other than the department of the corporation counsel shall be transmitted to the department of the corporation counsel within a reasonable time for dissemination to the other board members.

(b) All documents filed with the board shall be plainly legible.

(c) Documents shall be signed in ink by the person signing the same or by the person's duly authorized agent or attorney. The signature of the person signing the document shall constitute a certification that the person has read the document; that to the best of the person's knowledge, information, and belief, each statement in the document is true and no such statements are misleading; and that the document is not interposed for delay.

(d) The initial document filed by any person in any proceeding shall state on the first page thereof the name, mailing address, and telephone number of the person or persons who may be served with any documents filed in the proceeding.

(e) For pleadings, answers, motions, and memoranda, relating to complaints or hearings, the original and eleven copies shall be filed with the board. [Eff October 27, 1996; am 5/20/99; am, ren §04-101-20 and comp] (Auth: HRS §91-2; Charter §§10-2.2.f, 13-2.15) (Imp: HRS §91-2; Charter §§10-2.2.f, 13-2.15)

§04-101-31 Computation of time. In computing any period of time under these rules, the time begins with

the day following the act, event, or default, and includes the last day of the period unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. [Eff October 27, 1996, am 5/20/99; am, ren §04-101-21 and comp 4/29/13] (Auth: HRS §91-2; Charter §§10-2.2.f, 13-2.15) (Imp: HRS §91-2; Charter §§10-2.2.f, 13-2.15)

§04-101-32 Continuances or extensions of time. Except as otherwise provided by law, or these rules, whenever a person or agency has a right or is required to take action within the period prescribed or allowed by these rules, or by order of the board, the person or agency may apply to the board for an extension not to exceed thirty days. Additional extensions or extensions exceeding thirty days, shall be ordered only upon motion and notice for good cause shown. The board shall not accept late documents or recognize action not performed within the prescribed time without good cause shown. [Eff October 27, 1996, am 5/20/99; am, ren §04-101-22 and comp 4/29/13] (Auth: HRS §91-2; Charter §§10-2.2.f, 13-2.15) (Imp: HRS §91-2; Charter §§10-2.2.f, 13-2.15)

§04-101-33 Service of process. (a) The board shall cause to be served all orders, notices, and other papers that it is required by law to serve. Pleadings, answers, motions, and memoranda, relating to complaints or hearings, shall be served by the party filing them.

(b) All papers that are required to be served by either the board or any party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel or upon their agents designated by them or by law. Any counsel entering an appearance after the initiation of proceedings shall notify all parties of that fact.

(c) The service of complaint before formal hearing on such complaint, shall be made personally upon the respondent or, if the respondent cannot be found, by leaving copies thereof at the respondent's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, by delivering a copy to an agent designated by that person or by law to receive service of such papers, or by mailing the complaint by certified mail, return receipt requested, to

the respondent's last known address. Service by personal delivery or mailing shall be indicated by certification of time and place of delivery and filed with the board.

(d) Service of all other papers required to be served shall be made by delivering a copy to counsel of record, if any, or to the person or an agent designated by the person or by law to receive service of such papers, or by mailing a copy to the person's last known address. Delivery of a copy within this subsection means handing it to the person's attorney or to the person directly, or leaving it at the person's office, with the person's secretary, clerk, or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing. Service by personal delivery or mailing shall be indicated by certification of time and place of delivery and filed with the board. [Eff October 27, 1996, am 5/20/99; am, ren §04-101-23 and comp 4/29/13] (Auth: HRS §91-9.5; Charter §§10-2.2.f, 13-2.15) (Imp: HRS §91-9.5)

§04-101-34 Subpoenas. (a) The board may issue or cause to be issued subpoenas requiring the attendance of witnesses or the production of documentary evidence at any designated place of hearing.

(b) Any party of record may make application to the board for the issuance of subpoenas. The application must be in writing, be reasonable in scope, and specify as clearly as possible, documents or data desired and their relevancy.

(c) For the attendance of witnesses or the production of documentary evidence at a hearing, application for subpoenas shall be made at least ten days before the hearing. If application is made at a later time, the board may, in its discretion, continue the hearing or any part thereof.

(d) Enforcement of subpoenas served under these rules shall be effected by written application of the board to any circuit court judge. [Eff October 27, 1996, am 5/20/99; am, ren §04-101-24 and comp 4/29/13] (Auth: Charter §10-2.3) (Imp: Charter §§10-2.2.f, 10-2.3)

§04-101-35 Witness fees. Witnesses summoned shall be paid the same fees and mileage as are paid to witnesses in courts of the State of Hawaii, and shall be paid by the party at whose instance such witnesses appear. [Eff October 27, 1996, am 5/20/99; am, ren §04-101-25 and comp 4/29/13] (Auth: Charter §10-2.3) (Imp: Charter §10-2.3)

§04-101-36 Consolidations. The board, upon its own initiative or upon motion, may consolidate for hearing or other purposes, or may contemporaneously consider, two or more proceedings that involve substantially the same parties, or issues that are the same or closely related, if the board finds that such consolidation or contemporaneous hearing may be conducive to the proper dispatch of its business and to the ends of justice. [Eff October 27, 1996; am, ren §04-101-11 and comp 4/29/13] (Auth: HRS §91-2; Charter §§10-2.2.f, 13-2.15) (Imp: HRS §91-2; Charter §§10-2.2.f, 13-2.15)

§04-101-37 Retention of documents by the board. The legal counsel or delegate shall receive all documents required to be filed with the board and shall promptly stamp the time and date upon papers filed with the board. All documents filed with, or presented to the board, may be retained by the board, electronically. Hard copies of documents will be kept for six years from the date of filing. The board may permit the withdrawal of original documents upon submission of properly authenticated copies to replace such documents. [Eff October 27, 1996; am, ren §04-101-26 and comp 4/29/13] (Auth: Charter §§10-2.2.f, 13-2.15, HRS §84-17.5) (Imp: Charter §§10-2.2.f, 13-2.15, HRS §84-17.5)

§04-101-38 Rules of evidence. (a) The board shall not be bound by the rules of evidence, but may receive any oral or documentary evidence. The board may exclude irrelevant, immaterial, or repetitious evidence. The board shall give effect to the rules of privilege recognized by law. The presiding officer shall rule on the admissibility of evidence and upon any objections made to the admission or exclusion of evidence.

(b) Documentary evidence may be submitted to the board in the form of copies or excerpts, if the original is not readily available, provided that, and upon

request, parties and the board shall be given an opportunity to compare the copy with the original.

(c) The board may take notice of judicially recognizable facts. The board may also take notice of generally recognized technical or scientific facts within members' specialized knowledge, but parties shall be informed either before or during the hearing of facts so noticed, and they shall be afforded an opportunity to contest facts so noticed.

(d) The degree or quantum of proof in any hearing shall be a preponderance of the evidence. [Eff October 27, 1996; ren §04-101-12 and comp 4/29/13] (Auth: HRS §91-10) (Imp: HRS §91-10)

§04-101-39 Confidentiality. (a) All records, reports, documents, exhibits, and other evidence received by the board shall be held in confidence and no information as to the contents thereof shall be disclosed unless such items are presented and received by the board at a hearing or meeting that is open to the public.

(b) All investigations of informal and verified complaints are confidential to the extent permitted by state law.

(c) All board deliberations regarding complaints or investigations will be held in closed session, unless the accused requests to have the matter heard in open session. The identities of the individual making the complaint or investigation request, and the person(s) named in the complaint or investigation request, shall remain confidential and shall not be compelled to attend an informal probable cause hearing at the same time.

Pursuant to section 04-101-22, the respondent has the right to elect to have the hearing in executive session or the respondent may waive this right and have the hearing in open session. [Eff 4/29/13] (Auth: HRS §91-10) (Imp: HRS §91-10)

§04-101-39.1 Right to appear. (a) Any person, officer or employee, or his or her authorized representative, having business with the board, may appear before the board, unless the board determines by a vote of the majority of the board, that the person, officer or employee, or his or her representative, is acting in a manner which prevents the orderly and peaceful conduct of its proceedings.

(b) The right to appear before the board may be reinstated upon the board's acceptance of a written statement that the person will abide by the board's rules and will not disrupt the orderly and peaceful conduct of its proceedings. [Eff 4/29/13] (Auth: HRS §§ 91-2, 92-3; Charter §13-2.15) (Imp: HRS §92-3; Charter §13-2.15)

§04-101-39.2 Representative appearance and practice before the board. (a) The following persons may appear in a representative capacity before the board:

- (1) Attorneys at law qualified and entitled to practice before the supreme court of the State of Hawaii; and
- (2) A bona fide officer, partner, or full-time employee of an individual firm, association, partnership, or corporation authorized to appear for such individual firm, association, partnership, or corporation; and
- (3) A person representing an immediate member of his or her family.

Upon good cause shown, any other person authorized in writing to act in a representative capacity may appear on behalf of a party.

(b) All persons appearing in proceedings before the board in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Hawaii. If any such person does not conform to such standards, the board may decline to permit such person to appear in a representative capacity in any proceeding before the board.

(c) No former employee of the department of the corporation counsel may appear in a representative capacity in a proceeding involving a matter that the former employee investigated or passed upon while in such employ. [Eff 4/29/13; ren §04-101-9 and comp 4/29/13] (Auth: Charter §§10-2.2.f, 10-4, 13-2.15) (Imp: HRS §91-2; Charter §§10-2.2.f, 10-4.1.g, 13-2.15)

SUBCHAPTER 4

FINANCIAL DISCLOSURES

§04-101-40 Persons required to file with the board.

(a) All elected County officers, all candidates for elective office, and such appointed officers or other employees as the council shall designate by ordinance shall file with the board of ethics and the county clerk financial disclosure statements in a form or forms to be prescribed by the board of ethics. Such financial disclosure statements shall be open to public inspection.

(b) All members of boards and commissions established under the charter of the County of Maui shall file with the board confidential disclosure statements. The board shall not release such disclosure statements except as required by law.

(c) A separate and complete disclosure statement shall be filed for each position or candidacy that a person holds in county government.

(d) Public and confidential financial disclosures shall be in a form or forms prescribed or otherwise adopted by the board. [Eff October 27, 1996; am, ren §04-101-30 and comp 4/29/13] (Auth: 2010 Charter Amendment; Const. Art. XIV; Charter §§10-2.2.d, 10-3; MCC §2.56.060) (Imp: Const. Art. XIV; Charter §§10-2.2.d, 10-3.3; MCC §2.56.060)

§04-101-41 Persons required to file with the county clerk. (a) All candidates for elective County office shall file public disclosure statements with the county clerk. The county clerk shall make such disclosure statements available for public inspection.

(b) All elected and appointed officers shall file public disclosure statements with the county clerk. The county clerk shall promptly transmit a copy of the financial disclosure statement to the board and make such disclosure statements available for public inspection. [Eff October 27, 1996; am and comp 4/29/13] (Auth: Const. art. XIV; Charter §§10-3.1, 10-3.3; MCC §2.56.060)

§04-101-42 Contents of disclosure. (a) Financial disclosure statements shall be signed, dated, and attested to by oath, affidavit or affirmation and shall include the following information:

- (1) The full name of the person filing the disclosure, the person's mailing address and day time telephone number, the name of the County agency with which associated, the title of the position held, and the date of employment or appointment;
- (2) The source and amount of all income received during the preceding calendar year by the person, the person's spouse, jointly or by the person's dependent child;
- (3) The tax map key number and street address, if any, of all real property currently owned in whole or in part by the person, the person's spouse or dependent child. The fair market value of the property, and if the property is held by a business entity, hui or partnership, the name of the entity and its general partners;
- (4) The name and mailing address of all business firms doing business in Hawaii currently owned in whole or in part by the person;
- (5) A description of each officer, director, trustee or other fiduciary office or role currently held in any organization or business, the name and address of the organization or business, and a brief description of the nature of the organization or business;
- (6) The amount of debt currently owed to creditors and the names of the creditors;
- (7) The identity of each creditor interest currently held in an insolvent business;
- (8) The name of each person represented before county agencies either currently or during the immediately preceding year;
- (9) A description of any gift or gifts, valued singly or in the aggregate at \$50 or more, from a single source, received directly or indirectly by the person, the person's spouse or dependent child within the preceding twelve months, the name of the source, the date the gift was received, and an estimate of the value of the gift, provided, however, that the following need not be included:



- (A) Gifts received by will or intestate succession or by way of any inter vivos or testamentary trust established by a spouse or ancestor.
- (B) Gifts from a spouse, fiancée, any relative within four degrees of consanguinity or the spouse of such a relative. A gift from any such person is a reportable gift if the person is acting as an agent or intermediary for any person not covered by this paragraph.
- (C) Political campaign contributions that comply with the law.
- (D) Gifts which are not used and which, within thirty days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes.
- (E) Exchanges of approximately equal value on holidays, birthdays, or special occasions.
- (F) Anything available to or distributed to the public generally without regard to the official status of the recipient.
- (G) Gifts offered to the County and received under chapter 3.56, Maui County Code.

(b) Where an amount is required to be reported, except when reporting gifts, the person disclosing may indicate whether the amount is at least \$1,000, but less than \$10,000; at least \$10,000, but less than \$25,000; at least \$25,000, but less than \$50,000; at least \$50,000, but less than \$100,000; at least \$100,000, but less than \$200,000; at least \$200,000, but less than \$500,000; or \$500,000 or more. [Eff October 27, 1996; am, ren §04-101-31 and comp 4/29/13] (Auth: Const. art. XIV; Charter §§10-2.2.d, 10-3.3; MCC §2.56.060) (Imp: Const. art. XIV; Charter §§10-2.2.d, 10-3.3; MCC §2.56.060)

§04-101-43 Filing deadline. (a) A candidate for elective county office shall file the disclosure required by section 04-101-40 concurrently with the filing of the candidate's nomination papers with the County clerk. A new public financial disclosure shall be filed each year a person becomes a candidate for office, even if a

financial disclosure has been filed by the person while a current office holder.

(b) Executive and legislative department directors and first deputy directors shall file the disclosure required by section 04-101-40 within fifteen days after commencing employment in their respective positions. Except that a director or deputy director whose appointment is subject to confirmation by the council shall file a financial disclosure statement within fifteen days of taking the oath of office.

(c) Members of boards and commissions shall file the disclosure required by section 04-101-40 within fifteen days of taking the oath of office. [Eff October 27, 1996; am, ren §04-101-32 and comp 4/29/13] (Auth: 2010 Charter amendment; Charter §§10-2.2.d, 10-2.2.f, 10-3.3) (Imp: Charter §§10-2.2.d, 10-2.2.f, 10-3.3)

§04-101-44 Annual disclosure statement update. (a) Elected and appointed officers and members of boards and commissions shall file an annual disclosure statement update with the board. Elected and appointed officers shall, in addition, file a copy of their annual disclosure statement updates with the County clerk.

(b) The annual disclosure statement update shall disclose whether any changes have occurred with regard to information disclosed in the person's previous disclosure statement. The annual disclosure statement update shall be submitted on a disclosure statement form.

(c) Annual disclosure statement updates shall be filed during the period beginning January 1 and ending April 15 of each year. A board or commission member whose term of office expires, either by law or by resignation before April 15 of a calendar year, shall not be required to file an annual disclosure update in such calendar year. [Eff October 27, 1996; am, ren §04-101-33 and comp 4/29/13] (Auth: Charter §10-2.2.f; MCC §2.56.060) (Imp: Charter §10-2.2.f; MCC §2.56.060)

§04-101-45 Amendment of disclosure statement or annual disclosure statement update. (a) Elected and appointed officers shall give written, signed notification, which may be in the form of a letter or disclosure statement, to the board of any change to the information stated in their previously filed disclosure statements, or annual disclosure statement update within

thirty days of such change. The written notification of the change shall constitute an amendment of previous filings.

(b) All members of board and commissions shall give written, signed notification to the board of any change to the information stated in their previously filed disclosure statement or annual disclosure statement update. Notification may be in the form of a letter or disclosure statement. The written notification of the change shall constitute an amendment of previous filings.

(c) All candidates for elective County office shall give written, signed notification, which may be in the form of a letter or disclosure statement, to the County clerk of any change to the information stated in their previously filed disclosure statements or annual disclosure statement update within thirty days of such change. The written notification of the change shall constitute an amendment of previous filings. [Eff October 27, 1996; am, ren §04-101-34 and comp 4/29/13] (Auth: Charter §10-2.2.f; MCC §2.56.060) (Imp: Charter §10-2.2.f; MCC §2.56.060)

§04-101-46 Recordation of filing. Upon receipt of a disclosure statement, annual disclosure statement update, amendment of disclosure, or request for an extension of time to file, staff for the board shall stamp the date and time upon the submission. The stamped date shall be the date of filing of the submission with the board. [Eff 4/29/13, ren §04-101-35 and comp 4/29/13] (Auth: HRS §91-2; Charter §§10-2.2.f, 13-2.15) (Imp: HRS §91-2; Charter §§10-2.2.f, 13-2.15)

§04-101-47 Review by the board. (a) The board shall examine all disclosure statements, annual disclosure statement updates, and amendments of disclosure. The board may request that the person filing the submission provide additional information in the form of written or oral testimony concerning any item that is incomplete, illegible, or which may indicate a material matter of concern arising under the code of ethics. The board shall comment on or advise corrective actions as to any material matters of concern arising under the code of ethics.

(b) The examination of disclosure statements that are open to public inspection shall be in open meeting.

The examination of disclosure statements that are confidential shall be in executive meeting.

(c) If, after examination, the board finds no concerns of material matter arising under the code of ethics, the board shall acknowledge receipt of the disclosure statement, annual financial disclosure statement update, or amendment of disclosure, and file it. If, after examination, a conflict of interest or other concern arising under the code of ethics is found, the board shall acknowledge the receipt of the submission and shall advise the person of the conflict of interest or other matter of concern arising under the code of ethics and of the person's obligations and responsibilities to avoid violation of the code of ethics.

(d) The acknowledgment of receipt of the disclosure statement does not imply that the subject content or person is "approved" or "accepted", but only that the disclosure statement has been examined in accordance with the board's duties. [Eff 4/29/13, ren §04-101-36 and comp 4/29/13] (Auth: HRS §91-2; Charter §§10-2.2.f, 13-2.15) (Imp: HRS §91-2; Charter §§10-2.2.f, 13-2.15)

§04-101-48 Late filings. (a) The board may issue or cause to be issued a letter of reminder to any person whose financial disclosure or annual financial disclosure update has not been filed by the deadline set by these rules. The letter of reminder shall include a request that the person file promptly.

(b) Copies of the letter and any other letter of reminder shall be available for public inspection and may be circulated through news releases and other means.

(c) The board may compile rosters of candidates for elective county office and elected and appointed county officers and the dates of their respective financial disclosure filings, if any. Copies of rosters shall be available for public inspection and may be circulated through news releases and other means. [Eff 4/29/13, ren §04-101-37 and comp 4/29/13] (Auth: HRS §91-2; Charter §§10-2.2.f, 13-2.15) (Imp: HRS §91-2; Charter §§10-2.2.f, 13-2.15)

§04-101-49 Financial disclosure files; disposition.

(a) All financial disclosure statements filed with the board shall be maintained by the board, during the term

of office of the elected or appointed officer, employee, or board or commission member for a period of six years thereafter. Upon the expiration of the six-year period, the financial disclosure statement and all copies thereof shall be destroyed.

(b) Public financial disclosure statements shall cease to be public records once the six-year period in subsection (a) or (b) has run.

(c) Nothing herein shall bar the board's staff from retaining a financial disclosure statement or an electronic copy of a financial disclosure statement that has become part of a charge case or advisory opinion request, or is part of an ongoing investigation. [Eff 4/29/13] (Auth: HRS §46-43; MCC §2.84.050) [L 1989, c 219, §1; am L 1993, c 27, §1; am L 1997, c 49, §1]

§04-101-49.1 Penalties. (a) Any person who fails to file a financial disclosure statement, annual financial disclosure update, or amendment of disclosure as required by section 10-3 of the Charter, section 2.56.060, Maui County Code, and these rules shall be subject to a penalty of not more than \$1,000, as provided for by section 2.56.010, Maui County Code, and section 10-5 of the Charter.

(b) The board may assess the following penalties:

(1) For public financial disclosure statements:

(A) Failure of an appointed or elected officer, department director, and/or first deputy director, to file a financial disclosure statement when due shall be assessed an administrative fine of \$50. The board shall notify said person, by registered mail return receipt requested, of the failure to file, and the disclosure of financial interests shall be submitted to the board not later than 4:30 p.m. on the tenth day after notification of the failure to file has been mailed to the person. If a disclosure of financial interests has not been filed within ten days of the due date, an additional administrative fine of \$10 for each day a disclosure remains unfilled shall be added to the administrative fine, up to an aggregate

of \$1,000.

(B) Failure of a candidate for elective office to file a financial disclosure statement when due shall be assessed an administrative fine of \$25, which shall be collected by the board, made payable to the County of Maui, and deposited to the general fund. The board may confirm with the County clerk's office whether or not a candidate for elective office has filed nomination papers.

(2) For confidential financial disclosure statements:

(A) Failure of a board or commission member to file their confidential financial disclosure statement with the board when due, shall be assessed an administrative fine of \$50. The board shall notify a person, by registered mail return receipt requested, of the failure to file, and the disclosure of financial interests shall be submitted to the board not later than 4:30 p.m. on the tenth day after notification of the failure to file has been mailed to the person. If a disclosure of financial interests has not been filed within ten days of the due date, an additional administrative fine of \$10 for each day a disclosure remains unfiled shall be added to the administrative fine.

(c) All administrative fines collected under this section shall be deposited in the County's general fund, made payable to the County of Maui. Any administrative fine for late filing shall be in addition to any other action the board may take under this chapter for violations of the code of ethics. The board may waive any administrative fines assessed under this subsection for good cause shown. In addition to the assessment of any administrative fine, the board may release to the public a list of all public officials and candidates for elective office who have failed to file financial disclosure statements. [Eff 4/29/13, ren §04-101-38 and comp 4/29/13] (Auth: HRS 84-17, Charter §§10-2.2.f, 10-5, MCC §2.56.010) (Imp: Charter §10-3; MCC §2.56.010 and §2.56.060)

## SUBCHAPTER 5

### ADVISORY OPINIONS

§04-101-50 Purpose. A written advisory opinion from the board is an interpretation of relevant evidence. One of the purposes of an advisory opinion is to provide written guidance before the requester engages in an action that may be prohibited by law.

Advisory opinions are also utilized as communication for verified complaints, informal probable cause hearings, formal hearing with regard to the board's finding of facts, law and recommendations etc. thereof. [Eff October 27, 1996; am and comp 4/29/13] (Auth: Charter §§10-2.2.c, 10-2.2.f)

§04-101-51 Who may request. (a) The board may render an advisory opinion on its own initiative or when requested to do so by:

A current or former County officer or employee, or appointing authority, concerning such officer's or employee's own affairs as they relate to the code of ethics. [Eff October 27, 1996; am, ren §04-101-40 and comp 4/29/13] (Auth: Charter §§10-2.2.c, 10-2.2.f) (Imp: Charter §§10-2.2.c, 10-2.2.f) (Historical Note: In 1990 and 1991, the 2<sup>nd</sup> Circuit Court and the Hawaii Supreme Court ruled that a December 14, 1989 Board of Ethics decision "Deleted Opinion No. 89-14" was null and void because the Board is not authorized to accept requests for advisory opinions from non-county officers/employees or former officer/employees regarding someone other than themselves; see G. Hokama v. Maui County Board of Ethics; Civil No. 90-0191(1); see also, No. 14812 & 14813 Supreme Court Memorandum Opinion)

§04-101-52 Request for advisory opinion. (a) Requests for advisory opinions shall be in writing and shall contain:

- (1) The name and signature of the person requesting the opinion;
- (2) The agency for which the person requesting the opinion works and a description of the person's duties, if applicable;
- (3) The person's business and home addresses and telephone numbers; and

- (4) A complete statement of all pertinent facts concerning the subject matter of the request. [Eff October 27, 1996; am, ren §04-101-41 and comp 4/29/13] (Auth: Charter §§10-2.2.c, 10-2.2.f) (Imp: Charter §§10-2.2.c, 10-2.2.f)

§04-101-53 Consideration and disposition of the request. (a) Upon acknowledging receipt of a request for an advisory opinion and with time permitting, the board shall place upon its upcoming agenda the request for advisory opinion.

(b) If the request was made by a third party, a copy of the request shall be sent to the officer or employee involved with the name of the person making the request deleted.

(c) The board may consider the advisory opinion in executive session, provided that a public hearing may be held where the officer or employee requesting an advisory opinion requests or consents to a public hearing.

(d) Upon receipt of a request for an advisory opinion, the board may render its opinion on the basis of the information available.

(e) The board may solicit comments from any person on the questions presented in the request. The board may also examine documents and evidence in accordance with the board's rules. [Eff October 27, 1996; am and comp 4/29/13] (Auth: HRS §91-2; Charter §§10-2.2.c, 10-2.2.f) (Imp: Charter §§10-2.2.c, 10-2.2.f)

§04-101-54 Opportunity to respond. When an officer or employee receives a copy of a third party request, the officer or employee shall have an opportunity to respond in writing within fifteen days after receipt of the copy of the request, and be invited to the board's meeting where the advisory opinion will be considered. [Eff October 27, 1996; am and comp 4/29/13] (Auth: HRS §91-2; Charter §§10-2.2.c, 10-2.2.f) (Imp: Charter §§10-2.2.c, 10-2.2.f)

§04-101-55 Refusal to issue an advisory opinion.

(a) The board shall refuse a request for an advisory opinion when:

- (1) The request does not comply with the requirements of sections 04-101-50 and 04-101-51;



- (2) The request is frivolous or purely hypothetical or does not involve existing facts or facts that can reasonably be expected to exist in the near future;
- (3) The request primarily involves the past conduct of an employee or officer, as opposed to the employee's or officer's ongoing or future conduct;
- (4) The request concerns matters in litigation or matters that are reasonably expected to arise in litigation; or
- (5) The request concerns matters not within the jurisdiction of the board. [Eff October 27, 1996; am 5/20/99; am, ren §04-101-42 and comp 4/29/13] (Auth: Charter §§10-2.2.c, 10-2.2.f) (Imp: Charter §§10-2.2.c, 10-2.2.f)

§04-101-56 Scope of advisory opinion and recommendations. (a) The board serves in an advisory capacity only with respect to recommendations of affirmative or disciplinary action.

- (1) Compliance and adherence to the board's recommendations of affirmative actions are the responsibility of the elected County officers, appointed officers, employees and members of boards and commissions of subject;
- (2) Acceptance and implementation of disciplinary recommendations are the purview of the council official or appointing authority of subject; and
- (3) Recommendations of fines or criminal prosecution are the purview of the County of Maui prosecuting attorney or other appropriate law enforcement agency.

(b) The board, at its discretion in issuing advisory opinions concerning affirmative or disciplinary actions, may elect to transmit to the officer, employee or elected officials of subject the following:

- (1) Letter of reminder or education;
- (2) Letter of caution;
- (3) Recommendation of cease and desist;
- (4) Recommendation of public censure (elected official only);
- (5) Referral letter to the prosecutor for recommendation of fines;

- (6) Referral letter to the prosecutor or appointing authority for recommendation of impeachment or removal; or
- (7) Referral to the prosecutor or other appropriate law enforcement agency for criminal prosecution.

(c) After an advisory opinion has been rendered, the board shall notify the appointing authority of the officer or employee involved, or the council, in the case of elected officials, of its recommendation with respect to the subject elected County officers, appointed officers, employees and members of boards and commissions of subject officials. [Eff October 27, 1996; am and comp 4/29/13] (Auth: Charter §§10-2.2.c, 10-2.2.f) (Imp: Charter §§10-2.2.c, 10-2.2.f)

§04-101-57 Effect of an advisory opinion. An advisory opinion is applicable only in circumstances when the relevant facts and laws, rules, policies, decisions, or orders involved are indistinguishable from those on which the opinion was based. As to all other persons, an advisory opinion serves only as guidance and is not binding on the board. [Eff October 27, 1996; am and comp 4/29/13] (Auth: Charter §§10-2.2.c, 10-2.2.f)

§04-101-58 Concurring or dissenting opinions. (a) Any commissioner who agrees with the board's opinion, but for different reasons from those stated, may file a concurring opinion which will be placed at the end of the majority opinion.

(b) Any commissioner who disagrees with the board's opinion, may file a dissenting opinion which will be placed at the end of the concurring opinion, if any, or, if not, at the end of the majority opinion. [Eff October 27, 1996; am and comp 4/29/13] (Auth: §§10-2.2.c, 10-2.2.f)

§04-101-59 Filing of an advisory opinion. (a) A request for an advisory opinion shall be considered filed when the board has received in writing or through interviews all the information deemed necessary by the board to render an opinion. [Eff October 27, 1996; am and comp 4/29/13] (Auth: Charter §§10-2.2.c, 10-2.2.f) (Imp: Charter §§10-2.2.c, 10-2.2.f)

§04-101-59.1 Date of issuance. (a) The board is deemed to have issued an advisory opinion, or to have refused to do so, on the date the advisory opinion or refusal is mailed or delivered to the parties of record.

(b) When the request concerns the affairs of a person other than the person making the request, in addition to the above, the request shall not be deemed filed until the person who is the subject of the opinion has had a reasonable opportunity to review the facts submitted and present that person's views. [Eff 4/29/13] (Auth: Charter §§10-2.2.c, 10-2.2.f) (Imp: Charter §§10-2.2.c, 10-2.2.f)

§04-101-59.2 Notice to parties of record. (a) The board shall give notice of the request for an advisory opinion to all persons not served by the petitioner to whom notice is required by any provision of law and under subchapter 3.

(b) Within thirty days after the filing of the opinion, or five days following a regular meeting of the board in which the opinion has been received and discussed, whichever comes earlier, the board shall provide notice to the parties of record by issuing an advisory opinion, setting the matter for specified proceedings, agreeing to issue an advisory opinion by a specified time, or declining to issue the opinion and stating the reasons for doing so. If the board does not issue an advisory opinion within sixty days after the receipt of the request for an advisory opinion, the request is deemed denied and the parties of record notified. [Eff 4/29/13] (Auth: Charter §§10-2.2.c, 10-2.2.f) (Imp: Charter §§10-2.2.c, 10-2.2.f)

§04-101-59.3 Publication of advisory opinions. Within forty-five days after an opinion has been issued, the board shall prepare a summarized or redacted version of the opinion, which shall be a public record. [Eff 4/29/13] (Auth: Charter §§10-2.2.c, 10-2.2.f) (Imp: Charter §§10-2.2.c, 10-2.2.f)

## SUBCHAPTER 6

### COMPLAINTS

§04-101-60 Purpose. (a) Pursuant to the charter, the board is charged with initiating, receiving, hearing, and investigating complaints of violations of the code of ethics.

(b) In the course of its investigations, the board shall have the power to administer oaths, subpoena witnesses, and to compel the production of books and papers pertinent thereto.

(c) The board, after due deliberation on issues before it, may make findings of facts and conclusions of law regarding such issues and shall transmit the same to the appropriate appointing authority for appropriate disposition. [Eff October 27, 1996; am and comp 4/29/13] (Auth: Charter §§10-2.2.a, 10-2.2.b, 10-2.2.f, 10-2.3, 10-2.4) (Imp: Charter §§10-2.2.a, 10-2.2.b, 10-2.2.f, 10-2.3, 10-2.4)

§04-101-61 Complaint initiated by a member of the public. (a) A complaint shall set forth a concise statement of the facts constituting the alleged violation, the name and position of the alleged violator, and shall either be sworn to under oath or accompanied by an affidavit subscribed to by the complainant.

(b) Upon receipt of a document that does not comply with the requirements of §04-101-60(a), or which does not in form or substance constitute a complaint, the board shall notify the person signing the document of the insufficiency.

(c) The board may decline further review of a complaint when the complaint concerns matters under review by law enforcement or other investigatory agencies and may refer the complainant to other agencies. The board shall decline review of a complaint when the complaint concerns matters not within the jurisdiction of the board or when the board has deemed the complaint to be frivolous, or when the person signing the document fails to comply with §04-101-60(a), even after being notified of the insufficiency.

(d) A complaint may be withdrawn by written notice of withdrawal, signed and dated by the complainant. [Eff October 27, 1996; am, ren §04-101-50 and comp 4/29/13]

(Auth: Charter §§10-2.2.a, 10-2.2.f) (Imp: Charter §§10-2.2.a, 10-2.2.f)

§04-101-62 Complaint initiated by the board.

(a) Upon receipt of information not under oath, or information obtained at the initiative of the board indicating a possible violation of the code of ethics, the board may verify such facts as may be verified through public documents or the assistance of County officers and employees, including the respondent. Verification may not extend to interviews of persons other than County officers and employees, unless the board, in its discretion, initiates an investigation, the nature and scope of which shall be defined by oral or written resolution, to determine whether a complaint shall be issued. This investigation shall be carried out confidentially by the board or by the board's staff, or a member of the board so delegated by oral or written resolution. After such investigation, the board may file a complaint signed by at least three members.

(b) Upon filing of a complaint, the board shall notify the respondent of the charges in writing and schedule an informal hearing. [Eff 5/20/99, am, ren §04-101-51 and comp 4/29/13] (Auth: Charter §§10-2.2.a, 10-2.2.f) (Imp: Charter §§10-2.2.a, 10-2.2.f)

§04-101-63 Processing of complaints. All filed complaints shall be immediately forwarded to the board's executive secretary who shall assign each complaint a file number and forward the complaint to the board's chair and the board's assigned legal counsel. The chair and the board's assigned legal counsel shall do a preliminary review of the complaint and shall report and make a recommendation to the board regarding the processing of the complaint, however, no complaint shall be processed where:

(a) The complaint is not filed within the statute of limitation period of one year from the alleged violation of the code of ethics by a County officer or employee;

(b) The complaint on its face is speculative, hypothetical, or not based on factual circumstances;

(c) The identical allegations of the complaint are being, or will soon be, litigated in a criminal action;

(d) The complainant has given notice of complainant's intention to seek remedies through a civil suit;

(e) The subject matter of the complaint is not within the jurisdiction of the board; or

(f) The complainant's interest is not of the type which would give that individual standing to maintain an action in a court of law, and the complainant is not an eyewitness to the events which are the basis of the complaint.

Whenever the complaint is not processed for any of the reasons above, the board shall review the decision of the chair and the board's assigned legal counsel at its next meeting. The board may, for good cause, waive any of the bars to processing complaints, and may sustain or reverse the original decision by a majority vote. Where the board decides that the complaint should not be processed, it shall inform the complainant of its decision in writing, giving its reasons therefore, and, where applicable, inform the complainant of alternative remedies.

It shall be up to the board, after consulting with its legal counsel, whether or not the board would like to send a copy of:

- (1) The complaint (with complainant's identity redacted/or not); and/or
- (2) A copy of the letter of non-processing of the complaint, to the subject of the complaint.

Except for good cause appearing on the record, the board shall not defer or postpone the processing of complaints for more than thirty days. [Eff 4/29/13]  
(Auth: HRS §§91-2, 92-5; Charter §§10-2.2.a, 10-2.2.f)  
(Imp: HRS §91-2; Charter §§10-2.2.a, 10-2.2.f)

§04-101-64 Informal hearing. (a) After the filing and approval of the board to process a complaint, the board, or its staff, shall provide respondent with a copy of the complaint, and may request the complainant and respondent's attendance at an informal hearing. The informal hearing may be held in executive session as allowed by Sections 92-4 and 92-5, Hawaii Revised Statutes, and shall be conducted for the purpose of obtaining further information concerning the complaint. The notice of informal hearing shall state the date, time, and place of hearing, and shall be issued to the

respondent no later than fifteen days before the hearing. The hearing may be continued from day to day or adjourned to a later day or to a different place without notice other than the announcement thereof at the hearing by the board.

(b) If the board votes to hold the informal hearing in executive session, the respondent may request an open hearing, in which case an open hearing shall be held.

(c) The presiding officer shall convene the hearing and shall summarize the complaint. The hearing shall be informal. Members shall have an opportunity to direct questions to the respondent and the respondent shall be afforded an opportunity to address the allegations of the complaint. The respondent may attend the informal hearing with counsel or agent.

(d) The board, in its discretion, may interview the complainant, other County officers and employees, or any other person the board believes may have information relevant to its consideration of the complaint during the informal hearing. The board may also obtain or cause to be obtained, in its discretion, documentary evidence which may be relevant to the board's consideration of the complaint. [Eff 4/29/13, ren §04-101-52 and comp 4/29/13] (Auth: HRS §91-2; Charter §§10-2.2.a, 10-2.2.f) (Imp: HRS §91-2; Charter §§10-2.2.a, 10-2.2.f)

§04-101-65 Opinion; service; charge. (a) Within a reasonable time after the informal hearing, the board may, on its own initiative, render an advisory opinion to the respondent. If the respondent fails to comply with the advisory opinion, fails to cooperate with the board during the informal hearing process, or, if at any time, the board determines that there is probable cause for belief that a violation of the code of ethics has occurred and that a formal hearing of the complaint is necessary, the board shall serve or cause to be served a copy of the complaint and a further statement of alleged violation upon respondent. The respondent shall have twenty days after service to answer the complaint and statement in writing. The answer shall specifically admit, deny, or explain the allegations of the complaint and statement, and shall set forth any matter constituting a defense.

(b) If the respondent fails to file an answer or admits the allegations of the complaint, the board shall

transmit its opinion and recommendations, if any, to the prosecuting attorney for appropriate disposition. Copies of the board's opinion and recommendations shall be referred to the respondent's agency for possible disciplinary action.

(c) If at any time before or after the informal hearing the board determines that there is no probable cause for belief that a violation of the code of ethics has occurred and chooses not to render an advisory opinion, the complaint shall be dismissed by the board, and the complainant and respondent so notified in writing. [Eff 4/29/13, ren §04-101-53 and comp 4/29/13] (Auth: HRS §91-2; Charter §§10-2.2.a, 10-2.2.f) (Imp: HRS §91-2; Charter §§10-2.2.a, 10-2.2.f)

§04-101-66 Formal hearings; notice of hearing. (a) The board shall give at least fifteen days written notice to the complainant and respondent before the hearing, unless such notice is waived in writing or by oral testimony before the board by the respondent. The notice of hearing shall state:

- (1) The date, time, and place of hearing;
- (2) The legal authority under which the hearing is held;
- (3) The particular sections of the code of ethics or rules involved;
- (4) The fact that the parties may have counsel present during the hearing; and
- (5) The right of respondent to request an open hearing.

(b) The hearing may be held in executive session, as allowed by Sections 92-4 and 92-5, Hawaii Revised Statutes, and may be continued from day to day or adjourned to a later day or to a different place, without notice other than the announcement thereof at the hearing. [Eff 4/29/13, ren §04-101-54 and comp 4/29/13] (Auth: HRS §91-2; Charter §13-2.15) (Imp: HRS §§91-9, 91-9.5)

§04-101-67 Formal hearings; request for an open hearing. If the board votes to hold the formal hearing in executive session, the respondent may request an open hearing, in which case an open hearing shall be held; provided that, at the board's discretion, the board's deliberations may be closed to the public. [Eff 4/29/13,



ren §04-101-55 and comp 4/29/13] (Auth: HRS §91-2)  
(Imp: HRS §§92-3, 92-5, 92-6(a)(2))

§04-101-68 Formal hearings; pre-hearing conference.

(a) In any action, the board may direct the parties or their agents or attorneys to appear before the board for a conference to consider:

- (1) Simplification of the issues;
- (2) Amendments to the pleadings;
- (3) Avoidance of unnecessary proof by obtaining admissions of fact and of existence and contents of documents;
- (4) Identification and limitation of the number of witnesses;
- (5) Other matters as may aid in the disposition of the complaint.

(b) In a pre-hearing conference, each party shall disclose the theory of that party's case, including the facts each party intends to prove and the names and addresses of all witnesses each party intends to call. Each party shall disclose and permit examination of all exhibits that are in the party's possession or under that party's control and which that party intends to offer in evidence at the hearing. Unless so disclosed, no exhibits required to be disclosed shall be received in evidence at the hearing over objection, unless the board finds that there was reasonable ground for failing to disclose such exhibits prior to hearing. All exhibits required to be disclosed, and any other exhibits as may be requested by counsel presenting the same, shall be marked for identification at least one day before the hearing and shall be listed in any pre-hearing order.

(c) At least seventy-two hours before the hearing, the board shall issue an order that summarizes the actions taken at the conference. Such order shall control the subsequent course of the hearing, unless modified to prevent manifest injustice. The pre-hearing order shall supersede the pleadings where there is any conflict and shall supplement the pleadings in all other respects. [Eff 4/29/13, ren §04-101-56 and comp 4/29/13] (Auth: HRS §91-2; Charter §13-2.15) (Imp: HRS §91-2)

§04-101-69 Formal hearings; procedures. (a) The presiding officer shall convene the hearing and shall read the complaint.

(b) Before presentation of the case, the parties shall have opportunity to make opening statements. Opening statements may be waived by a party. The order of making opening statements shall be as follows:

- (1) Opening statement by the complainant; and
- (2) Opening statement by the respondent. The respondent may reserve the opportunity to make the opening statement until after the complainant has presented the complainant's case.

(c) After any opening statements, the complainant shall present complainant's case. After complainant has concluded, the respondent may present respondent's defense.

(d) Witnesses shall be examined as follows:

- (1) Direct examination by the party calling the witness;
- (2) Cross examination by the other party;
- (3) Redirect examination by the party calling the witness;
- (4) Recross examination by the other party; and
- (5) Examination of the witness by the board at any time.

(e) After all the evidence has been presented, the board shall give the parties the opportunity to summarize. Final arguments may be waived by either party. The order of final arguments shall be as follows:

- (1) Final argument by the complainant;
- (2) Final argument by the respondent; and
- (3) Rebuttal argument by the complainant.

Rebuttal arguments shall be limited to the scope of the other party's final argument. Reasonable time limits may be imposed by the board for final arguments.

(f) After hearing final arguments, the board may direct each party to submit proposed findings of fact and conclusions of law. Each party shall do so within the time set by the board and shall deliver the original and nine copies to the board and shall serve a copy upon each party who has appeared in the action. The board shall determine the findings of fact and conclusions of law to be entered. [Eff 4/29/13, ren §04-101-57 and comp 4/29/13] (Auth: HRS §91-2; Charter §13-2.15) (Imp: HRS §§91-9, 91-10)

§04-101-69.1 Motions. (a) Time. Motions may be made before, during or after a contested case hearing, provided that, the presiding officer may set deadlines for the filing of motions in the pre-hearing order.

(b) Form; contents. All motions other than those made orally during a hearing shall be made in writing to the authority or hearing officer, and shall state the relief sought and be accompanied by an affidavit or legal memorandum setting forth the grounds upon which they are based. The presiding officer shall set the time for hearing the motion.

(c) Service of motions. The moving party shall serve a copy of all motion papers on all other parties and shall file with the board the original with proof of service.

(d) Memorandum in opposition. A memorandum in opposition or counter affidavit shall be served on all parties no less than two days before the hearing date. The original and proof of service shall be filed with the board. The presiding officer may extend or shorten the times herein for good cause.

(e) Failure to serve or file a memorandum in opposition to a motion, or failure to appear at the hearing without good cause, may be deemed a waiver of objection to the granting or denial of the motion. A party who does not oppose the motion shall notify the presiding officer and all other parties promptly. [Eff 4/29/13, ren §04-101-57.1 and comp 4/29/13] (Auth: HRS §91-2) (Imp: HRS §91-2)

§04-101-69.2 Complaint disposition/opinion. (a) Within a reasonable time after final arguments have been completed and all requested submissions filed with the board, the board shall render an opinion.

(b) After a hearing or upon review of the board's investigation, the board shall make findings of fact and a conclusion. Said findings of fact and conclusion shall be ratified in open session without disclosing the names of the complainant or the accused employee.

(c) The board may find:

- (1) The complaint was not based on facts, or the alleged incident did not occur and the complaint is unfounded;

- (2) There is insufficient evidence to prove the material allegations of the complaint and the complaint is therefore not sustained;
- (3) The incident complained of occurred, but the act or conduct of the department or employee was either *de minimus*, a result of a choice of evils, lawful and/or proper, and the accused is exonerated; or
- (4) There is sufficient evidence to support the allegation of the complaint and ground to justify a recommendation that appropriate action be taken, including the issuance of a fine not to exceed \$1,000, pursuant to Section 10-5 of the Charter and Section 2.56.010, MCC. If a fine is recommended by the board, the fine shall be collected by the board and be made payable to the County of Maui, and deposited to the general fund.

(d) Every opinion of the board rendered after hearing shall be in writing and shall include findings of fact and conclusions of law as determined by the board. If any party to the proceeding has filed proposed findings of fact, the board shall incorporate in its opinion a ruling upon such proposed findings. Within forty-five days after an opinion has been rendered, the board shall file a summarized or redacted version of the opinion, which shall be a matter of public record.

(e) The board shall transmit the opinion to the appropriate appointing authority for appropriate disposition.

(f) Any member of the board who agrees with the opinion, but for different reasons, may file a written concurring opinion. Any member of the board who disagrees may file a written dissenting decision opinion. Concurring and dissenting opinions, if any, shall be placed at the end of the majority opinion. [Eff 4/29/13, am, ren §04-101-58 and comp 4/29/13] (Auth: HRS §91-12; Charter §10-2.4) (Imp: HRS §91-12; Charter §10-2.4)

§04-101-69.3 Motion to reconsider. Within ten days after entry of a formal hearing opinion, a party may submit a written motion to the board to reconsider or rehear its final opinion. The board may grant the motion where the petition sets forth facts or law of a convincing nature demonstrating one or more of the following:

- (1) An intervening change in controlling law;
- (2) The availability of new evidence of a type previously unavailable; or
- (3) The need to correct clear error or manifest injustice. [Eff 4/29/13, ren §04-101-59 and comp 4/29/13] (Auth: Charter §§10-2.2.f, 13-2.15) (Imp: Charter §§10-2.2.f, 13-2.15)

§04-101-69.4 Record of the hearing. The record of the hearing shall be compiled pursuant to law. The complainant and the respondent shall be entitled to a copy of the record of the hearing or any part thereof upon application to the board and upon payment of the costs therefor. [Eff 4/29/13, ren §04-101-60 and comp 4/29/13] (Auth: HRS §91-9) (Imp: HRS §91-9)

§04-101-69.5 Petition for impeachment. Where the board has decided that impeachment of the respondent is appropriate, it shall issue a charge. The charge shall be set forth in writing in a verified petition signed by a majority of the members of the board, and shall be filed with the Circuit Court of the Second Circuit. The board may be represented by special counsel in proceedings before the court. Retention of special counsel shall be by application to the council in accordance with §3-6-6 of the Revised Charter of the County of Maui. [Eff 4/29/13, ren §04-101-61 and comp 4/29/13] (Auth: Charter §§10-2.2.b, 13-2.15, 13-13) (Imp: Charter §§10-2.2.b, 13-2.15, 13-13)

§04-101-69.6 Exclusion of witness. (a) At the request of a party, or on its own motion, the board may order the exclusion of a non-party witness from any evidentiary hearing on a complaint so as to prevent the witness from hearing the testimony of other witnesses.

(b) All participants in an evidentiary hearing shall endeavor to avoid the possibility of a witness's testimony being influenced by the testimony of other witnesses. Once an evidentiary hearing has commenced, witnesses shall not discuss, except with their attorney or authorized representative, the questions that were asked of them at the hearing or the testimony that they have given, until after the conclusion of the hearing. [Eff 4/29/13, ren §04-101-62 and comp 4/29/13] (Auth: HRS §91-2) (Imp: HRS §91-2)

SUBCHAPTER 7

PETITIONS FOR ADOPTION, AMENDMENT, OR REPEAL OF RULES

§04-101-70 Petition for adoption, amendment, or repeal of rules. Any interested person may petition the board for the adoption, amendment, or repeal of a board rule. Such petition shall be in writing, and describe and state the reasons for the proposed change with particularity. The board shall notify the petitioner of the date, time, and place, of the meeting during which the board is scheduled to consider the petition. The board shall either deny the petition in writing, stating its reasons for denial, or initiate rulemaking proceedings in accordance with chapter 91, Hawaii Revised Statutes. [Eff October 27, 1996, am and comp 4/29/13] (Auth: HRS §91-6; Charter §13-2.15) (Imp: HRS §91-6)

§04-101-71 Form and content of petition. (a) Any interested person or representative of that person may petition the board for the adoption of new rules, or amendment, or repeal of a board rule.

(b) A person petitioning the board for the adoption of new rules or amendment or repeal of a board rule, shall file one original and 11 copies of the petition with the board setting forth:

- (1) The name, address, and the 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 statutory provision, rule or order in question;
- (4) A complete set of facts;
- (5) A statement of the position or contention of the petitioner;
- (6) A memorandum of authorities, containing a full discussion of the reasons, including any legal authorities, in support of such position or contention; and
- (7) Petitioner's signature. [Eff October 27, 1996; am and comp 4/29/13] (Auth: HRS §§ 84-31(a)(5); 91-8; Charter §13-2.15) (Imp: HRS §91-8)

§04-101-72 Processing of the petition. The petition shall be file-stamped dated upon receipt by the board's office. The board's office shall notify the petitioner of the date, time, and place where the board shall consider the petition, the petitioner's privilege of personal appearance with or without representation, and the privilege of presenting evidence and argument in support of the petition. [Eff October 27, 1996; am and comp 4/29/13] (Auth: HRS §§84-31(a)(5); 91-6; Charter §13-2.15) (Imp: HRS §§84-31(a)(5); 91-6; Charter §13-2.15)

§04-101-73 Rejection of petition. The board may reject any petition which does not conform to the requirements of this chapter. [Eff October 27, 1996; am and comp 4/29/13] (Auth: HRS §§84-31(a)(5); 91-6; Charter §13-2.15) (Imp: HRS §§84-31(a)(5); 91-6; Charter §13-2.15)

SUBCHAPTER 8

PETITIONS FOR DECLARATORY ORDER

§04-101-80 Petition for declaratory order. (a) Any interested person may petition the board for a declaratory order as to the applicability of any statutory provision, code of ethics provision, or any rule or order of the board.

(b) A person petitioning the board for a declaratory order shall file a petition with the board setting forth:

- (1) The name, address, and the 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 statutory provision, rule or order in question;
- (4) A complete set of facts;
- (5) A statement of the position or contention of the petitioner;
- (6) A memorandum of authorities, containing a full discussion of the reasons, including any legal authorities, in support of such position or contention; and
- (7) Petitioner's signature. [Eff October 27, 1996; am, ren §04-101-71 and comp 4/29/13] (Auth: HRS §§ 84-31(a)(5); 91-8; Charter §13-2.15) (Imp: HRS §91-8)

§04-101-81 Refusal of petition for declaratory order. (a) The board may refuse to issue a declaratory order when:

- (1) The petition does not comply with the requirements of section 04-101-80;
- (2) The issue posed is speculative or purely hypothetical and does not involve existing facts, or facts that can reasonably be expected to exist in the near future;
- (3) The petitioner's interest is not of the type that would give petitioner standing to maintain an action if petitioner were to seek judicial relief;
- (4) The declaratory ruling concerns matters in litigation or matters that are reasonably



- expected to arise in litigation; or
- (5) The matter is not within the jurisdiction of the board. [Eff October 27, 1996; am, ren §04-101-72 and comp 4/29/13] (Auth: HRS §§84-31(a)(5); 91-8; Charter §13-2.15) (Imp: HRS §§84-31(a)(5); 91-8; Charter §13-2.15)

§04-101-82 Consideration and disposition of declaratory order. The board shall notify the petitioner, any person or agencies named in the petition, and any other persons the board determines may be affected, of the date, time, and place of the meeting during which the board is scheduled to consider the petition. Within a reasonable time after completing its review of the petition, the board shall either deny the petition in writing, stating the reasons for denial, or issue its declaratory order in writing. [Eff October 27, 1996; am, ren §04-101-73 and comp 4/29/13] (Auth: HRS §91-8; Charter 13-2.15) (Imp: HRS §91-8).

§04-101-83 Declaratory order on board's own motion. Notwithstanding the other provisions of this chapter, the board, on its own motion or upon receipt but without notice of hearing, may issue a declaratory order to resolve a controversy or answer a question. [Eff October 27, 1996; am and comp 4/29/13] (Auth: HRS §§84-31(a)(5); 91-8; Charter §13-2.15) (Imp: HRS §§84-31(a)(5); 91-8; Charter §13-2.15)

## SUBCHAPTER 9

### LOBBYIST REGISTRATION

§04-101-90 Registration. Before appearing before any executive or legislative body, a lobbyist shall file a certified statement with the board setting forth:

(a) The name, mailing address, and business telephone number of the lobbyist;

(b) A description of the subject matter of the lobbying; and

(c) The name and principal place of business of each person or organization represented by the lobbyist, and a written authorization to act as a lobbyist from each person by whom the lobbyist is employed or with whom the lobbyist contracts. The certified statement shall be in a form or forms prescribed or otherwise adopted by the board." [Eff 4/29/13, ren §04-101-80 and comp 4/29/13] (Auth: Charter §13-2.15; MCC §2.56.040) (Imp: MCC §2.56.040)

§04-101-91 Review by the board. The board shall review all lobbyist registration statements for completeness. The statements shall be available for public inspection. The board shall make available a list of registered lobbyists, the names of persons and organizations represented, and any other pertinent information. [Eff 4/29/13, ren §04-101-81, and comp 4/29/13] (Auth: Charter §13-2.15; MCC §2.56.040) (Imp: MCC §2.56.040)

§04-101-92 Amendments. A lobbyist shall report any change in lobbyist registration information within ten days of such change. [Eff 4/29/13, ren §04-101-82 and comp 4/29/13] (Auth: MCC §2.56.050) (Imp: MCC §2.56.040)

§04-101-93 Notice of termination. A lobbyist shall file with the board a notice of termination within ten days of ceasing activity as a lobbyist." [Eff 4/29/13, ren §04-101-83] (Auth: MCC §2.56.040) (Imp: MCC §2.56.040)