

JAN 20 2023

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# A BILL FOR AN ACT

RELATING TO INTERNAL COMPLAINT PROCEDURES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 76-42, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3           "(a) The director shall promulgate a uniform plan for the  
4 creation of internal complaint procedures in the various  
5 departments that shall apply to matters within the jurisdiction  
6 of the merit appeals board. The internal complaint procedures  
7 may also be used for other matters, such as, when a complaint  
8 procedure is required by law to be available or when a  
9 jurisdiction deems it would be beneficial to avoid the time and  
10 expense of litigation; provided that matters subject to  
11 collective bargaining grievance procedures shall not be  
12 processed under the internal complaint procedures. The rules  
13 relating to internal complaint procedures shall conform to the  
14 following:

15           (1) The procedures shall encourage informal discussions  
16 and expeditious resolution of all complaints.

17           Informal resolution [~~includes~~] shall include the use



1 of any administrative review process available. A  
2 written decision shall be issued to the complainant on  
3 the outcome of any efforts to resolve the complaint  
4 informally and, if not resolved, the decision shall be  
5 accompanied by information on the filing of a formal  
6 complaint with the department or the merit appeals  
7 board, as applicable.

8 (2) In presenting a complaint, the complainant shall be  
9 assured freedom from coercion, discrimination, or  
10 reprisal.

11 (3) The complainant shall have the right to be represented  
12 by a person or persons of the complainant's own  
13 choosing at any stage in the presentation of the  
14 complaint.

15 (4) To minimize confusion and the possible loss of rights,  
16 the time and manner for filing a formal complaint  
17 shall be as uniform and [~~easily understandable~~] clear  
18 as possible [~~to the employees or the general public.~~];  
19 provided that:

20 (A) Complaint forms, instructions, and [~~the~~  
21 ~~complaint~~] procedures [~~should~~] shall be easily



1 accessible to ~~the~~ employees ~~or~~ and the  
2 general public, and ~~the~~ procedures ~~should~~  
3 shall allow for complaints to be filed at central  
4 locations convenient to the public~~[-]~~;

5 (B) A formal complaint shall be filed within twenty  
6 working days. If efforts were made to resolve  
7 the complaint informally, the deadline for filing  
8 a formal complaint under internal complaint  
9 procedures shall be tolled after receipt of a  
10 reply to the informal complaint; and

11 (C) The complaint shall be referred to the most  
12 appropriate individual at the lowest level of the  
13 internal complaint procedures ~~who has~~ having  
14 the authority to act on the complaint ~~and~~, who  
15 shall be responsible for contacting the  
16 complainant. If it is discovered after filing of  
17 the complaint that the matter complained of is  
18 not within the authority of a department to act,  
19 the department shall notify the complainant  
20 accordingly and refer the complaint to the  
21 appropriate agency, if known~~[-]. The deadline for~~



1           ~~filing a formal complaint under the internal~~  
2           ~~complaint procedures shall be tolled after~~  
3           ~~receipt of a reply to the informal complaint if~~  
4           ~~efforts were made to resolve the complaint~~  
5           ~~informally].~~

6           (5) All proceedings relating to the handling of a  
7           complaint by a person who is not an employee shall, as  
8           far as practicable, be conducted during office hours  
9           at times convenient to the complainant. All  
10          proceedings relating to the handling of employee  
11          complaints shall, so far as practicable, be conducted  
12          during the employee's work hours to permit the  
13          employee time off from work with pay.

14          (6) The departmental complaint procedure shall culminate  
15          in a written decision by the chief executive [~~or the~~],  
16          chief executive's designee, [~~whether the~~] director, or  
17          other appropriate authority who is assigned  
18          responsibility for making the final decision on the  
19          action being complained of."



# S.B. NO. 1050

1           SECTION 2. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4           SECTION 3. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6           SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:           *Alan*          



# S.B. NO. 1050

**Report Title:**

Internal Complaints Procedures; Deadline; Human Resources; Civil Service Positions

**Description:**

Clarifies internal complaint procedures for civil service positions by requiring a formal complaint to be filed within twenty working days.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

