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OFFICE OF DISPUTE RESOLUTION

DEPARTMENT OF THE ATTORNEY GENERAL

STATE OF HAWAI'I

In the Matter of The DEPARTMENT OF
EDUCATION, STATE OF HAWAI'I,¹

Petitioner(s),

vs.

The Parent(s)/Guardian(s) of STUDENT,

Respondents.

DOE-SY2425-036

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND DECISION

Due Process Hearing:
July 25 and 28, 2025

Hearings Officer: Chastity T. Imamura

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

I. INTRODUCTION

Petitioners bring forth this case under the Individuals with Disabilities Education Act (hereinafter "IDEA") to affirm that the DOE's reevaluation of Student in December 2024 was appropriate for the purpose of assessing what the team determined necessary for Student. Petitioners seek a finding that Respondents are not entitled to an independent educational evaluation at the DOE's expense.

II. JURISDICTION

¹ Personal identifiable information is contained in the Legend.

This proceeding was invoked in accordance with the IDEA, as amended in 2004, codified at 20 U.S.C. §1400, *et seq.*; the federal regulations implementing the IDEA, 34 C.F.R. §300.1, *et seq.*; and the Hawai'i Administrative Rules (hereinafter "H.A.R.") §8-60-1, *et seq.*

III. ISSUES PRESENTED

Petitioners assert one issue in their Request for IDEA Impartial Due Process Hearing (hereinafter "Complaint") to be addressed at the Hearing:

Whether the reevaluation conducted in December 2024 by the DOE was appropriate for the purpose of assessing what the team determined was necessary for Student.

Petitioners also requested the following remedy if successful:

A finding that Respondents are not entitled to an independent educational evaluation (hereinafter "IEE") at the DOE's expense.

IV. BACKGROUND

On March 28, 2025, the Department of Education, State of Hawai'i (hereinafter "Petitioners" or "DOE") submitted a Request for IDEA Impartial Due Process Hearing under the Hawai'i Administrative Rules Title 8, Chapter 60, in accordance with the IDEA.

On April 4, 2025, a prehearing conference was held with Hearings Officer Chastity T. Imamura; Ryan W. Roylo, Esq. (hereinafter "Mr. Roylo") on behalf Petitioners; and Keith H.S. Peck, Esq. (hereinafter "Mr. Peck") on behalf of Respondents. Based on information presented at the prehearing conference, the prehearing conference was rescheduled to April 9, 2025 for the assignment of a new attorney on behalf of Petitioners. The matter was continued again to April 16, 2025, at which time Amber P. Boll, Esq. (hereinafter "Ms. Boll") was assigned to the case. The parties at that time informed this Hearings Officer that the case would likely be resolved, so status conferences were set for May 7 and 29, 2025, June 12 and 20, 2025, and July 2 and 7, 2025. Based on the discussions at the status conference on July 7, 2025, this Hearings Officer set the matter for a due process hearing because it seemed that the issue was still unresolved.

The original decision deadline based on the filing of the Complaint was May 12, 2025. An Order Granting Respondents' Request for an Extension of the deadline was issued on May 7, 2025, which extended the decision deadline to June 26, 2025. An Order Granting Petitioners' Request for an Extension of the deadline was issued on June 23, 2025, which extended the decision deadline to August 10, 2025. Both extensions were granted based on an agreement by the parties that additional time was needed to try to resolve the case without going through a hearing. As the Hearing was completed by July 28, 2025, the Decision deadline remains at August 10, 2025.

Prior to the start of the Hearing, the parties stipulated to the Hearing being conducted via video conferencing pursuant to Hawai'i Revised Statutes Section 91-9(c). The Hearing was conducted via the Zoom videoconferencing platform and a court reporter was present to transcribe the proceedings to create the official record of the Hearing and to swear in the witnesses.

The Due Process Hearing began on July 25, 2025. Present at the Hearing were District Educational Specialist 1 and District Educational Specialist 2, as well as Ms. Boll, on behalf of Petitioners; and Mr. Peck, on behalf of Respondents;² this Hearings Officer; and the assigned court reporter. Petitioners called Assistant Principal (hereinafter "AP"), [REDACTED] [REDACTED] – Doctorate (hereinafter "[REDACTED]-D"), and Care Coordinator (hereinafter "CC") to testify on July 25, 2025. On July 28, 2025, Petitioners called [REDACTED] [REDACTED] (hereinafter "[REDACTED]") to testify and rested their case-in-chief. Respondents called Parent

² Mr. Peck's client's presence was waived during most of the proceedings, except when Parent was called to testify.

to testify and rested their case. Petitioners did not present any rebuttal witnesses. The Hearing concluded on July 28, 2025.

Both parties requested the ability to provide written closing arguments to outline their arguments and the relevant evidence that was applicable to the issue. The deadline for written closing briefs was August 1, 2025. Both parties submitted their respective closing briefs by the deadline.

Each party submitted their exhibits for the Hearing by the disclosure deadline of July 18, 2025. The parties reviewed the exhibit and witness lists provided by the opposing party and neither party had any objections to each other's exhibits. Both parties were informed that any exhibits that were discussed or mentioned during the proceeding would be received for consideration in the Decision in this case and that prior to the conclusion of the Hearing, this Hearings Officer would review the exhibits that had been received into evidence. On July 28, 2025, a List of Exhibits Received at Due Process Hearing was filed with the final list of exhibits submitted and received by the parties for consideration in this Decision.

Petitioners' exhibits that were received and considered as part of this Decision are as follows: Exhibit 10, pages 0016-0042; Exhibit 13, pages 0047-0048; Exhibit 26, page 0077; Exhibits 28-31, pages 0080-0100; Exhibits 33-34, pages 0103-0121; Exhibit 36, page 0124; Exhibits 39-40, pages 0129-0131; Exhibit 42, pages 0134-0144; Exhibit 47, pages 0179-0209; Exhibit 53, pages 0247-0253; Exhibit 64, pages 0269-0304; Exhibit 67, page 0309; Exhibit 72, page 0347; Exhibit 79, pages 0396-0397; Exhibit 87, page 0504; Exhibits 91-92, pages 0508-0509; Exhibit 129, pages 0668-0686; Exhibit 139, pages 0727-0728; Exhibits 141-142, pages 0730-0731; Exhibit 144, page 0738; Exhibits 164-165, pages 0835-0885; Exhibits 169-171, pages 0891-0927; Exhibit 173, pages 1016-1057; Exhibits 177-182, pages 1126-1141; Exhibits

186, 187, and 189, which were links to audio/video recordings, dated December 19, 2024, February 13, 2025, and March 11, 2025, respectively.

Respondents' exhibits that were received and considered as part of this Decision are as follows: Exhibit 1, pages 037-040; and Exhibit 2, pages 079-084.

Having reviewed and considered the evidence and arguments presented, together with the entire record of this proceeding,³ the undersigned Hearings Officer renders the following findings of fact, conclusions of law and decision.

V. FINDINGS OF FACT

Student's background

1. Student is [REDACTED] old and is currently enrolled in Home School. Student qualifies for IDEA special education and related services under the [REDACTED] category. Testimony of AP; Testimony of CC; Petitioners' Exhibit 47, page 0181 (hereinafter referenced as "P-Ex.47, p.0181").
2. Prior to [REDACTED], Student voluntarily attended a private program for Student's special education and related services. Testimony of AP; P-Ex.47, p.0181.
3. In January 2024, Student's team determined that assessments would be conducted with Student in anticipation of developing an individualized education program (hereinafter "IEP") for Student at Home School. Testimony of AP.
4. One of the assessments that was agreed upon by the team was a [REDACTED] [REDACTED] (hereinafter "[REDACTED]") to be conducted with Student to determine the function of Student's behaviors and determine Student's level of need regarding having [REDACTED]

³ Although all testimony and evidence presented in this case were reviewed, only relevant information is included in this Decision. This Hearings Officer notes that transcripts of the proceeding was not available to this Hearings Officer at the time of the writing of this Decision.

Testimony of [REDACTED]-D.

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the incident. Testimony of AP; Testimony of Parent.

10. An investigation into the incident was done at Home School and some concerns were raised [REDACTED].

[REDACTED]

[REDACTED] Testimony of AP; Testimony of Parent.

11. On October [REDACTED] 2024, an incident occurred at school where [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Testimony of CC; Testimony of Parent.

12. [REDACTED]

[REDACTED] Student acknowledged that Student's behavior of [REDACTED] was inappropriate and apologized to the class. Testimony of CC; P-Ex.171, p.0910-0911.

13. The incident regarding the [REDACTED] was noted as an instance of Student being able to communicate to familiar adults and answer questions about Student's feelings to practice social emotional regulation relating to a goal and objective in Student's IEP-05/28/2024. P-Ex.171, p.0910-0911.

14. Based on the incidents and concerns raised by Parent regarding the incidents, the IEP team held meetings to review and/or revise Student's IEP. A revised IEP was developed after the series of meetings in October and November 2024 (hereinafter "IEP-11/21/2024"). The IEP-11/21/2024 included goals and objectives for Student to communicate and practice social emotional regulation, such as identifying a trusted adult,

communicating with the trusted adult, identifying and expressing feelings to the trusted adult, and using coping strategies to manage emotions. Testimony of CC; P-Ex.64, p.0269-0304.

15. In July 2024, a private doctor conducted a neuropsychological evaluation with Student that was reviewed and discussed during the October and November 2024 IEP meetings. The team reviewed the neuropsychological report's recommendation that Student have adult supervision while on campus and during school-based transportation [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] P-Ex.64, p.0270.

16. On December 16, 2024, a safety plan was developed for Student to address Parent's concerns [REDACTED]

[REDACTED] The safety plan also addressed Student's work on managing emotions. Testimony of AP; P-Ex.67, p.0309.

17. On December 19, 2024, a student-focused team (hereinafter "SFT") meeting was held to determine whether a reevaluation would be done for Student based on Parent's continued concerns about Student's behaviors, emotional regulation, and safety. Testimony of AP; Testimony of CC; Testimony of Parent; P-Ex.28, p.0080.

18. At the December 19, 2024 SFT meeting, CC informed that team that after speaking with Student's teacher and educational assistant, as well as seeing Student at school nearly every day, the school team has not observed the safety concerns, emotional regulation, or behaviors that were being described at home being displayed at school. Testimony of CC; P-Ex.186, 12/19/24 SFT video recording.

19. At the end of the meeting on December 19, 2024, it was clear that the concerns being raised by Parent was that Student had escalating behaviors at home, that Student's behaviors at school were not being properly documented as part of Student's behavior plan, and that [REDACTED]
[REDACTED] Testimony of [REDACTED]
P-Ex.186, 12/19/24 SFT video recording.
20. [REDACTED] is a [REDACTED] that is employed by a private company and was contracted by the DOE to attend the December 19, 2024 SFT meeting and later to conduct the [REDACTED] Testimony of [REDACTED].
21. [REDACTED] has a master's degree in the field of [REDACTED] and has had training and experience in conducting [REDACTED] [REDACTED] is licensed to practice as a [REDACTED] in the State of Hawai'i. Testimony [REDACTED]
22. [REDACTED] was present at the December 19, 2024 SFT meeting, clarified Parent's concerns to be addressed by the proposed [REDACTED] answered questions by both the family friend and advocate that were at the meeting, and described the procedures that would be followed for the proposed [REDACTED] Testimony of [REDACTED] P-Ex.186, 12/19/24 SFT video recording.
23. Based on the discussions at the December 19, 2024 SFT meeting, as well as previous discussions among the team about those same concerns, [REDACTED] was contracted to do an independent [REDACTED] with Student. Testimony of [REDACTED]
24. [REDACTED] conducted the [REDACTED] with Student by following standard guidelines set forth for professionals in [REDACTED] field and completed an [REDACTED] descriptive report on February 13, 2025 (hereinafter '[REDACTED]-2/13/2025)'). Testimony of [REDACTED] P-Ex.31, p.0083-0100.⁴

⁴ Petitioners submitted two copies of the same [REDACTED] descriptive report by [REDACTED] as Petitioners'

25. [REDACTED] conducted several in-person observations of Student at school on different times of the day in different classes and/or settings. One of the in-person observations called for another licensed professional to observe Student to check the accuracy of the observations made by [REDACTED] Testimony [REDACTED] P-Ex.31, p.0089-0091.
26. [REDACTED] conducted an interview of Parent using an assessment tool and also included further information provided by Parent after the interview was completed. Testimony [REDACTED] P-Ex.31, p.0086-0089.
27. [REDACTED] conducted an interview of the educational assistant that had worked with Student in the classroom [REDACTED] regarding Student's behaviors and observations that the assistant made of Student in class. Testimony of [REDACTED]; P-Ex.31, p.0088.
28. [REDACTED] also utilized The Essential for Living Quick Assessment to assess Student's behaviors during the observations of Student in class by [REDACTED] as a way of addressing Parent's concerns that led to the [REDACTED] Testimony of [REDACTED]; P-Ex.31, p.0091-0096.
29. [REDACTED] did not recommend that Student needed additional behavior support services, but did make recommendations for addressing deficits as highlighted by The Essentials for Living Quick Assessment. Testimony of [REDACTED]; P-Ex.31, p.0091-0093.
30. Two meetings were held to discuss the [REDACTED]-2/13/2025 and to determine Student's continued eligibility for special education and related services. P-Ex.34, p.0121; P-Ex.36, p.0124.
31. Parent expressed disagreement with the results of the [REDACTED]-2/13/2025 conducted by [REDACTED] because Parent did not believe that the [REDACTED]-2/13/2025 addressed Student's safety skills

Exhibits 31 and 33. For clarity and ease of reference, this Hearings Officer will be referencing Petitioners' Exhibit 31.

and managing Student's behavior, but Parent agreed that Student continued to be eligible for special education and related services under the category of [REDACTED]. P-Ex.40, p.0131; P-Ex.189, 3/11/25 Eligibility video recording; R-Ex.2, p.079-082.

32. On March 10, 2025, Parent requested an IEE at public expense to assess Student's safety skills and needs in managing behavior. Parent indicated that Parent did not believe that the [REDACTED]-2/13/2025 conducted by [REDACTED] adequately evaluated Parent's concerns for Student's safety skills deficits. Testimony of AP; P-Ex.139, p.0727-0728; R-Ex.2, p.079-080.
33. In the email, Parent referenced [REDACTED] specific incidents to highlight the safety concerns that Parent raised. [REDACTED]
[REDACTED] The incidents described by Parent did not note any behaviors of Student that would have caused or contributed to these incidents or that would raise concerns about Student's management of behaviors. Testimony of Parent; P-Ex.139, p.0727-0728; R-Ex.2, p.079-080; *see also* P-Ex.177, p.1126; P-Ex.178, p.1127.
34. Parent had not articulated any specific safety concerns of Student regarding behaviors or deficits that Student had [REDACTED]
[REDACTED] either at the December 2024 SFT meeting or the February 13, 2025 or March 11, 2025 eligibility meetings. *See* P-Ex.139, p.0727-0728; R-Ex.2, p.079-080; P-Ex.186, 12/19/24 SFT video recording; P-Ex.187, 2/13/25 eligibility audio recording; P-Ex.189, 3/11/25 eligibility video recording; R-Ex.2, p.079-082.
35. During the February 13, 2025 eligibility meeting, Parent did question whether Student

had an adult support with Student and noted that Student's previous providers and the neuropsychological assessor noted that Student needs adult support [REDACTED] [REDACTED] provided Parent with information about what was observed during the [REDACTED]-2/13/2025 observations, regarding Student having adult support but being allowed to act independently at school. [REDACTED] also explained the recommendation for Student continuing to have adult support rather than an [REDACTED] professional to be working with Student with a [REDACTED] Testimony of CC; Testimony [REDACTED] P-Ex.187, 2/13/25 eligibility audio recording.

36. At the Hearing, Parent provided testimony regarding [REDACTED] incidents⁵ that occurred in the community. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Testimony of Parent.

VI. CONCLUSIONS OF LAW

- A. Petitioners have proven that the reevaluation done in December 2024 was appropriate for the purpose of addressing what the team determined was necessary for Student

Petitioners assert that the reevaluation that was done in December 2024 was appropriate to address what Student's team determined was necessary for Student. Petitioners also assert that the team determined what was necessary for Student at the December 19, 2024 SFT meeting, wherein the team approved [REDACTED], as an independent contractor, to do an [REDACTED] with

⁵ Parent did not provide any context or time-frame when these incidents occurred and noted that the incident [REDACTED] was communicated with Parent [REDACTED] [REDACTED] as Parent was not present when it occurred.

Student to address the concerns raised by Parent. This Hearings Officer agrees with Petitioners that the team discussed and determined the needs of Student to be examined in the reevaluation was determined at the December 19, 2024 SFT meeting and that the resulting [REDACTED]-2/13/2025 completed by [REDACTED] was an appropriate evaluation of Student for the concerns that were raised by Parents.⁶

The purpose of the IDEA is to “ensure that all children with disabilities have available to them a free and appropriate public education that emphasizes special education and related services designed to meet their unique needs.” *Bd. of Educ. v. Rowley*, 458 U.S. 176, 179-91, 102 S.Ct. 3034, 3037-3043 (1982); *Hinson v. Merritt Educ. Ctr.*, 579 F.Supp.2d 89, 98 (D. D.C. 2008) (citing 20 U.S.C. §1400(d)(1)(A)). A FAPE includes both special education and related services. H.A.R. §8-60-2; 20 U.S.C. §1401(9); 34 C.F.R §300.34; 34 C.F.R §300.39.

Special education means “specially designed instruction to meet the unique needs of a child with a disability” and related services are the supportive services required to assist a student to benefit from their special education. *Id.* To provide a FAPE in compliance with the IDEA, the state educational agency receiving federal funds must “evaluate a student, determine whether that student is eligible for special education, and formulate and implement an IEP.”

Dep’t of Educ. of Hawai’i v. Leo W. by & through Veronica W., 226 F.Supp.3d 1081, 1093 (D. Hawai’i 2016).

⁶ This Hearings Officer notes that the [REDACTED] conducted by [REDACTED] was, in fact, an IEE conducted by the DOE at the request of Parent based on concerns regarding Student’s safety. The definition of an IEE is “an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question.” *D.S.*, 975 F.3d at 158; 34 C.F.R. §300.502(c)(1). As [REDACTED] is employed by a separate company and was contracted by the DOE for the purpose of doing the [REDACTED] with Student, the ‘reevaluation’ being examined fits the definition of an IEE under the IDEA. In December 2024, Petitioners essentially provided an IEE to Parent by contracting with [REDACTED] to conduct an [REDACTED] for Student.

Parents have several procedural protections under the IDEA, which include initiating a request for an initial evaluation or a reevaluation to determine whether their child has and/or continues to have a qualifying disability to receive special education and related services. The results of the evaluation and/or reevaluation are used by the IEP teams to determine whether the student is eligible for special education and related services and, if so, are used to develop an IEP that addresses the student's unique needs. *D.S. by and through M.S. v. Trumbull Board of Education*, 975 F.3d 152, 155 (2nd Cir. 2020).

The IDEA requires that reevaluations be comprehensive and use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information. 20 U.S.C. §1414(b)(2)(A). A reevaluation typically is done every three years to determine continued eligibility under the IDEA and to update the student's IEP. *D.S.*, 975 F.3d at 157. "The child's IEP team takes the results of these evaluations and regularly collaborates to develop, maintain, and update the child's IEP over the course of their education." *Id.* If the parents are not satisfied with the evaluation or reevaluation of the student, then the parents may also request an IEE at public expense. *Id.* at 156.

At the time of the December 2024 SFT meeting, the IEP team had already reviewed numerous assessments since Student's enrollment at Home School to use in developing and updating Student's IEP. *FOF 7*. These include Student's IEP from the private program Student attended, Parent input, an academic assessment, an adaptive assessment, math and reading assessments, an occupational therapy assessment, a speech assessment, and a 2024 neuropsychological assessment done by a private doctor. *FOF 15*.

Parent had been raising concerns about Student's safety [REDACTED]

[REDACTED] prior to the meeting in December 2024. *FOF 9-12*. A safety

plan was created prior to December 2024 to address Parent's concerns about Student's emotional regulation and safety concerns [REDACTED] at the school. *FOF 16*. At the December 2024 SFT meeting, Parent specifically raised concerns about Student's behavior and the data that was being collected regarding Student's behavior and behavior support plan, Student's ability to manage emotions, [REDACTED] *FOF*

19. These concerns that were raised by Parent at the December 2024 SFT meeting were behavioral in nature or were directed at concerns regarding Student's behavioral data.

Based on the discussions at the SFT meeting, an [REDACTED] was an appropriate assessment that would address concerns raised by Parent. *FOF 23*. [REDACTED] was present at the meeting and informed Parent of how the new [REDACTED] would be conducted to address Parent's concerns and Parent and the rest of the team agreed that an [REDACTED] done by [REDACTED] was appropriate to address Student's needs and Parent's concerns. *FOF 22*.

The [REDACTED]-2/13/2025 was conducted using appropriate and commonly recognized procedures and instruments that assessed Student's behaviors and the functions of the behaviors. "An [REDACTED] focuses on identifying the function or purpose behind a child's behavior. Typically, the process involves looking closely at a wide range of child-specific factors (e.g. social, affective, environmental)." It may include observations and formal assessments. *Letter to Gallo*, 61 IDELR 173, 113 LRP 19171 (OSEP 2013). The [REDACTED]-2/13/2025 done by [REDACTED] included several observations of Student at varying times during the day; interviews with Parent and school personnel that worked closely with Student; a review of Student's educational records, including the neuropsychological evaluation and prior assessments conducted with Student; and completion of the Essentials for Living Quick Assessment. *FOF 24-28*. [REDACTED] used screening tools that are accepted within [REDACTED] field as being appropriate assessments to use as part of

████ and also recruited another licensed █████ professional to confirm the data collection procedures during one of the observations conducted of Student. *FOF 25*. The █████-2/13/2025 was properly conducted by █████ and assessed the behaviors and areas of concern raised by Parent at the SFT meeting on December 19, 2024.

While Respondents raised concerns at the Hearing regarding safety concerns for Student in the community, █████ these concerns were not raised at the December 19, 2024 SFT meeting or at the 2025 eligibility meetings. *FOF 19, 31, 33-36*. Other concerns raised by Respondents, █████ as noted in the █████-2/13/2025, were also not raised by Parent at the SFT meeting. Respondents also argue that the █████-2/13/2025 was not an appropriate assessment because it did not address concerns raised by Parent in the █████ interview process, however, the █████-2/13/2025 did make recommendations regarding Student's continued IEP supports of ways to address concerns raised by Parent. *FOF 29, 35*. The needs of Student regarding safety skills and emotional regulation are addressed in Student's IEP-11/21/2024, by having goals and objectives for Student to express emotions and role-playing safety skills to understand safety in the community. *FOF 14*. Finally, the concerns raised by Parent regarding specific instances of █████ are not concerns that would be evaluated or remedied by any assessment; rather, those concerns are appropriately addressed by developing a safety plan, such as the safety plan that is part of Student's program, to avoid █████ affecting Student's safety and well-being. *FOF 33*.

Petitioners have proven that based on the information that the team had regarding Parent's concerns and request for a reevaluation of Student in December 2024, the █████

2/13/2025 conducted with Student was appropriate to address the needs of Student as determined by the team at the December 19, 2024 meeting.

VII. DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the undersigned Hearings Officer finds that Petitioners have proven that the [REDACTED]-2/13/2025 conducted by [REDACTED] was an appropriate assessment to address the team's concerns regarding Student's needs at the December 2024 SFT meeting. The [REDACTED]-2/13/2025 conducted by [REDACTED] was appropriately done and addressed the concerns that were raised by Parent at the meeting. This Hearings Officer therefore finds that Respondents are not entitled to an independent educational evaluation at public expense.

RIGHT TO APPEAL

The decision issued by this Hearings Officer is a final determination on the merits. Any party aggrieved by the findings and decision of the Hearings Officer shall have 30 days from the date of the decision of the hearings officer to file a civil action, with respect to the issues presented at the due process hearing, in a district court of the United States or a State court of competent jurisdiction, as provided in 20 U.S.C. §1415(i)(2) and §8-60-70(b).

DATED: Honolulu, Hawai'i, August 8, 2025.



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