



S E A C
Special Education Advisory Council

919 Ala Moana Blvd., Room 101

Honolulu, HI 96814

Phone: 586-8126 Fax: 586-8129

email: spin@doh.hawaii.gov

May 19, 2015

**Special Education
Advisory Council**

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Mr. Brian De Lima, Chair
Finance and Infrastructure Committee
Hawaii State Board of Education
P. O. Box 2360
Honolulu, HI 96804

RE: Agenda Item V. A. Recommendation for Action - Committee
Action on Committee recommendation concerning the following
policies in the Board's proposed 400-900 policy series: Policy 500.18 –
SUMMER SCHOOL PROGRAMS POLICY

Dear Chair De Lima and Members of the Committee,

The Special Education Advisory Council (SEAC) recommends changes
to your policy on summer school programs for the following reasons:

- The second sentence under Regular Summer School Programs refers to District Superintendents.
- The phrase *special education summer school programs* is not referenced in the Individuals with Disabilities Education Act (IDEA), Chapter 60, Section 504 of the Rehabilitation Act or Chapter 61. However, some students with disabilities who require special education and related services beyond the usual school year, or as an extension of the usual school day, in order to receive a free appropriate public education (FAPE) are entitled to *Extended School Year (ESY)* services under these laws. Historically, many parents and teachers have referred informally to ESY services that are school based and delivered during summer break as "special education summer school."
- ESY services are not optional or dependent on a critical mass of students to indicate an interest before receiving these services. While the need for ESY services for an individual student is determined individually by his or her IEP team using specific criteria, it is common practice for schools to offer ESY programming over the summer to groups of students with similar needs.



- The draft policy suggests that special education summer school programs are segregated programs, thereby conflicting with the Board's Policy on Inclusion (105.13). Both IDEA and Section 504 require that services to qualified students with disabilities be delivered in the least restrictive environment.

SEAC's recommended revisions to the policy include the following:

- 1) Change the reference in paragraph 1, sentence 2 to "Complex Area Superintendent."
- 2) Eliminate the two subcategories "Regular Summer School Programs" and "Special Education Summer School Programs;"
- 3) Eliminate the description of Special Education Summer School Programs;
- 4) Add language to the effect that students with disabilities may be entitled to educational services/ extended school year services during the summer break at no cost to the student, when it is determined by an IEP team that these services are required to maintain readiness to begin the next school year.

Thank you for your consideration of our recommendations. If you have any questions or concerns, please feel free to contact us.

Respectfully,

Ivalee Sinclair, Chair

DAVID Y. IGE
GOVERNOR



CATHERINE PAYNE
CHAIRPERSON

STATE OF HAWAII
STATE PUBLIC CHARTER SCHOOL COMMISSION
('AHA KULA HO'ĀMANA)

<http://CharterCommission.Hawaii.Gov>
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813
Tel: (808) 586-3775 Fax: (808) 586-3776

DATE: May 19, 2015

TO: Brian De Lima, Committee Chairperson
Finance and Infrastructure Committee, State Board of Education

FROM: Tom Hutton, Executive Director
State Public Charter School Commission

SUBJECT: Testimony on Committee Action on Committee recommendation concerning the
policies in the Board's proposed 400-900 policy series

The State Public Charter School Commission ("Commission") appreciates the opportunity to provide these comments on the Board of Education's ("Board") proposed 400-900 policy series, which is part of the findings from the Board's Policy Audit Permitted Interaction Group ("Policy Audit Group"). The Commission welcomes the initiative by the Board and other stakeholders to review, revise, clarify, and reorganize its policies.

In this testimony, the Commission comments primarily on the applicability of the Board policies to public charter schools, since it is our understanding that this clarification is one of the objectives of the policy audit. We are grateful to be able to engage the Department of Education ("Department") and Board on this issue.

As an overarching comment, we would like again to request respectfully that the Board formalize in its policies—perhaps at the conclusion of the Policy Audit Group's work on other aspects of the policies—the understanding a policy does not apply to public charter schools unless the policy expressly indicates that it does. Such a clarification could be incorporated into proposed Policy 400.2, Policies and Policy-Setting, and/or in proposed Policy E-700, Charter Schools.

As another means of providing greater clarity, and in recognition of the place of charter schools in Hawaii's public school system, the Commission would like to suggest respectfully that Board policies be reviewed globally and revised as necessary to ensure that the terms "public schools"

and "public school system" refer to both the Department and public charter schools. An example is proposed Policy E-500, Department of Education.

Similarly, as we have noted previously, the Legislature has adopted in the charter school statute and in other statutory sections the use of the term "department schools" where what is meant is not all "public schools" but more particularly public schools that are administered directly by the Department.

We note that the charter-school-specific proposed Policies 700.1, Board Appointment of Charter School Review Panel Members, and 700.2, Charter Schools Appeals, need to be updated to reflect Hawaii's new charter statute, Chapter 302D, Hawaii Revised Statutes, and its implementing administrative rules. The Commission stands ready to assist with this process.

We would like to request that consideration be given in proposed Policy 400.8, Board of Education Student Member Selection, to clarifying as to the participation and eligibility of public charter school students.

Finally, there are some proposed policies, such as those in the 900 series, that address legal requirements that already are applied to charter schools under state law and/or the Charter Contract. For such policies, we believe the question of whether to apply of these Board policies as well to public charter schools may turn on what, if any, responsibility and role the Board envisions for itself as to charter schools.

The Commission respectfully requests that its comments be taken into consideration and looks forward to future discussions with the Board and Department regarding these comments.