



STATE OF HAWAII
BOARD OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

December 1, 2015

TO: Board of Education

FROM: Lance Mizumoto
Chairperson, Board of Education

AGENDA ITEM: Board Action on amendment of the By-Laws of the Hawai'i State Board of Education: one general business meeting per month, evening meeting time change, neighbor island and evening meetings subject to the availability of funds, and technical changes

The By-Laws of the Hawai'i State Board of Education ("By-Laws") were originally approved on April 26, 2011. The By-Laws were last amended on January 20, 2015. The changes in January amended: (1) Section 6.1 to add requirements that the Board meet after 5:00 p.m. once a quarter and that this meeting be scheduled in each of the counties once a year and that these meetings may be held in conjunction with a community meeting; and (2) Section 7.2 to increase the amount of time for individual testimony from two minutes to four minutes. The January amendments are shown below.

Section 6.1 General Business Meetings. The Board shall [1] meet regularly on the first and third Tuesday of each month[, 2) with one general business meeting scheduled to begin on or after 5:00 p.m. once a quarter and that meeting shall be scheduled in each of the counties once a year, and may be held in conjunction with a community meeting], provided, however that any Board general business meeting date, time, or location may be changed or canceled by the Board Chairperson, subject to statutory notice requirements.

Section 7.2 Public Testimony. All interested persons shall be provided an opportunity to present testimony on any agenda item. An individual or representative wishing to testify should register prior to the meeting. Testimony must be related to an item that is on the agenda and such person shall be required to identify the agenda item to be addressed by the testimony. Each individual or representative of an organization is allotted [four] two minutes, or an amount of time otherwise designated by the Chairperson, to provide testimony to the Board.

The present proposal is the further amendment of the By-Laws to: (1) allow for one general business meeting a month, versus the two that are currently held; (2) change the time evening general business meetings start from 5:00 p.m. to 4:00 p.m.; (3) clarify that the Board will only hold evening meetings and meetings in each of the counties if it has sufficient funds to do so; and (4) make some technical corrections. The first three proposed amendments (all of the substantive amendments) are contained within Section 6.1, entitled General Business Meetings and the amendments are discussed specifically below. A full copy of the By-Laws with the proposed amendments redlined into the document is attached as **Exhibit A**.

One General Business Meeting. Under the current structure, the Board holds two general business meetings every month. Generally, the first Tuesday of the month there will be a Student Achievement Committee meeting and a general business meeting. An Audit

Committee meeting will also be scheduled on the first Tuesday quarterly or as needed. The third Tuesday of the month the Human Resources and Finance and Infrastructure Committees will hold meetings followed by a general business meeting. As such, the Board has been holding general business meetings twice a month. At times agenda items move from committee to the full board at its general business meeting on the same day and at other times agenda items will move from committee to the full board at its next general meeting two weeks later. Members of the public have expressed confusion about when an agenda item is moving from committee to the full board. One general business meeting a month would simplify the process and make it easier for members of the public to follow the Board's business. The general business meetings will likely be longer than what they are currently because the business of all committees for the month would have to be handled at one meeting instead of two, so the meetings may have to start earlier to accommodate the longer meeting time. The time before the general business meeting on the third Tuesday could be used to allow for planning, related meetings, and other Board business. A sample showing how meetings could be scheduled is below.

Sample Schedule for one GBM a month	
▪ 1st Tuesday of the month – All Board Committee Meetings	
9:30 a.m.	Student Achievement Committee
11:30 a.m.	Human Resource Committee
1:30 p.m.	Finance and Infrastructure Committee
3:30 p.m.	Audit Committee *as needed
▪ 3rd Tuesday of the month – General Business Meeting and Board Business	
9:30 a.m. – 11:00 a.m. Planning/Board business	
12:00 p.m.	General Business Meeting

The relevant language of the proposed change is highlighted below:

“Section 6.1 General Business Meetings. The Board shall 1) meet/hold general business meetings regularly either on the first and/or third Tuesday of each month, 2) with one general business meeting scheduled to begin on or after 5:00:00 p.m. once a quarter and that meeting shall be scheduled in each of the counties once a year, and may be held in conjunction with a community meeting, provided, however that the Board has sufficient funds to hold meetings after 4:00 p.m., and/or in each of the counties, as determined by the Board Chairperson. any/Any Board general business meeting date, time, or location may be changed or canceled by the Board Chairperson, subject to statutory notice requirements.”

Evening Meeting Time Change. The By-Laws were amended in January to require meetings beginning on or after 5:00 p.m. It appears that this amendment was done to allow for greater public participation in Board meetings, especially parents, students, principals, teachers, and staff. This is and remains to be an important consideration for the Board. However, balanced against this is the desire to be fiscally responsible with taxpayer dollars. When the Board holds evening meetings on neighbor islands, it may need to have Board members and staff stay overnight if the meeting does not end in time for them to catch the last flight out. Overnight stays would mean that there would be additional expenses for things like lodging, which the Board would like to avoid if at all possible. A 4:00 p.m. start time should still allow for public

participation and also provide some flexibility to allow the Board to try and avoid overnight stays. Moreover, when the Board held an evening meeting on Oahu, there was not a significant difference in meeting attendance or the individuals attending the meeting.

The relevant language of the proposed change is highlighted below:

“Section 6.1 General Business Meetings. The Board shall 1) ~~meet~~ hold general business meetings regularly either on the first ~~and~~ or third Tuesday of each month, 2) with one general business meeting scheduled to begin on or after ~~5:00~~ 4:00 p.m. once a quarter and that meeting shall be scheduled in each of the counties once a year, and may be held in conjunction with a community meeting, provided, however that the Board has sufficient funds to hold meetings after 4:00 p.m., and/or in each of the counties, as determined by the Board Chairperson. ~~any~~ Any Board general business meeting date, time, or location may be changed or canceled by the Board Chairperson, subject to statutory notice requirements.”

Sufficient Funding Clarification. Evening meetings as well as meetings in each of the counties come with accompanying expenses, which were not included in the current Board of Education (“Board”) budget. The Board’s budget was developed to cover the travel expenses for Board meetings on Oahu, but not for travel, lodging, and other expenses to cover Board members and staff traveling to neighbor islands or for the expenses associated with evening meetings. There are expenses, like overtime, security, and electricity, which the Board must incur to hold evening meetings on Oahu. This amendment would clarify that the Board would hold these meetings only if there were sufficient funds available for these meetings. The Board Chairperson will make this determination.

The relevant language of the proposed change is highlighted below:

“Section 6.1 General Business Meetings. The Board shall 1) ~~meet~~ hold general business meetings regularly either on the first ~~and~~ or third Tuesday of each month, 2) with one general business meeting scheduled to begin on or after ~~5:00~~ 4:00 p.m. once a quarter and that meeting shall be scheduled in each of the counties once a year, and may be held in conjunction with a community meeting, provided, however that the Board has sufficient funds to hold meetings after 4:00 p.m., and/or in each of the counties, as determined by the Board Chairperson. ~~any~~ Any Board general business meeting date, time, or location may be changed or canceled by the Board Chairperson, subject to statutory notice requirements.”

Technical Corrections. There were some technical corrections to the document: (1) replacing the apostrophe with an ‘okina and inserting an ‘okina in Section 6.4 in “Hawai‘i Revised Statutes;” and (2) replacing the word “thee” with “three” in Section 2.1.

Exhibit A

**BY-LAWS OF THE
HAWAII STATE BOARD OF EDUCATION**

ARTICLE I

PREAMBLE

Section 1.1 The Constitution of the State of Hawaii provides that the State shall establish, support and control a statewide system of public schools and libraries, free from sectarian control and discrimination.

ARTICLE II

BOARD MEMBERS

Section 2.1 The Board consists of nine voting members appointed by the Governor, with the advice and consent of the Senate, in accordance with Article X, Section 2, of the Hawaii State Constitution and Chapter 302A, Hawaii Revised Statutes, each of whose term shall be three years, except as provided for in the initial appointment.

Section 2.2 The members of the Board shall serve without pay, but shall be entitled to reimbursement for necessary expenses, including travel and lodging expenses, while attending meetings of the Board or when actually engaged in business relating to the work of the Board.

Section 2.3 There shall be a student member and a military representative as provided by law.

ARTICLE III

OFFICERS AND TERM OF OFFICE

Section 3.1 The officers of the Board shall be the Chairperson and Vice Chairperson.

Section 3.2 The governor shall select the Chairperson as provided by law.

Section 3.3 The Vice Chairperson shall be elected from among and by the Board membership and shall serve as interim chairperson in the event the chairperson's seat becomes vacant. A vacancy in the office of Vice Chairperson shall be filled by the Board at the next regular or special meeting of the Board.

Section 3.4 The term of Chairperson shall be set by the Governor. The term of Vice Chairperson shall be for one (1) year, commencing immediately following the election, except that the term of the first Vice Chairperson elected shall expire on June 30, 2012.

ARTICLE IV

DUTIES OF OFFICERS AND BOARD MEMBERS

Section 4.1 Chairperson. The Board Chairperson shall call meetings of the Board and shall preside at all meetings of the full Board. The Board Chairperson shall delegate assignments and duties to other Board members, manage all matters of the Board, and perform such other duties as are incident to the office or are required by the Board or by law.

Section 4.2 Vice Chairperson. In the absence or unavailability of the Chairperson, the Vice Chairperson shall perform all of the duties of the Chairperson, and when so acting shall have all the powers of and be subject to all the restrictions upon the Chairperson. The Vice Chairperson shall assist the Chairperson as the Chairperson deems necessary and shall have such powers and perform such other duties as from time to time may be prescribed by the Chairperson or the Board.

Section 4.3 Board Members. Board members shall fulfill duties and responsibilities as provided by law and delegated by the Board Chairperson and shall comply with the Code of Conduct attached hereto as Attachment A and with Conflicts of Interest provisions provided by law.

Section 4.4 Committee Chairpersons. Committee Chairpersons shall report activities and decisions of their respective committees to the full Board and shall inform the Board Chairperson when items need to be placed on the agenda for the Board general business meeting or special meeting.

ARTICLE V

COMMITTEES

Section 5.1 Standing Committees. The Board shall have four standing committees: Audit, Finance and Infrastructure, Student Achievement, and Human Resources.

Section 5.2 Scope, Authority and Mission. The scope of authority and mission of each of the Board's standing committees shall be memorialized in a committee charter. Each charter shall be recommended for approval to the full Board by the chairperson of the respective committee.

Section 5.3 Standing Committee Members and Officers. Each Standing Committee shall have a Committee Chairperson and a Committee Vice Chairperson who shall be elected from among and by the Board membership. The Board shall vote on the appointment of Standing Committee members. All Board members not appointed to a Standing Committee shall be an ad hoc member of that Standing Committee.

Section 5.4 Advisors/Consultants to Committees. Each committee may consult with or be advised by non-BOE members, as determined appropriate by the Committee Chairperson.

Section 5.5 Ad Hoc Committees. The Board Chairperson may, as circumstances warrant, authorize the creation of an ad hoc committee for a discrete and specific purpose of interest to the Board and shall appoint all members and officers of such ad hoc committee(s). The Board shall approve the charge of any ad hoc committee. Such committee may be created for a definite time period or until its specific function has been completed, but shall not exist longer than one year from the date of authorization unless specifically authorized by its charge.

Section 5.6 Investigative Committees. The Board, as provided by law, may designate two or more Board members, but less than the number of members that would constitute a quorum of the Board, to investigate matters concerning Board business. The Board members designated by the Board are required to report their resulting findings and recommendations to the entire Board at a properly noticed meeting.

Section 5.7 Committee Reports. Committees may submit written reports in advance of any regular meeting in lieu of an oral report unless the report contains action items.

ARTICLE VI

MEETINGS OF THE BOARD

Section 6.1 General Business Meetings. The Board shall 1) ~~meet~~ hold general business meetings regularly either on the first ~~and or~~ third Tuesday of each month, 2) with one general business meeting scheduled to begin on or after ~~5:00~~ 4:00 p.m. once a quarter and that meeting shall be scheduled in each of the counties once a year, and may be held in conjunction with a community meeting, provided, however that the Board has sufficient funds to hold meetings after 4:00 p.m., and/or in each of the counties, as determined by the Board Chairperson. ~~any~~ Any Board general business meeting date, time, or location may be changed or canceled by the Board Chairperson, subject to statutory notice requirements.

Section 6.2 Special Meetings. The Board Chairperson may call a special meeting of the Board at any time, subject to statutory notice requirements.

Section 6.3 Committee Meetings. All committees shall meet at the discretion of the Committee Chairperson. Meetings may be held in conjunction with regular Board meetings on the first and third Tuesday of the month or at the call of the Committee Chairperson. The Committee Chairperson, may change or cancel any committee meeting date, time, or location, subject to statutory notice requirements.

Section 6.4 Community Meetings and Notice. The Board shall hold not less than six community meetings annually which shall include one community meeting in each county in addition to regular meetings to discuss and receive input from the community on public education and public library issues. The Board Chairperson shall designate Board members to attend the community meetings. These community meetings shall not be held for the purpose of formulating educational policy. As provided by law, the community meetings shall be exempt from sections 91-2.5, 92-7, 92-9, and 92-41, Hawai'i Revised Statutes; provided that the Board shall give written public notice of each community meeting indicating the date, time, and place of the meeting, and such notice shall be filed in the Office of the Lieutenant Governor and in the Board's office for public inspection six calendar days before the meeting. The notice shall also be posted at the site of the meeting.

Section 6.5 Meeting Agenda. The Agenda shall be promulgated by the Board Chairperson, with input from the Superintendent, State Librarian, Committee Chairpersons, and Board members, and shall docket items in the order received, provided that Board member recommendations are placed on an agenda for Board review within ninety (90) days of written request and Committee recommendations are placed on an agenda for Board review within ninety (90) days of Committee approval. All meetings of the Board and its committees shall be held in accordance with the law.

Section 6.6 Executive Session. An affirmative vote, taken at an open meeting, of two-thirds of the Board members present shall be required to convene an executive session; provided that the affirmative vote constitutes a majority of the members to which the Board is entitled. A meeting closed to the public may be convened only as provided by law.

Section 6.7 Quorum and Voting. A majority of all the voting members to which the Board is entitled shall constitute a quorum to conduct business. At any time the Board has fewer than five voting members, three voting members of the Board shall constitute a quorum to conduct business and the concurrence of at least three voting members shall be necessary to make any action of the Board valid.

ARTICLE VII

PUBLIC TESTIMONY AND SUBMISSION OF DATA, VIEWS OR ARGUMENTS

Section 7.1 Submission of Data, Views, or Arguments. Any interested person may submit data, views, or arguments in writing to the Board on any agenda item. Said written submittals shall be considered by Board members before taking action on any agenda item. Written comments are strongly encouraged.

Section 7.2 Public Testimony. All interested persons shall be provided an opportunity to present testimony on any agenda item. An individual or representative wishing to testify should register prior to the meeting. Testimony must be related to an item that is on the agenda and such person shall be required to identify the agenda item to be addressed by the testimony. Each individual or representative of an organization is allotted four minutes, or an amount of time otherwise designated by the Chairperson, to provide testimony to the Board.

Section 7.3 Communication from the Public. Any member of the public or any organization may submit written communication to the Executive Director of the Board on any matter involving public education or the public library system. The communication shall be filed with the Board of Education and all members of the Board shall be advised of the communication.

ARTICLE VIII

AMENDMENTS TO BYLAWS

Section 8.1 Notice Regarding Proposed Amendments. These bylaws can be amended at any General Business or Special Meeting provided that previous written notice was given to all Board members, including the specific language for the proposed amendment, and the matter was properly placed on the Board's agenda.

Section 8.2 Approval of Amendments. Any amendment to the Board's bylaws requires the approval of two-thirds of the total membership of the Board.

ARTICLE IX

LEGAL COUNSEL

Section 9.1 Advice. An Officer or Committee Chairperson may seek informal, verbal advice from the Board's assigned Deputy Attorney General as the Officer or Committee Chairperson deems necessary. The Committee Chairperson may request that the Board Chairperson seek formal written advice or opinion from the Attorney General. The Board Chairperson may seek formal written advice or opinion from the Attorney General.

Section 9.2 Written Opinion. Whenever a formal legal opinion is issued by the Attorney General or a Deputy Attorney General, such opinion and request shall be distributed to all members of the Board.

ARTICLE X

PARLIAMENTARY AUTHORITY

Section 10.1 The rules contained in *Robert's Rules of Order*, newly revised, shall govern meetings where they are not in conflict with the law, these bylaws, or other rules of the Board. In making a ruling or interpretation of the rules, the order of determination shall be 1) the law, 2) these bylaws, 3) Board policy, and 4) *Robert's Rules of Order*, newly revised.

Approved: 04/26/11
Amended: 05/17/11
Amended: 12/02/14
Amended: 01/20/15