HAWAI'I
STATE FOUNDATION on CULTURE and the ARTS

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DEPT. COMM. NO. 291

January 7, 2026

TO: The Honorable Ronald D. Kouchi, President and Members of the Senate
Thirty-Third Legislature
State Capitol, Room 409
Honolulu, HI 96813

The Honorable Nadine K. Nakamura, Speaker and Members of the House of Representatives
Thirty-Third Legislature
State Capitol, Room 431
Honolulu. HI 96813

SUBJECT: Report to the Hawaii State Legislature
As required by Act 131, SLH 2025 – Relating to The State Foundation on Culture and the Arts Performing Arts Grants Program

Dear President Kouchi, Speaker Nakamura, and Members of the Legislature,

The State Foundation on Culture and the Arts respectfully transmits its report on the Performing Arts Grants Program as required by Act 131, Session Laws of Hawaii 2025 (House Bill HB 1378 SD2, HD1, CD1-Relating to the State Foundation on Culture and the Arts).

In accordance with Hawaii Revised Statues Section 93-16, this report may be viewed electronically at https://sfca.hawaii.gov/

Sincerely,

Karen Ewald
Executive Director

cc: Office of the Senate Clerk
Legislative Reference Bureau

Attachment

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State Foundation on Culture and the Arts Report on the Performing Arts Grants Program Act 131 (Session Laws of Hawaiʻi 2025)

Purpose of the Report

This report provides an update on the Performing Arts Grants Program established by Act 131, Session Laws of Hawaiʻi 2025, and codified in Chapter 9, Part II, Hawaiʻi Revised Statutes (HRS). The report explains:

- The process required to establish new administrative rules for the program;
- The current status of implementation; and
- The legal necessity for adopting administrative rules prior to issuing grants.

II. Background and Statutory Framework

Act 131 establishes a Performing Arts Grants Program and places it within the State Foundation on Culture and the Arts (SFCA) for administrative purposes. The Act states: *"There is established a performing arts grants program, to be placed in the foundation for administrative purposes."*

While Act 131 clearly creates the program, it does not explicitly establish standards for issuing grants under the program, nor does it amend existing Foundation grant provisions in Chapter 9, Part II, HRS, to include performing arts grants within existing grant standards. As a result, the Performing Arts Grants Program may be construed as a distinct and new grant program that requires its own issuance standards to be established through either statutory amendments or administrative rules.

III. Need for Administrative Rules

Administrative rules are required to ensure that grants issued under the Performing Arts Grants Program are supported by clear standards provided by law.

Without such standards, there is a legal risk that grants could be viewed as having been issued without lawful authority, which could potentially raise concerns under the State Constitution. To mitigate this risk and to ensure transparency, consistency, and accountability in grant administration, the Attorney General's office and SFCA determined that promulgating administrative rules is a necessary and prudent step prior to launching or executing the grant program.

IV. Administrative Rules Adoption Process

The establishment of administrative rules is a multi-step process governed by state law and administrative procedures. Key steps include, but are not limited to:
Submission of draft rules to the Comptroller through the Administrative Services Office (ASO) for review;

- Review by the Department of the Attorney General and the Legislative Reference Bureau;
- Preparation of a memorandum requesting authorization to hold public hearings;
- Approval by the Commission to proceed with public hearings;
- Public notice and conduct of hearings, including a minimum 30-day notice period;
- Posting of draft rules on the Office of the Lieutenant Governor and Department of Accounting and General Services websites;
- Finalization of rules following public input and Attorney General approval;
- Final approvals by the Commission and the Governor.

SFCA continues to consult with internal administrative staff and legal advisors to ensure compliance with the most current rulemaking guidance.

V. Current Status of the Program

SFCA's draft of administrative rules is under review with DAGS ASO and is working with the AG office on language and is currently in the early stages of establishing the Performing Arts Grants Program. Efforts to date have focused on defining the scope of the program, identifying legal requirements, and preparing for the administrative rules

process. Future timelines will depend on the completion of the rulemaking process and required approvals.

VI. Reporting Timeline and Future Updates

Section 9-C, HRS, requires reports to be submitted to the Legislature at least twenty days prior to the regular legislative session. This report focuses on program development, rulemaking efforts, and implementation planning.

It would not be reasonable to expect completed grant outcomes at this early stage. Subsequent reports will provide updates on grant solicitation, execution, and outcomes once the program becomes operational.

VII. Conclusion

SFCA remains committed to implementing the Performing Arts Grants Program in a legally sound and transparent manner. The adoption of administrative rules is a necessary foundational step to ensure that the program operates in compliance with statutory and constitutional requirements. SFCA will continue to work diligently toward finalizing the rules and launching the program as expeditiously as possible.