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Supreme Court
SCRU-11-0000504
23-OCT-2025
02:21 PM
Dkt. 19 ORD

SCRU-11-0000504

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the

RULES OF THE DISCIPLINARY BOARD
OF THE HAWAI‘I SUPREME COURT

ORDER AUTHORIZING PUBLICATION OF THE RULES OF
THE DISCIPLINARY BOARD OF THE HAWAI‘I SUPREME COURT
(By: McKenna, Acting C.J., Eddins, Ginoza, and Devens, JJ., and
Intermediate Court of Appeals Chief Judge Nakasone,
assigned by reason of vacancy)

IT IS HEREBY ORDERED that the amended version of Rules
8 and 22 of the Rules of the Disciplinary Board of the Hawai‘i
Supreme Court, which were adopted by the Disciplinary Board on
July 12, 2025, in accordance with Rule 2.4(e)(6) of the Rules of
the Supreme Court of the State of Hawai‘i, shall be published in
Exhibit A-2 to the Rules of the Supreme Court of the State of
Hawai‘i, effective upon the filing of this order, as follows
(deleted material is bracketed and stricken; new material is
underscored):

Rule 8. COMMITTEES.

(a) **Executive Committee.** The Executive Committee shall include the Chairperson, Vice Chairperson, Secretary, Treasurer, and such other Board members as may be appointed by the Chairperson.

(1) The Executive Committee shall make recommendations to the Board concerning the custody of the monies and other assets of the Board, investment of the monies of the Board, and the maintenance of appropriate financial records. The Executive Committee shall provide the Board with quarterly financial statements and a proposed annual budget.

(ii) The Executive Committee may make recommendations to the Board concerning personnel matters, prospective Board members, and the establishment of Board member criteria. The Executive Committee also shall undertake all matters delegated to it by the Board.

(iii) Members of the Executive Committee whose terms as Board members are expiring and who wish to be reappointed to the Board shall recuse themselves from making any recommendation to the Board of prospective Board members.

(b) **Opinion Committee.** The Opinion Committee shall formulate advisory formal opinions interpreting the Hawai'i Rules of Professional Conduct for adoption by the Board. ~~[A member of the Opinion Committee shall also approve all informal written opinions by the ODC.]~~

(c) **Rules Committee.** The Rules Committee shall formulate all rule changes for adoption by the Board or for recommendation by the Board to the Supreme Court.

(d) **Ad Hoc Committees.** The Board Chairperson may appoint ad hoc committees.

Rule 22. CONDUCT OF FORMAL DISCIPLINARY PROCEEDING.

(a) **Prehearing Conference.** The Hearing Officer or Hearing Committee chairperson shall hold a prehearing conference as authorized by RSCH 2.12 no later than 30 days after appointment, unless extended by the Board Chairperson for good cause. Where the matter has been assigned to a Hearing Committee, the chairperson or a designated member may conduct the prehearing conference without all members present.

(i) The purposes of the conference are to: address alleged conflicts; expedite matters; narrow contested issues; establish deadlines to exchange exhibit and witness lists; explore possible stipulations; discuss ~~[proposed submissions of]~~ any discovery requests ~~[to the Board Chairperson]~~; discuss requests for permission to file motions; and to set the hearing date.

(ii) Following the conclusion of a prehearing conference, a prehearing conference order shall be issued.

(iii) The Hearing Officer or Hearing Committee chairperson may schedule an additional prehearing conference as necessary.

(b) Discovery Requests. No discovery may be initiated by a Respondent until the matter is addressed at the prehearing conference.

(i) All requests for discovery shall be made in writing to the ~~[Board Chairperson through the]~~ Hearing Officer or the Hearing Committee, with service on the opposing Party, no less than 10 days before the prehearing conference. ~~[A Party making the request shall provide a copy of the request to the opposing Party at the same time it is submitted to the Hearing Officer or Hearing Committee. The Board Chairperson may order discovery for good cause.]~~ In the prehearing conference order, the Hearing Officer or the Hearing Committee may recommend whether the Board Chairperson should order discovery for good cause. The recommendation and objection to the recommendation shall be submitted to the Board chairperson in writing within 5 days of the prehearing conference order.

(ii) In the event a deposition upon oral examination is permitted, it may be recorded by any means agreed upon by the Parties, and in the absence of agreement, as ordered by the Board Chairperson under DBR 22(b).

(c) Formal Hearing Date; Notice. The Hearing Officer or the Hearing Committee chairperson shall set the date, time, and place of the Formal Hearing and provide at least 14 days notice to Counsel and the Respondent. The Formal Hearing shall be concluded no later than seven months following the final appointment of a Hearing Officer or a Hearing Committee unless extended by the Board Chairperson for good cause. The report of the Hearing Officer or Hearing Committee must be filed within 30 days following the Conclusion of the Formal Hearing as required by RSCH 2.7(c).

(d) Conduct of Formal Hearing. The Hearing Officer or Hearing Committee shall receive evidence to resolve any factual issues. ~~[The Hawai'i Rules of Evidence do not apply.]~~ Only trustworthy evidence may be admitted in accordance with RSCH 2.7(c). The Hearing Officer or Hearing Committee must disregard any error or defect in the proceeding that does not affect a substantial right or result in a miscarriage of justice.

The Respondent may appear with or without an Attorney. Witnesses may testify by telephone, unless the Hearing Officer or Hearing Committee chairperson determines otherwise for good cause.

(e) Record of Formal Disciplinary Proceeding. Each Hearing Officer or Hearing Committee shall record and preserve in writing, on tape, or by the use of such other device as appropriate, the proceedings and evidence in the Formal Disciplinary Proceeding. In designating the manner of recording and preserving the proceeding, the Hearing Officer or Hearing Committee may include any provision to assure that the record will be accurate and trustworthy. Each Formal Hearing shall be transcribed, and the original of each transcript shall be filed as part of the Record of Formal Disciplinary Proceeding.

(f) Post Formal Disciplinary Hearing Proceeding. Parties may be ordered by the Hearing Officer or Hearing Committee to file briefs or memoranda and to submit proposed findings of fact, conclusions of law, and recommendations pertaining to discipline. Copies shall be filed with the Filing Clerk and served upon the Hearing Officer or Hearing Committee.

(g) A hearing officer shall not initiate, permit or consider ex parte communications, or other communications made to such officer outside the presence of the parties concerning a pending or impending proceeding.

DATED: Honolulu, Hawai'i, October 23, 2025.

/s/ Sabrina S. McKenna

/s/ Todd W. Eddins

/s/ Lisa M. Ginoza

/s/ Vladimir P. Devens

/s/ Karen T. Nakasone

