

BEFORE THE BOARD OF ETHICS  
COUNTY OF HAWAI'I

In the Matter of the Petition by

Gabriella M. Cabanas,  
Chair, Merit Appeals Board,

Petitioner.

PETITION NO. 2021-13

INFORMAL ADVISORY OPINION

Hearing: December 6, 2021

INFORMAL ADVISORY OPINION

By Petition filed on September 29, 2021 (hereinafter referred to as “Petition”) with the Hawai’i County Board of Ethics (hereinafter referred to as “Board”), Gabriella M. Cabanas (hereinafter referred to as “Petitioner”), who is the Chair of the Merit Appeals Board (hereinafter referred to as “MAB”) for the County of Hawai’i, requested an Informal Advisory Opinion from the Board. Specifically, Petitioner sought guidance as to whether Petitioner could appropriately hear, deliberate, and vote on matters before the MAB that involved the Acting Director of Human Resources for the County of Hawai’i (hereinafter referred to as “Acting Director of HR”) without violating Hawai’i County Code Sections 2-83, 2-84, and 2-91.2, given that Petitioner and the Acting Director of HR are third cousins. Petitioner requested an open hearing.

At its duly noticed meeting on November 10, 2021, although Petitioner was present and ready to proceed, the Board continued the above-captioned Petition to its next scheduled hearing date as the agenda incorrectly described the Petition.

At its next duly noticed meeting of December 6, 2021, the Board reviewed and considered the above-captioned Petition pursuant to Rule 4 of the *Rules and Practice and Procedure of the Board of Ethics*. Petitioner attended the meeting and provided testimony and further expounded on her familial relation to the current Acting Director of Human Resources. The Board, having deliberated and considered and giving appropriate weight to the testimony

and evidence submitted by the Petitioner, and having considered the arguments presented, hereby renders the following Findings of Fact, Conclusions of Law, and Order.

### FINDINGS OF FACT

1. To the extent that any of these Findings of Fact are Conclusions of Law, they are to be so construed.

#### A. The Petition

2. Petitioner is a former (retired) County of Hawai'i employee that was worked in the Human Resources Division and managed the recruitment and examination processes for the County of Hawai'i. Petitioner is the current Chair of the Merit Appeals Board for the County of Hawai'i.
3. Petitioner and Waylen Leopoldino, the current Acting Director of HR for the County of Hawai'i worked together for some time before discovering that they share a distant blood relation; they are third cousins once removed.
4. The Merit Appeals Board is actively conducting recruitment to permanently fill the Director of Human Resources (HR) position (the position Waylen Leopoldino is temporarily filling).
5. In the abundance of caution, Petitioner has disqualified herself from participating in this recruitment process pending an opinion from this Board given their newly discovery distant familial relation.
6. Petitioner and the Acting Director of HR have never socialized outside of their previous employment together.

#### B. Board's Ruling

7. Based on the evidence and testimony presented, the Board finds that Petitioner can hear, deliberate, and decide on any matter that may come before the MAB that involve the

current Acting Director of HR, Petitioner's third cousin, provided that Petitioner discloses her relationship with the MAB.

8. Following Petitioner's disclosure to the MAB, the MAB shall determine whether Petitioner can hear the matter before the MAB.
9. Board Member Lawrence Heintz moved that the Board find that Petitioner is not in violation of 2-83, 2-84, and 2.91.2 in the event matters come before the Merit Appeals Board regarding the actions taken by Acting Director of Human Resources, her third cousin, provided that she discloses the relationship to the Merit Appeals Board.
10. Board Member Amy Self seconded the motion. The motion passed 4-0.

#### CONCLUSION OF LAW


Based upon the evidence presented and the Board's review of the Hawai'i County Code of Ethics and the Board's Rules of Practice and Procedure, the Board finds and concludes that the proper disclosure to the Merit Appeals Board of the extent and nature of Petitioner and the Acting Director of HR's familial relationship is sufficient to comply with the County of Hawai'i Code of Ethics. The Merit Appeals Board shall thereafter decide collectively whether they believe a conflict of interest exists for Petitioner to recuse herself from hearing matters before the MAB.

#### ORDER

Pursuant to Board Rule 4.9, this Informal Advisory Opinion shall be filed and a copy shall be sent to the Petitioner.

Dated: Hilo, Hawai'i, February 16, 2022.

BOARD OF ETHICS, COUNTY OF HAWAI'I

By   
LAWRENCE HEINTZ  
Chair

APPROVED AS TO FORM  
AND LEGALITY:

  
Dakota K. Frenz  
Deputy Corporation Counsel