

NEIL ABERCROMBIE
GOVERNOR



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PUBLIC CHARTER SCHOOL COMMISSION
(‘AHA KULA HO‘ĀMANA)

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DATE: September 17, 2013

TO: Don Horner, Chair
Jim Williams, Human Resources Committee Chair
Board of Education

FROM: Terri Fujii, Chair
State Public Charter School Commission

SUBJECT: Recommendation for Board action on proposed revision to Board of Education Policy 2055 regarding Teacher and Principal Performance Evaluation

I. RECOMMENDATION

It is recommended that the Board of Education (Board) approve the proposed revision to Board of Education Policy 2055, entitled regarding “Teacher and Principal Performance Evaluation Policy,” as attached.

II. RECOMMENDED EFFECTIVE DATE

It is recommended that the revised policy become effective upon its adoption by the Board.

II. RECOMMENDED COMPLIANCE DATE

It is recommended that compliance with revised Policy 2055 be effective upon its adoption by the Board.

III. DISCUSSION

a. Conditions leading to the recommendation

Section 302D-1, Hawaii Revised Statutes (HRS), defines the “Organizational viability” of a charter school as meaning, among other things, that the charter school,

“Complies with all [Board of Education] policies deemed applicable to charter schools by the board.”

HRS §§ 302D-1, 302D-12(c), and 302D-25(a)(1) empower the governing boards of charter schools to negotiate supplemental agreements with the exclusive representatives of their employees.

There is a good deal of uncertainty and confusion at the Department of Education (Department), at the State Public Charter School Commission (Commission), and among the charter schools about whether and how various Board policies apply to the charter schools. Many of the Board’s current policies predate the advent of charter schools in our state, and even many of the more recently adopted policies are silent as to their applicability to charters.

Board Policy 2055 directs the Department to establish an educator evaluation system (EES) for teachers and principals and sets forth in some detail the elements of the Department’s system. The policy is silent as to its applicability to charter schools.

The State’s ESEA Flex Application includes, at page 159, the following provision related to the charter schools and Board Policy 2055:

Charter school governing boards may elect to implement the state developed educator evaluation system and, in doing so, would receive access to the resources and supports available to DOE-operated schools. Alternatively, charter school governing boards may also elect to develop and implement their own educator evaluation system that meets the criteria outlined in Board Policy 2055.

The charter contract entered into between the Commission and each charter school includes, at Section 10.4, the following provision:

Evaluations. Pursuant to Board of Education Policy 2055, the School is responsible for implementing principal and teacher evaluation systems that are based on efficiency, ability, contribution to student learning and growth. The School may elect to implement the State-developed educator evaluation system or to develop and implement its own educator evaluation system that meets the criteria outlined in BOE Policy 2055, as may be amended from time to time.

As currently worded, however, Board Policy 2055 does not delineate “criteria” for a charter school’s own EES. Rather, the policy reads very much like a description of “the state developed educator evaluation system.” The policy’s silence as to its applicability to charters has led to confusion among the charter schools as to whether it even applies. The policy’s silence as to its criteria for a charter school’s

own EES, as distinct from the Department's EES, has left charter schools with no guidance as they now negotiate their supplemental agreements with HSTA and HGEA.

The Commission therefore respectfully requests that the Board consider revising Policy 2055 to:

1. Specify that the policy applies to charter schools;
2. For the sake of clarity and consistency restate the charter school's choice as set forth in the ESEA Flex Waiver between adopting the Department's EES or developing its own;
3. Set forth the minimal criteria that a charter school's own EES generally must meet; and
4. Provide a means under the policy for a charter school to request from the Board a waiver from these criteria.

A mark-up of Board Policy 2055 with the proposed new language is attached. The key elements of a charter school's own EES the Commission staff has distilled from the existing policy are that such an EES must:

1. Provide for annual evaluations;
2. Be implemented beginning with the 2013-2014 school year;
3. For teachers, be used to inform personnel decisions no later than July 1, 2014;
4. For teachers, incorporate the Teacher Practice and Student Learning and Growth components described in the policy, each of which shall count towards 50 percent of the evaluation rating; and
5. For principals, be based at least 50 percent on school-wide academic learning and growth as well as at least one additional student outcome indicator.

b. Previous action of the Board on this matter

None.

c. Other policies affected

None.

d. Arguments in support of the recommendation

On the one hand, charter school supplemental agreements with employees must fulfill the criteria of Board Policy 2055 and the Department’s commitments to the U.S. Department of Education in the approved ESEA Flex Waiver. On the other hand, in keeping with the principle of affording charter schools substantial autonomy to support innovation and variety, it is desirable to avoid dictating one detailed model EES for charter schools. Indeed, allowing for charter school discretion on this issue is expressly what the ESEA Flex Waiver itself provides for and what the state charter school statute contemplates. HRS §302D-25(a)(1)(C) (“These supplemental agreements may differ from the master contracts negotiated with the department;”).

The proposed criteria for a charter school’s own EES, along with Board discretion to grant a waiver for an EES that departs to some degree from these criteria, would preserve charter school autonomy to the maximum extent that is consistent with Board Policy 2055 as currently worded and with the ESEA Flex Waiver.

e. Arguments against the recommendation

A case could be made that the proposed minimal criteria already would afford charter schools such a wide degree of latitude that they would not need the additional option of requesting a waiver from the Board from even these criteria. This option is proposed in order to afford a charter school the opportunity to convince the Board that its own alternative evaluation system, even if it departs in some way from the enumerated elements, is sufficiently rigorous and outcome-based as to merit the Board’s approval.

f. Findings and conclusions of the Board committee

To be determined.

g. Other State agencies or departments involved in the action

State Public Charter School Commission, charter schools.

h. Possible reaction of the public, professional organizations, unions, charter schools and/or others to the recommendation

To the extent some charter schools and unions may question whether Board Policy 2055 applies to charter schools at all, and to the extent they may deem the policy or any EES that accounts for student achievement and growth to be undesirable, they may not welcome the clarification that the policy does apply to charters, however flexibly.

To the extent other stakeholders may believe that the Department-developed model of the EES, or additional elements of that model, is most likely to serve the

interests of students and the public, they could oppose the wide latitude the proposal grants charter school decision-makers.

i. Educational implications

The proposed revision would preserve both the educational policy intent behind Board Policy 2055 and the ESEA Flex Waiver and the educational policy intent behind state charter school law.

j. Personnel implications

While charter school employers, their employees, and their employees' representatives may disagree over the particulars of any proposal to clarify Board Policy 2055's applicability to charter schools, there is no question that the personnel implications of providing much-needed clarity and guidance would be widely beneficial.

k. Facilities implications

None.

l. Financial implications

None.

V. OTHER SUPPLEMENTARY RECOMMENDATIONS

The Commission respectfully requests that as part of the Board's pending audit of its Policies, Commission staff be given the opportunity to review and comment for the Board's consideration on all the Board's policies, with an eye toward bringing greater clarity to whether and how each policy should apply to charter schools. The starting premise for such a review would be that, upon the Board's completion of the process, any policy that the Board deems applicable to charter schools should specify so.