

STATE OF HAWAI‘I
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
(VIRTUAL MEETING - VIA ZOOM WEBINAR)

Due to the threat of COVID-19, Governor Ige issued the most recent Emergency Proclamation Related to the COVID-19 Delta Response, dated October 1, 2021 that suspends parts of Hawai‘i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location.

The OHA Board of Trustees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA’s website at www.oha.org/livestream or listen by phone: (213) 338-8477

**Minutes of the Office of Hawaiian Affairs
Board of Trustees
MINUTES
October 21, 2021**

ATTENDANCE:

Chairperson Carmen Hulu Lindsey
Trustee Leina‘ala Ahu Isa
Trustee Kaleihikina Akaka
Trustee Keli‘i Akina
Trustee Luana Alapa
Trustee Brendon Kalei‘āina Lee
Trustee Keola Lindsey
Trustee John Waihe‘e, IV

BOT STAFF:

Colin Kippen, COS
Amber Kalua, Trustee Aide
Kanani Iaea, Trustee Aide
Lehua Itokazu, Board Secretary

ADMINISTRATION STAFF:

Sylvia Hussey, Ka Pouhana / CEO
Casey Brown, Ka Pou Nui / COO
Raina Gushiken, CC
Everett Ohta, CC
Ramona Hinck, CFO
Kevin Chak, IT
Erin Nakama, IT
Kalani Fronda, Land Director
Kai Mana Peres-David, HR Director
Robert Klein, Board Counsel

GUEST:

Patricia Talbert
Sam Chung, Financial Advisor to the BOT
K. Veto Baker
Peter Gilpatric
Linda Schatz
Michael Yee
Tai Pa

Call to Order

Chair Hulu Lindsey Calls the Board of Trustees Meeting to order for Thursday, October 21, 2021, at 10:02 a.m. Board Secretary please do a roll call.

MEMBERS			Present	TIME ARRIVED
TRUSTEE	LEINA'ALA	AHU ISA	X	
TRUSTEE	DAN	AHUNA		Excused
TRUSTEE	KALEI	AKAKA		Joins mtg. at 10: 03 am
TRUSTEE	KELI'I	AKINA	X	
TRUSTEE	LUANA	ALAPA	X	
TRUSTEE	BRENDON KALEI'ĀINA	LEE	X	
TRUSTEE	KEOLA	LINDSEY	X	
TRUSTEE	JOHN	WAIHE'E	X	
CHAIRPERSON	CARMEN HULU	LINDSEY	X	
			7	

At the Call to Order, **seven (7)** Trustees are PRESENT, thereby constituting a quorum.

Chair Hulu Lindsey Thank you Trustees. Due to the threat of COVID-19, Governor Ige issued the most recent Emergency Proclamation related to COVID-19 Response dated October 1, 2021, that suspends parts of Hawai'i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location. The OHA Board of Trustees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA's website at www.oha.org/livestream

I will go over some quick announcements. Please mute your mics when you are not speaking. We are recording today's meeting for the sole purpose of producing written minutes, which will become the official record of this meeting.

Joining the Trustees today is my staff Colin Kippen-COS, my Aides-Kanani Iaea and Amber Kalua, and our Board Secretary-Lehua Itokazu. Robert Klein-our Board Counsel is also with us today. I will now call on our Pouhana, Sylvia to announce who is joining us from administration.

Sylvia Hussey, CEO Thank you Chair and good morning Trustees, Chair, we have COO-Casey Brown, CFO-Ramona Hinck, Senior Legal Counsel-Raina Gushiken, Assistant Senior Legal Counsel-Everett Ohta, Kalani Fronda-Land Director, Kai Mana Peres-David-HR Director, as well as our IT staff-Kevin and Erin. We also have a number of guest on with us that will be introduced a little later.

Public Testimony

None

Community Concerns

Patricia Talbert Aloha kākou, my name is Patricia Medina Talbert. I am here because several friends sent the RFP regarding legal services for OHA. I reviewed this and in my opinion, I do not qualify. My purpose of being here today is not to ask for special treatment. Today, I am going to speak to you about a few things in the time allotted. One, I will point out some of the challenges I see making it difficult for some of us to apply. Also, to offer some suggestions for improvement. I have been in practice for thirty years during that time I have been a partner, a law professor, special assistant-Attorney General, as well as a member of the Bench. When I got on the Bench, Mililani Trask said to me, you are the first part Hawaiian/Asian woman on the mainland to be appointed at the level. She and I also practiced together, we represented men who were victims of pedofiles while they were at Kamehameha Schools Institution, both she and I attended. In my practice, I represented plaintiffs in civil rights cases; I've also been corporate counsel; I have litigated everything from trade secrets, criminal-felony crimes, bankruptcy, labor and employment law, and just about anything you can imagine. I am pointing this out because again, I cannot qualify to apply. Let me give you some background of why that is. First of all, it's the pool that we have in Hawai'i. There are about 42,000 of us, about 77% are in one or two attorney law firms, the minority 23% are in larger firms between three and 77 attorneys. I believe that the majority of us, about 3,000 of us, could not apply for this RFP even though we might have the qualifications because we cannot meet your requirements that one lawyer provide all of the legal services you need on topics as well as we do not have the office facilities or the support staff. In bigger firms like a firm of 77 attorneys, they can assign lawyers, they can hire for it to learn about the practices you need. So, what does that mean in terms of the problems I see with this RFP as a civil rights attorney? This is almost like a dream come true because inherent in this RFP are what we call institutional discrimination or put in another way, patterns and practices of discrimination at about discriminatory consequences. What do I mean by that? First of all, let's look at the RFP itself. The RFP, as I said already, requires that your firm have certain expertise. I'm not saying you're not entitled to that expertise, but it's going to be very rare that you're going to find in a law firm, one or two lawyers again, 77% of the practice to have that expertise. Again, it falls to the larger law firms to have that expertise as well as the facilities. Next, the contract is 29 pages, I read it. I'm going to give you three examples of why that contract is in simple language, unlawful possibly for a lawyer to sign. One of the issues and again this is just an example, this contract is to be supervised and monitored by two individuals, the Chair of BOT and the contract Administrator. Both of those people, neither are listed as attorneys admitted to the practice of law. As lawyers, we are not permitted under the code of professional conduct, to be supervised by non-lawyers. When that happens, we're not allowed to have our legal judgement impacted by non-lawyers and with a non-lawyer trying to supervise this is arguably engaging in the unlawful practice of law, that's number one. Number two, you want women and minority business law firms or businesses to respond, there's no way that can be. There's no path to doing that in this RFP. If you choose a larger law firm, there is no procedure by which a larger law firm can engage women or minority owned business again, which is usually one or two attorney practices to participate in this. The last issue is indemnification, you can't have a lawyer worrying about indemnifying everybody and represent you. I have 15 seconds left. I was prepared to give some recommendation for improvement, but my time is done. The reason I'm here is that I believe I support the Office of Hawaiian Affairs and I do believe in all of you Trustees, thank you.

New Business

A. Committee of Beneficiary Advocacy and Empowerment

1. Action Item BAE # 21-05: Approval of OHA participation in the appeal and administrative proceedings related to the Nā Wai 'Ehā Surface Water Use Applications, Integration of Appurtenant Rights, and Amendments to the Interim Instream Flow Standards Findings of Fact,

Conclusions of Law, and Decision and Order, dated June 28, 2021, of the Commission on Water Resource Management (CCH-MA 15-01)

Chair Hulu Lindsey Moving on to item IV. I will call on Trustee Akaka.

Trustee Akaka Your Committee on Beneficiary Advocacy and Empowerment, having met on October 13, 2021 and after full and free discussion, recommends approval of the following motion to the Board of Trustees:

Motion 1:

Action Item BAE # 21-05: Approval of OHA participation in the appeal and administrative proceedings related to the Nā Wai ‘Ehā Surface Water Use Applications, Integration of Appurtenant Rights, and Amendments to the Interim Instream Flow Standards Findings of Fact, Conclusions of Law, and Decision and Order, dated June 28, 2021, of the Commission on Water Resource Management (CCH-MA 15-01);

Trustee K. Lindsey Seconds the motion.

Trustee Akaka motions to							
Action Item BAE # 21-05: Approval of OHA participation in the appeal and administrative proceedings related to the Nā Wai ‘Ehā Surface Water Use Applications, Integration of Appurtenant Rights, and Amendments to the Interim Instream Flow Standards Findings of Fact, Conclusions of Law, and Decision and Order, dated June 28, 2021, of the Commission on Water Resource Management (CCH-MA 15-01);							
Trustee K. Lindsey Seconds the motion.							
		1	2	‘AE (YES)	‘A‘OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI	AHU ISA			X			
TRUSTEE DAN	AHUNA						Excused
TRUSTEE KALEI	AKAKA	X		X			
TRUSTEE KELI‘I	AKINA			X			
TRUSTEE LUANA	ALAPA			X			
TRUSTEE BRENDON	LEE			X			
TRUSTEE KEOLA	LINDSEY		X	X			
TRUSTEE JOHN	WAIHE‘E			X			
CHAIRPERSON HULU	LINDSEY			X			
TOTAL VOTE COUNT				8			1
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED							
Motion passes with eight (8) YES votes and one (1) EXCUSED vote.							

Chair Hulu Lindsey Next on the agenda is item B. I will not turn the time over to our CEO, Sylvia Hussey.

B. Workshop: COVID-19 Vaccination and Testing Policy for the Office of Hawaiian Affairs and its Implementation by Administration

Sylvia Hussey, CEO Thank you Chair. Good morning again Trustees, we'll have Senior Legal Counsel, Raina Gushiken and HR Director, Kai Mana Peres-David to walk us through the overview and then the discussion is yours to have and ask questions.

Raina Gushiken, Sr. Legal Counsel Thank you and good morning, Madam Cahir and Trustees. I will be presenting on the proposed policy from administration regarding Covid-19 vaccination and testing, and so, if you give me a moment, I'll share my screen to start the presentation. Okay, I'll give an overview again of the proposed policy. Kai Mana, our HR director, and I will be available for any questions during the presentation and afterwards. I do want to give a caveat that there are some changes already that we've recognized, we need to make to the policy in light of the fact that OHA has recently completed the purchase of two commercial properties added to our portfolio and that's of course 501 Sumner Street and 500 North Nimitz Highway. We do plan, after this workshop, to bring to the board and action item seeking approval of the policy and I believe, subject to confirmation by Chair Hulu Lindsey and Ka Pou Hana on the scheduling, the anticipated date for that action item would be the November 4th Board meeting. With that I'll begin with respect to the policy, what is the why of the policy, the purpose? First and foremost, as has been the intent since the beginning of the global pandemic, we've instituted safety measures to ensure and maintain safe, healthy, and productive work environments for our employees, for our beneficiaries, and visitors alike. So, instituting a policy with regard to vaccination and testing would be an additional measure of mitigation to stop the spread of Covid-19.

COVID-19 Vaccination and Testing Policy
Office of Hawaiian Affairs

Purpose

- Ensure and maintain safe, healthy, and productive work environments for staff, beneficiaries, visitors
- Vaccinations play an important role in preventing severe illness and death in those who contract COVID-19
- Align with federal, state, and county vaccination and testing requirements for government employees
- Align with federal and state vaccination and testing requirements for government contractors
- Align with state vaccination and testing requirements for visitors to state facilities

Second, we know that vaccinations, the data has shown that vaccinations are safe, they work, and vaccinations play an important role in preventing severe illness and death in those who contract Covid-19. Finally, instituting a policy would align OHA with regulations regarding vaccination and testing requirements that are already in place at the Federal level, the State level, and at the County level. This Board is aware of Governor Ige's emergencies proclamations, executive branch and county employees to attest to their vaccination status and in lieu of not being vaccinated then they were required to do weekly testing. The counties instituted their own respective policies. I understand with Honolulu, the county, it was a vaccination requirement if they received a medical or religious exemption then testing was allowed but, again, OHA's policy, the recommendation is to require vaccination or testing. The policy would align with Federal and State vaccination requirements with respect to government contractors. Under Ka Pou Hana's operational directive following the Governor's emergency proclamation, any contractors who perform work on site at OHA are required to attest to the status and identify the employees that are going to be performing work at an OHA worksite. Then confirm that these employees are either fully vaccinated or have provided a negative Covid test result before coming onsite to perform work. For example, we already have attestations from contractors to perform janitorial cleaning services and repair maintenance work at our OHA worksites. Finally, the policy would also align OHA with the state's vaccination and testing requirements for visitors to state facilities. As you may be aware from watching

the news, for example, to visit the Hawai'i State library visitors are required to provide proof of being fully vaccinated or a negative Covid test result. That is the why of the policy.

What is the policy recommendation?

The policy recommendation is to enter an OHA work site, all employees and visitors are required to provide proof of being fully vaccinated or provide a negative Covid-19 test result that was issued within the last 72 hours.

Who would be required to follow the policy and who does the policy apply to?

It would apply to OHA employees. An employee would be any full time, part time, compensated or un-compensated individual that would include any of our executives, directors, our managers, our staff, temporary-emergency 89-day hires as well as casual hires that hired by the Office of Hawaiian Affairs. An employee would also include our trustee aides and our trustees are members of the board of trustees and volunteers who work with OHA. This definition of employee is consistent with obviously the State executive branch employees who are required to be fully vaccinated or submit to weekly testing at the respective State agencies. State judiciary is requiring all of its employees, judges to provide proof of vaccination or submit to weekly testing and both houses of our legislature. The State Senate and House have a similar policy in place for their members and employees. Additionally, the University of Hawai'i in its own policy for vaccination and testing, its definition of employee includes members of the board of regents.

Who is a visitor?

A visitor would be any person entering an OHA work site, who is not a State employee and the distinction here is obviously because all branches of State government; judiciary, executive, and legislative branches have already instituted some form of a vaccination or testing policy. So, if a State employee from another agency, for example Department of Land Natural Resources (DLNR), is going to do a site inspection at one of our OHA properties then the policy would not apply to them. We would not request them to show proof of vaccination or negative Covid test result because they've already done that to their respective agency and department. A visitor would include any of our vendors, contractors, employees of vendors and contractors. The policy would not apply to persons under the age of 12, that is children 11 and under because they are not eligible to be vaccinated at this time. The policy would not apply to individuals who are making deliveries at an OHA work site. For example: FedEx or UPS or a process server serving a legal document on OHA where they are only going to be temporarily at our OHA worksite, to be on site for no more than 10 minutes at a time.

What is an OHA worksite?

An OHA work site is any physical location or destination, where our employees will be interacting and conducting, interacting with the public and conducting official OHA business. We've identified the 15 locations that you are familiar with from the daily wellness check that all of us are doing through the lumi site wellness application. I want to note that we would add to this definition of OHA worksite the two new recent properties that were purchase by OHA.

Chair Hulu Lindsey How are we going to implement those public sites that we just purchased?

Raina Gushiken, Sr. Legal Counsel Good question. I am getting to that section now on the how it would be implemented. Employees and visitors in order to show proof of full vaccination for employees, they would send

to OHA HR via email a copy of their vaccination card. It would get checked and verified by HR, our employees could also send an email to HR, a digital copy of their vaccination status using the publicly available health status application such as the state of Hawaii smart health card. For those who have traveled out of state, they may be familiar with that application already. For OHA employees, they will also be able to upload an image of their vaccination card through the Lumi site application and that feature is being worked on as we speak, and will be made available to both employees and visitors alike; and so for visitors to OHA again, can show proof of their full vaccination status by showing the hard copy of their vaccination card or a digital copy to the OHA employee that they are meeting onsite and/or upload an image of their vaccination card through the Lumi site or application since all visitors and employees would be still subject to the daily wellness check in. For those employees and guest that would like to provide a negative test result then similarly employees would email to OHA HR documentation evidencing their negative test result. For our visitors, again they would show to the OHA point of contact a hard copy or digital copy of their documentation showing their negative Covid test result. For both employees and visitors, they would have the ability to upload documentation of their negative test results through the Lumi site OHA application.

Implementation

Any documentation related to vaccination status or test results obtained for purposes of this policy shall not be disclosed to individuals other than as necessary to ensure compliance with this policy or as required by law or court order.

Policy will be effective upon Board approval

Administration will communicate implementation date and requirements of the policy to employees

When OHA re-opens to the public, Administration will communicate the requirements of the policy through available modes of external communication

The policy will be updated by Administration on a regular basis as medical guidance and regulatory requirements change

In terms of when and how this policy would be implemented, any documentation or information regarding an employee or visitors vaccination status or test result will be kept private and remain confidential for purposes of this policy. They will not be disclosed unless necessary to ensure compliance with the policy or required by law or court order. The policy would be required by law or court

order. The policy would be effective upon approval by the Board. In terms of an implementation date, administration would make that determination so that we can provide a detail of the policies to our employees and form them accordingly. There are frequently asked questions that have been prepared to accompany this policy once approved. Any training that is necessary for employees to be able to use the Lumi site application to upload their vaccination or test results for verification, that kind of training would be provided beforehand before implementation of the policy. Similarly, when OHA reopens its doors to the public, administration will communicate the requirements of the policy through the available means of external communication and, for example, there is a page on OHA’s website with respect to Covid-19, so information regarding the policy could be linked to that section OHA’s webpage. Finally, the policy would be amended by administration on a regular basis to comply or be consistent with medical guidance from the CDC and the Department of Health as well as any regulatory requirements effectuated through the Governor, through emergency proclamations or as needed at the County level as well. With that, we open ourselves up to any questions that you may have.

Trustee Ahu Isa Question, an employee who is required or directed to report to an OHA worksite but who is less than fully vaccinated and has not been tested must notify the supervisor that they are not able to report, the employee may be subject to the appropriate corrective progressive disciplinary action. What does this mean? Does this mean unpaid leave, laid off, or like HPD, where they get fired if they do not comply?

Raina Gushiken, Sr. Legal Counsel Thank you Trustee Ahu Isa. I will ask Kai Mana to answer that question from HR.

Kai Mana Peres-David, HR Director Yes, mahalo Raina. Basically, any response to employee non-compliance would be guided by the employee handbook which outlines the agencies protocols on progressive disciplinary action. Typically, that would mean some type of verbal warning first, as opposed to outright suspension or termination. I do want to emphasize, all people related cases do matter, every situation is unique

and so the circumstances surrounding a particular non-compliance incident would need to be reviewed before determining what type of corrective action is appropriate.

Trustee Ahu Isa That was my question. You said the steps that we have to go through. Have we come across anybody that refused to take it?

Kai Mana Peres-David, HR Director At this time because there is not an official policy in place, we haven't had to address incidents like that but I would say that approach of progressive disciplinary action is what we would typically use with regards to any incident of non-compliance regardless of what policy we are talking about. That would be the precedence that's been set and the practice that we would follow.

Trustee Ahu Isa I'm interested. The DOE has their own, HPD, City and County have their own so we follow the State, the Governor. Some are put on unpaid leave and many retire, this is what I gather from what I'm reading. So that's what I wanted to know, if its not in our policy, do you have it in our HR written down somewhere? If they don't comply first, put them unpaid leave, if we don't have that then how do we approve a policy? Anyway, that is my question. Mahalo.

Trustee Lee Raina, with the amendments you folks are suggesting to add our new properties into this policy, how exactly does that work for visitors? Based on the definition in front of us, the shoppers at our commercial properties would be visitors and the current emergency mandate does not require people shopping to provide any of this type of documentation. Also, I am curious about our industrial property that was purchased, I don't know if those companies have any policies in place for their own employees that are working there. Also, the Lumi site, if you are going to have a meeting in Honolulu, how do we communicate to all these people that you have to download this Lumi site app?

Raina Gushiken, Sr. Legal Counsel Thank you Trustee Lee, that's a good question. We did discuss that in Corp counsel. We do recognize that with the addition of these two properties to our portfolio, the policy essentially would be because we have Nā Lama Kukui (NLK) and we lease a space and we are a tenant in NLK. The policy applies to OHA's office space in NLK but the policy will not apply to lets say the restaurant downstairs in NLK. The policy will not apply to the ballet studio in NLK because those tenants are responsible for those spaces that they lease and ensuring whatever safety protocols are necessary for their customers and their visitors. Same for the Ross, Longs, and PetSmart property, the policy would not apply to visitors and customers of those lease spaces because it would be the responsibility of the tenant. Whatever safety protocols they want to institute to protect and ensure the safety of their visitors and customers then that is their kuleana. For any of our properties that are vacant, for ex: 919 Ala Moana Blvd, AAFES building or the 501 Sumner Street property, they are vacant. If an OHA employee is going to go to that work site, then our OHA employee is subject to the policy. If a vendor is meeting our OHA employee at the vacant property, then the vendor would be subject to the same policy.

Trustee Lee So, those exemptions will be noted in the policy, right?

Raina Gushiken, Sr. Legal Counsel Yes, thank you for that. It is a change that we will be incorporating, we recognized after we submitted the information for the Board to consider, that was something we knew we needed to make changes to and clarify.

Trustee Lee Thank you Raina.

Trustee K. Lindsey Raina, did I hear correctly that at a certain point when our employees meet with non-State folks at NLK, they're going to be the ones verifying vaccination or negative Covid test results?

Raina Gushiken, Sr. Legal Counsel Yes, and we will be providing information on how our employees can verify that information. We have a frequently asked questions that would accompany the policy for our employees as well as visitors alike so that they can know the steps to go through in terms of verifying a vaccination card for vaccination status. Similar for any of us that have gone to a restaurant and dined in locally, upon arrival whoever is at the door would be asking for the visitor's ID and vaccination card. Our staff will be asked to that.

Trustee K. Lindsey That was going to be my question, how we're going to help our folks in those situations and make sure things are going smoothly.

Raina Gushiken, Sr. Legal Counsel Yes, we would ensure that whatever training is necessary to inform our employees that would be meeting on site with visitors or beneficiaries on the steps to go through to verify vaccination status or negative Covid test results. Thank you, Trustee.

Colin Kippen, COS I have a question. Did I hear you correctly, that if it is a State employee that they will automatically be granted a waiver simply because they're a State employee visiting our facility?

Raina Gushiken, Sr. Legal Counsel Essentially yes, because they've already tested. If they have to come to their own work site say at the Department of Land and Natural Resources, they've already had to attest to their respective department, you know HR or department head, that they are either fully vaccinated or negative Covid test result. So, if they are checking in at DLNR and then coming to OHA to do a site inspection then they've already gone through that process. Nevertheless, obviously, if you know our OHA employee who is meeting them wants to ask then they're not prohibited from asking, and we would expect that another State employee would be able to provide that information upon request. Similarly, when an employee goes to another State agency and our own employees are asked can you verify?

Colin Kippen, COS Is it assumed that so, for example if an individual chose not to be vaccinated, it sounds like the assumption is on a normal five-day work week they probably would have to be tested twice right because, the test would expire after 72 hours right? Is that the thinking?

Raina Gushiken, Sr. Legal Counsel So, the testing would be weekly. The test sample has to be done 72 hours prior to the first day of entry during the work week for our employees.

Chair Hulu Lindsey Raina, I see one loophole in the exemptions under visitors in your definition, the 10 minutes allowed for anybody delivering stuff is a dangerous thing because if they're Covid positive, it doesn't take 10 minutes for them to pass it on to someone. To have someone exempted to come into OHA's offices and expose themselves to anyone of our employees, how do we prevent that?

Raina Gushiken, Sr. Legal Counsel Thank you for that question, Chair Hulu. The definition does not apply to the people making deliveries as consistent with the States definition and requirement for visitors to a State facility, it is also consistent with the County. So, it is working within that parameter and also the duration of 10 minutes is tracking CDC guidance in terms of what is a close contact and the duration for a close contact.

Chair Hulu Lindsey One of my colleagues just reminded me that all delivery people should be masked anyway while on the premises.

Trustee Lee Yes, sorry Chair. That's what I was going to say. All of our properties have a mask mandate. Even if they're going to be here for just two minutes, they're suppose to be masked when they come on the property.

Chair Hulu Lindsey Right, thank you.

Trustee Akina Thank you Raina. I'm looking at your PowerPoint page on employees, visitors proof of full vaccination. You list three options, one of the options is to email or show the evidence of the full vaccination, another option is to upload to the Lumi site OHA application. Will both of these options be required of the employee or either of those options?

Raina Gushiken, Sr. Legal Counsel It is meant to be an either trustee, that any one of the three options available would be available to our employees.

Trustee Akina Thank you.

Chair Hulu Lindsey I do want the Trustees to know that I purposely did not agendize an action item today on this policy because I do think you should have the opportunity to think it over, but it will be on our next agenda so, thank you. If there are no more question, we will move on to item V.

Executive Session

- A. Consultation with Board Counsel Robert G. Klein re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to executive session minutes, pursuant to HRS§92-5 (a)(4)**
- B. Approval of Executive Session Minutes**

April 22, 2021	June 2, 2021
May 20, 2021	June 17, 2021
- C. Action Item BAE # 21-05: Approval of OHA participation in the appeal and administrative proceedings related to the Nā Wai 'Ehā Surface Water Use Applications, Integration of Appurtenant Rights, and Amendments to the Interim Instream Flow Standards Findings of Fact, Conclusions of Law, and Decision and Order, dated June 28, 2021, of the Commission on Water Resource Management (CCH-MA 15-01). Consultation with Pamela Bunn, Esq. and Everett Ohta, Esq., re: questions and issues pertaining to the boards powers, duties, privileges, immunities, and liabilities, pursuant to HRS § 92-5(a)(4).**
- D. Consultation with Board Counsel Robert G. Klein, Esq. re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to the legal aspects of the potential future use and development of the Office of Hawaiian Affairs' commercial properties pursuant to HRS§92-5(a)(4).**

Chair Hulu Lindsey Can I get a motion to recuse ourselves into Executive Session pursuant to HRS§92-5.

Trustee Akina Moves to recuse into Executive Session.

Trustee Ahu Isa Seconds the motion.

The Board recuses into Executive Session at 10:47 a.m.

Motion to recuse into executive session pursuant to HRS Section 92-5						
	1	2	'AE (YES)	'A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA		X	X			
TRUSTEE DAN AHUNA						Excused
TRUSTEE KALEI AKAKA	X		X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE LUANA ALAPA			X			
TRUSTEE BRENDON LEE			X			
TRUSTEE KEOLA LINDSEY			X			
TRUSTEE JOHN WAIHE'E			X			
CHAIRPERSON HULU LINDSEY			X			
TOTAL VOTE COUNT			8			1
MOTION: <input type="checkbox"/> UNANIMOUS <input checked="" type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passes with eight (8) YES votes and zero (1) EXCUSED vote.						

Board returns to open session at 12:28 p.m.

Announcements

Chair Hulu Lindsey We have two Board meetings added that will take place next week Tuesday, October 26th at 11 am and Thursday, October 28th at 9:30 am.

Trustee Lee Point of inquiry Madam Chair. Why the two board meetings? How come the one item on Tuesday can not be taken up on Thursday?

Chair Hulu Lindsey Because I am going to appoint a Permitted Interaction Group (PIG) on Tuesday.

Trustee Lee Okay and we can't do that on Thursday in one Board meeting?

Chair Hulu Lindsey Actually the report will be dropped on Thursday.

Trustee Lee Oh, got it. Thank you, Madam Chair.

Chair Hulu Lindsey I want to announce that three trustees are going to a Women's conference in Tennessee. Trustee Alapa, Trustee Akaka, and myself. I did invite Trustee Ahu Isa but she said she wasn't interest in going.

The expense is being paid by the conference and I ran it by the ethics commission and they did say that its okay. So, I'm just informing the Board that we will be absent the second week of November. Otherwise, I'm asking for an adjournment.

Adjournment

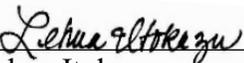
Trustee Akaka Moves to adjoun the meeting.

Trustee Alapa Seconds the motion.

Adjournment							
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						Left mtg at 12:15pm
DAN	AHUNA						Excused
KALEIHIKINA	AKAKA	X		X			
KELI'I	AKINA			X			
LUANA	ALAPA		X	X			
BRENDON KALEI'ĀINA	LEE			X			
KEOLA	LINDSEY			X			
JOHN	WAIHE'E			X			
CHAIR CARMEN HULU	LINDSEY			X			
TOTAL VOTE COUNT				7			

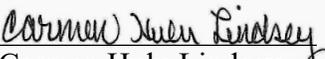
Chairperson Carmen Hulu Lindsey Adjourns the Board of Trustees meeting at 12:32 p.m.

Respectfully submitted,



 Lehua Itokazu
 Board Secretary

As approved by the Board of Trustees on December 29, 2021.



 Carmen Hulu Lindsey
 Chairperson, Board of Trustees

Attachments:

1. Excused Memo – Trustee Dan Ahuna
2. BAE Committee Report dated October 13, 2021
3. COVID-19 Vaccination and Testing Policy – PowerPoint



OFFICE OF HAWAIIAN AFFAIRS
Office of Trustee Dan Ahuna
Interoffice Memorandum

Date: October 21, 2021

To: Trustee Hulu Lindsey, Chair
Board of Trustees (BOT)

Trustee Lei Ahu Isa, Vice-Chair
Board of Trustees (BOT)

From: Trustee Dan Ahuna *Dan Ahuna*

Subject: **BOT Meeting Absence – Oct. 21, 2021**

I am unable to attend the BOT meeting scheduled for October 21, 2021. Please extend my excused absence and my sincere apologies to the members of the board.

Mahalo.

OFFICE OF HAWAIIAN AFFAIRS
Committee on Beneficiary Advocacy and Empowerment (BAE)
COMMITTEE REPORT

October 13, 2021

The Honorable Carmen Hulu Lindsey, Chair
Board of Trustees
Office of Hawaiian Affairs

Chair Lindsey,

Your Committee on Beneficiary Advocacy and Empowerment, having met on October 13, 2021 and after full and free discussion, recommends approval of the following motion to the Board of Trustees:

Motion 1:

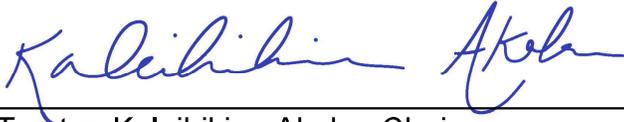
Action Item BAE # 21-05: Approval of OHA participation in the appeal and administrative proceedings related to the Nā Wai ‘Ehā Surface Water Use Applications, Integration of Appurtenant Rights, and Amendments to the Interim Instream Flow Standards Findings of Fact, Conclusions of Law, and Decision and Order, dated June 28, 2021, of the Commission on Water Resource Management (CCH-MA 15-01);

Relevant attachments are included for your information and reference.

Attachment(s):

- 1) BAE Roll Call Vote Sheet - BAE Action Item #21-05 Motion 1.

Respectfully submitted:



Trustee Kaleihikina Akaka, Chair

Keola Lindsey

Trustee Keola Lindsey, Vice-Chair

EXCUSED

Trustee Leina'ala Ahu Isa, Member

EXCUSED

Trustee Dan Ahuna, Member



Trustee Keli'i Akina, Member

Luana Alapa

Trustee Luana Alapa, Member



Trustee Brendon Kalei'aina Lee, Member



Trustee John Waihe'e, IV, Member

Carmen Hulu Lindsey

Trustee Carmen Hulu Lindsey, Member

Attachment 1

Roll Call Vote Sheet

COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT (BAE)	DATE: October 13, 2021 START: 1:31 p.m. MOTION: 2:58 p.m. VOTE: 2:58 p.m.
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AGENDA ITEM:

IV. New Business

A. Action Item BAE # 21-05: Approval of OHA participation in the appeal and administrative proceedings related to the Nā Wai ‘Ehā Surface Water Use Applications, Integration of Appurtenant Rights, and Amendments to the Interim Instream Flow Standards Findings of Fact, Conclusions of Law, and Decision and Order, dated June 28, 2021, of the Commission on Water Resource Management (CCH-MA 15-01);

MOTION:

Action Item BAE # 21-05: Approval of OHA participation in the appeal and administrative proceedings related to the Nā Wai ‘Ehā Surface Water Use Applications, Integration of Appurtenant Rights, and Amendments to the Interim Instream Flow Standards Findings of Fact, Conclusions of Law, and Decision and Order, dated June 28, 2021, of the Commission on Water Resource Management (CCH-MA 15-01);

AMENDMENT:

MEANS OF FINANCING:

TRUSTEE		1	2	‘AE (YES)	A’OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA’ALA	AHU ISA						X
DAN	AHUNA						X
KELI’I	AKINA			X			
LUANA	ALAPA			X			
BRENDON KALEI’ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
VICE CHAIR KEOLA	LINDSEY			X			
JOHN	WAIHE`E		2	X			
CHAIR KALEIHIKINA	AKAKA			X			
TOTAL VOTE COUNT				7	0	0	2

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

COVID-19 Vaccination and Testing Policy

Office of Hawaiian Affairs

Purpose

Ensure and maintain safe, healthy, and productive work environments for staff, beneficiaries, visitors

Vaccinations play an important role in preventing severe illness and death in those who contract COVID-19

Align with federal, state, and county vaccination and testing requirements for government employees

Align with federal and state vaccination and testing requirements for government contractors

Align with state vaccination and testing requirements for visitors to state facilities

To enter an OHA Worksite, all Employees and Visitors are required to provide proof of:

Fully Vaccinated

Negative COVID-19 Test
Result issued within the
last 72 hours

Policy Recommendation

Definitions

- **Employee:** full time, part time, compensated and uncompensated individuals classified as executives, management, staff, temporary hires, casual hires, who are hired by OHA.
- **Employee:** includes staff and members of the Board of Trustees and volunteers who work with the OHA.
- **Visitor:** any person entering an OHA Worksite who is not a State employee. Volunteers, vendors, contractors or employees of a contractor. Does not include persons under age of 12. Does not include individuals making deliveries to an OHA physical worksite and who leave within 10 minutes of entry.
- **OHA Worksite:** any physical location or destination where an employee will be conducting official OHA business and may be in contact with State employees or members of the public, including but not limited to OHA's physical offices and worksites located at: (1) Na Lama Kukui; (2) Kaka'ako Makai; (3) Kukaniloko; (4) Pahua; (5) Waialua Courthouse; (6) Wahiawa; (6) Kona Office; (7) Hilo Office; (8) Kaua'i Office; (9) Ho'omana; (10) Kekaha; (11) Lana'i Office; (12) Maui Office; (13) Palauea; (14) Moloka'i Office; and (15) Washington D.C. Bureau.

Employees/
Visitors
Proof of Full
Vaccination

Email /
Show

Hardcopy or digital/photocopy of state-approved COVID-19 vaccination card

Email /
Show

screenshot or digital copy of vaccination status through use of a publicly available health status application

Upload

image of state COVID-19 vaccination card to the Lumisight OHA application

Employees/ Visitors

Proof of Negative COVID-19 Test Result



Email/Show a hardcopy or digital/photocopy of official documentation evidencing negative COVID-19 test result



Upload image of official documentation evidencing negative COVID-19 test result to Lumisight OHA application

Implementation

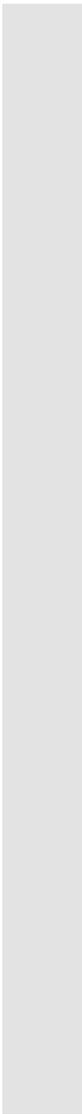
Any documentation related to vaccination status or test results obtained for purposes of this policy shall not be disclosed to individuals other than as necessary to ensure compliance with this policy or as required by law or court order

Policy will be effective upon Board approval

Administration will communicate implementation date and requirements of the policy to employees

When OHA re-opens to the public, Administration will communicate the requirements of the policy through available modes of external communication

The policy will be updated by Administration on a regular basis as medical guidance and regulatory requirements change



- Questions?