

KIUC BOARD POLICY NO. 18
QUALIFICATIONS AND ELIGIBILITY FOR DIRECTORS

PURPOSE OF POLICY:

The purpose of this policy is to describe the qualifications for election to, appointment to, and service as a Director.

POLICY CONTENT:

I. General

Certain minimal qualifications are required by Hawaii law and KIUC's Bylaws for one to be eligible to be elected to, appointed to, and serve on the Board. It is the ultimate legal responsibility of the Board to ensure these requirements are met and complied with. If the Board determines an incumbent, nominee, or potential appointee lacks or has lost any of the necessary legal qualifications, it is the duty of the Board to remove such incumbent or to declare such nominee or potential appointee ineligible for election. By adopting, publishing, and appropriately disseminating this policy and the related Affirmation of Director Qualification, a copy of which is attached hereto as Attachment A, it is the Board's hope that incumbent Directors, nominees, and potential appointees will not only be fully apprised of these requirements, but mindful of their importance in deciding whether to continue or commence service on the Board.

II. Requirements

A. General Legal Requirements. To be eligible to be elected to, appointed to, or serve on the Board, Hawaii law provides a person shall:

1. Adhere to all applicable requirements of law, KIUC's articles of incorporation and Bylaws, and KIUC's duly made decisions;
2. Be loyal to KIUC, acting at all times in good faith for its best interests;
3. Have no continuing and substantial interests that are in conflict with the best interests of KIUC;
4. Be possessed of the minimum knowledge and skills necessary to govern the affairs of KIUC; and
5. Be willing to devote such time and effort to his or her duties as a Director as may be necessary to govern KIUC's business and affairs.

B. Bylaw Requirements. To be eligible to be elected to, appointed to, or to serve on the Board, the Bylaws provide a person shall:

1. Be an individual member of KIUC (a natural person) or a designated representative of a member of KIUC, if the member is a partnership, joint venture, corporation, limited liability company, political entity, or other legal entity;
2. Not be a paid KIUC employee;

3. Have the reasonable skills, experience, and background requirements established by the Board for being eligible to serve or continuing to serve as a Director.

C. Board Requirements. To be eligible to be elected to, appointed to, or to serve on the Board, an individual must meet the following additional requirements.

1. The individual must have the capacity to enter into a legally binding contract.
2. The membership which the individual has indicated is the basis of his or her candidacy must be an active membership.
3. Educational requirements
 - a. If the candidate has not been a Director before, he or she must attend an orientation provided by KIUC for Board candidates.
 - b. If the candidate is or has been a Director before, the candidate must either:
 - i. Have obtained a Credentialed Cooperative Director designation or similar certification from the National Rural Electric Cooperative Association within two years of becoming a Director or
 - ii. Be excused by the Board from this requirement for good cause.
4. Each Director must attend at least two-thirds of all Board meetings during any twelve (12) month period, unless excused for good cause by the Board.
5. Avoidance of potential conflicts of interest
 - a. The candidate shall not have been an employee of KIUC within three (3) years of the date of the individual's prospective election to the Board.
 - b. The candidate or Director shall not be a close relative (spouse, partner in a civil union, domestic partner, reciprocal beneficiary, child [including adoptive and step children], parent [including step parents and/or adoptive parents], sibling [including step siblings and/or adoptive siblings], or an in-law of said child, parent, or sibling) of a KIUC employee, or have had such a close relative employed at KIUC within three (3) years of the date of the individual's prospective election to the Board.
 - c. The candidate or Director shall not be a contractor, supplier, sub-contractor, or employee thereof, which contractor, supplier, or sub-contractor earned more than 40% of its gross revenue from KIUC currently or within any of the three (3) years immediately preceding the individual's prospective election to the Board.
 - d. The candidate or Director shall not be a close relative (as defined in C.5.b above) of a contractor, supplier, sub-contractor, or employee thereof, which contractor, supplier, or sub-contractor earned more than 40% of its gross revenue from KIUC currently or within any of the three (3) years immediately preceding the individual's prospective election to the Board.
 - e. All officials elected to federal, state, or county office are prohibited from running for election to the Board.
6. Ethical requirements
 - a. The candidate or Director shall never have been convicted of a felony or any crime involving dishonesty or theft (unless pardoned or granted clemency by the appropriate authority).
 - b. The candidate or Director shall comply with KIUC's policies for non-disclosure of non-public, confidential, and proprietary information. In keeping with this

obligation, each individual elected or appointed as a Director shall, prior to taking office, sign an appropriate confidentiality and nondisclosure agreement in the form substantially identical to Attachment B to this policy.

III. Procedure for Policy Implementation

- A.** Candidates for election to the Board either (1) shall be nominated by KIUC's Nominating Committee or (2) shall nominate themselves by petition by collecting the requisite number of signatures from KIUC members, as described in KIUC's Bylaws.
- B.** Candidates for appointment to the Board shall either be nominated by the Board or by the KIUC Nominating Committee.
- C.** All candidates for election or appointment to the Board must complete, sign, and submit the following documents to KIUC before they may run for election or be appointed to the Board. If a candidate refuses to sign any of these documents or qualifies his or her signature in any manner the Board considers to be unfavorable to the best interests of KIUC, the candidate shall not be appointed to or allowed to run for election to the Board.
 - 1. Affirmation of Director Qualification (Attachment A)
 - 2. Authority to Release Information (Attachment C)
 - 3. Prospective Director Candidate Application (Attachment D)
- D.** This policy shall be explained periodically in KIUC's publications (newsletter, magazine, or such publication).
- E.** This policy shall be disseminated and explained to KIUC's Nominating Committee each year, prior to their making nominations. The Nominating Committee shall screen all persons considered for nomination as Directors, to ensure they are qualified in accordance with this policy.
- F.** Immediately after receipt of any nomination by petition, KIUC shall furnish the nominee with a copy of this policy to ensure he or she is qualified in accordance with it and agrees to attend or has attended the required orientation for prospective Directors.
- G.** When the Board fills vacancies on the Board, it shall ensure any appointee is fully apprised of this policy and is qualified in accordance with it.
- H.** The Board shall not allow the members to vote for any candidate who is determined by the Board to be ineligible under this policy. That Board shall remove from office any incumbent Director or any candidate elected to the Board who is determined by the Board to have lost or never had eligibility under this policy.

Adopted on this 29th day of August 2024.

Revised: 08/29/2024

Revised: 06/30/2021

Calvin Murashige
Calvin Murashige (Aug 29, 2024 17:09 HST)

Calvin Murashige
Secretary

Revised: 08/28/2018
Revised: 11/29/2016
Revised: 11/25/2014
Revised: 05/22/2012
Revised: 05/31/2011
Revised: 04/27/2010
Revised: 02/24/2009
Revised: 11/26/2005
Revised: 08/25/2004
Original Adoption: 2003

ATTACHMENT A TO KIUC BOARD POLICY NO. 18
AFFIRMATION OF DIRECTOR QUALIFICATION

I, the undersigned, hereby affirm I have read KIUC Policy No. 18 Board Member Qualifications and Eligibility, and I am qualified in accordance with the Policy to be nominated and elected or appointed as a KIUC Director, as the case may be.

I have accordingly signed my name hereto this _____ day of _____, 20____.

Signed: _____

Address: _____

Telephone No.: _____

ATTACHMENT B TO KIUC BOARD POLICY 18
CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT
(For Directors and Non-Director Members of Board Committees)

In connection with the undersigned individual ("Recipient") agreeing to serve or being elected or appointed as a Director of Kauai Island Utility Cooperative ("KIUC") or being appointed as non-Director member of a KIUC Board Committee (the "Committee"), KIUC or its representatives may provide to Recipient certain non-public, confidential, or proprietary information concerning KIUC, or concerning future transactions involving KIUC (the "Material"). Material may consist of written or oral information provided by KIUC, including, without limitation, any written or electronic documents marked "Confidential", any information conveyed to the Recipient where the individual conveying the information requests it be held confidential or under circumstances where the confidentiality of the information is obvious, financial statements, projections, cost and expense data, and other business or trade information. Material also includes all analyses, compilations, forecasts, studies or other material prepared by Recipient containing, based on or reflecting any confidential non-public information furnished by KIUC. Material does not include information that (i) the Recipient can show was known to the public, or in the published literature prior to KIUC's disclosure of such Material to the Recipient under the terms of this Agreement; (ii) subsequent to the time of KIUC's disclosure to the Recipient, becomes known to the public or appears in the published literature through no fault of the Recipient; or (iii) is lawfully acquired by the Recipient from a third party (specifically not including any employee or agent of KIUC) who is not in breach of any confidentiality agreement with KIUC.

In consideration of being furnished with the Material, the Recipient agrees that:

1. The Material will be kept confidential and will not, without the prior written consent of an authorized agent of KIUC, be disclosed by the Recipient in any manner whatsoever, in whole or in part, and will not be used by the Recipient directly or indirectly, for any purpose other than in connection with Recipient's service as a Director of KIUC and/or on the Committee.
2. The Recipient will not, without prior written consent of an authorized agent of KIUC, make any statement, any public announcement, any release to trade publications or to the press, or make any statement to any competitor, customer, employee, or other third party, regarding Material, except as may be necessary, in the opinion of counsel, to comply with the requirements of any law, governmental order, or regulation.
3. The Recipient will keep records of each location where the Material is kept. If the Recipient is no longer a Director of KIUC and/or a member of the Committee, Recipient will, in that case, and at any time upon the request of KIUC, destroy or return all copies of the Material immediately, without retaining any copies and confirm such destruction in writing to KIUC. Any oral information covered by this Agreement will continue to be subject to the terms of the Agreement.
4. In the event the Recipient is requested or becomes legally compelled (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand,

or any similar process) to disclose all or any part of the Material, the Recipient will (i) promptly notify KIUC of the existence, terms and circumstances surrounding such request; (ii) consult with KIUC on the advisability of taking legally available steps to resist or narrow such request; (iii) only disclose the information requested after complying with clauses (i) and (ii); and (iv) exercise reasonable effort (if so requested by KIUC) to obtain, to the extent practicable, a protective order or other reliable assurance that confidential treatment will be accorded to such portion of any disclosed information as the requestor may designate. In the event a protective order or other remedy is not obtained or that the requestor waives compliance with the provisions of this Agreement, the Recipient will furnish only that portion of the Material that is legally required and will exercise his or her best efforts to obtain reliable assurance that confidential treatment will be accorded the Material.

5. It is understood and agreed no failure or delay by KIUC in exercising any right, power, or privilege under this Agreement will operate as a waiver. It is further understood that no single or partial waiver of any right, power, or privilege will preclude any other or further exercise of any right, power, or privilege under this Agreement.
6. The Recipient agrees money damages would not be a sufficient remedy for any breach of this Agreement, and, in addition to all other remedies, KIUC will be entitled to specific performance of Recipient's obligations relating to this Agreement and to injunctive or other equitable relief as a remedy for any such breach. For purposes of seeking equitable relief, the Recipient stipulates and agrees any breach of the provisions of this Agreement may subject KIUC to irreparable harm and injury.
7. This Agreement is the entire agreement between Recipient and KIUC regarding the nondisclosure of Material and supersedes all prior agreements and understanding regarding this subject. This Agreement may be amended only by written agreement executed by both Recipient and KIUC.
8. This Agreement is not assignable or transferable by Recipient without the prior written consent of KIUC.
9. This Agreement is governed and will be construed in accordance with the laws of the State of Hawaii. If any term or provision of this Agreement is found to be invalid or unenforceable, the remaining terms will remain in full force and effect.

IN WITNESS WHEREOF, this Agreement is executed by the Recipient indicated below, intending to be bound by its terms, and is effective as of the date indicated:

RECIPIENT

Signature: _____

Printed Name: _____

Date: _____

ATTACHMENT C TO KIUC BOARD POLICY 18
AUTHORITY TO RELEASE INFORMATION

I understand that in verifying my application to be considered as a potential candidate for the Board of Directors of the Kauai Island Utility Cooperative (KIUC), a background check may be required. I hereby authorize KIUC to perform a background check regarding criminal records and other information provided on this form and on my application. I authorize the appropriate individuals, companies, institutions or agencies to release information, and I release them from any liability as a result of such inquires or disclosures. A report may be generated summarizing this information.

I further understand and waive my right to privacy regarding the background check and release and hold harmless KIUC and its agents from any liability.

I have a right to obtain a copy of the background check by directing a written request to KIUC.

I certify that all statements and answers on my application are true and complete to the best of my knowledge. I understand that if any statements are found to be false or misleading or that if information has been omitted, this will be cause for disqualification.

Last Name	First Name	Middle Name
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Previous Name/Maiden Name/ A.K.A.'s	Date of Change
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Street Address

City	State	Zip Code
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Please list the cities and states you have lived in, if the above address does not encompass seven (7) years.

Social Security No.	Date of Birth
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Driver's License Number

I understand that a photocopy of this authorization would be accepted with the same authority as the original. This release will expire one year after the date of origination.

Signature	Date
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ATTACHMENT D TO KIUC BOARD POLICY 18
PROSPECTIVE DIRECTOR CANDIDATE APPLICATION

Name: _____

Address: _____

Phone: _____

Mobile: _____

E-Mail: _____

Contact phone and/or email for media/members:

1. Are you a member of KIUC as defined in Article I of the Bylaws?
Yes _____ No _____

2. Are you an officer, director or employee of any entity which earned more than 40% of its gross revenue from KIUC currently or within any of the 3 years immediately preceding the date of the current Director election for which you are running?

Yes _____ No _____

3. Do you have any conflict of interest that would affect your ability to fulfill your duties as a member of the KIUC Board? (A "conflict of interest" is any activity that is inconsistent with KIUC's best interests, or that gives the appearance of impropriety or divided loyalty, or interferes with the director's ability to fulfill the duties of care and loyalty. For example, if you supply goods or services to KIUC, there is a potential conflict of interest.)

Yes _____ No _____

If you answered "Yes", please provide details:

4. Please describe why you are interested in being considered as a candidate for the KIUC Board of Directors:

5. What experience do you possess that you feel will help you to fulfill the duties as a member of the KIUC Board? Please include any community and professional organizations.

6. Education:

School Name	Location	Degree Title	Major	Year

7. Are you legally able to enter into a legally binding contract?

Yes _____ No _____

8. Are you related by marriage, blood, adoption or other legal relationship with any director or employee of KIUC?

Yes _____ No _____

If you answered "Yes", please provide details:

9. Have you ever been convicted (but not pardoned) of a felony or are you a named subject of a pending felony proceeding?

Yes _____ No _____

If you answered "Yes", please provide details:

10. Please provide any further information or comments that you feel are important to the consideration of your application, and attach any additional information that you feel is relevant to the consideration of your application.

Signature: _____

Date: _____

Name: _____
(Please print)