



STATE OF HAWAII
BOARD OF EDUCATION
P.O. BOX 2360
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April 19, 2016

TO: Lance A. Mizumoto
Chairperson, Board of Education

FROM: Jim Williams
Permitted Interaction Group Chairperson, Board of Education

AGENDA ITEM: Status Report on the Permitted Interaction Group tasked with **(1)** determining if a special review of the State Public Charter School Commission is warranted and developing the process for such a review and **(2)** reviewing certain legislative proposals and developing a recommendation to the Board

I. BACKGROUND

At the Board of Education's ("Board") January 19, 2016 general business meeting, I presented a report on a "listening tour" of charter schools conducted by me and a few other Board Members with the purpose of listening to the concerns of charter school administrators, administrative staff and governing board members. The report concluded the concerns expressed during the listening tour were "of such significant breadth and depth that [a] more formal investigation by the Board is warranted." At the same general business meeting and in response to the listening tour report, the Board designated Board Members Williams, Amy Asselbaye, Hubert Minn, and Board Vice Chairperson Brian De Lima to an investigative committee to:

- 1) Determine if a special review of the State Public Charter School Commission ("Commission") is warranted and, if so, develop the process and procedures for such a review that apply nationally recognized principles and standards for quality charter authorizing, pursuant to Hawaii Revised Statutes ("HRS") §302D-11(c);¹ and
- 2) Review the legislative proposals, as attached to Board Member Williams' memorandum dated January 19, 2016, and develop a recommendation to the Board of whether to formally support them through written testimony to the Legislature.

¹ HRS §302D-11(c) states: "Persistently unsatisfactory performance of an authorizer's portfolio of public charter schools, a pattern of well-founded complaints about the authorizer or its public charter schools, or other objective circumstances may trigger a special review by the [B]oard. In reviewing or evaluating the performance of authorizers the [B]oard shall apply nationally recognized principles and standards for quality charter authorizing. If at any time the [B]oard finds that an authorizer is not in compliance with an existing charter contract, its authorizing contract with the [B]oard, or the requirements of all authorizers under [HRS Chapter 302D], the [B]oard shall notify the authorizer in writing of the identified problems, and the authorizer shall have reasonable opportunity to respond to and remedy the problems."

The Board designated Board Member Williams as the chairperson of this investigative committee (“Board Charter School PIG”), which is a permitted interaction group pursuant to HRS §92-2.5(b)(1).

II. PROCESS

Since its establishment, the Board Charter School PIG has held several meetings to discuss its charge and the Board’s responsibilities related to these matters, gather and review information, and deliberate on and develop its findings and recommendations. In February, six out of the eight current members of the Commission,² as well as the (now former) Executive Director, accepted the Board Charter School PIG’s invitation to meet informally to provide their reactions to the charter school listening tour report and thoughts about the Board conducting a special review of the Commission.

Concurrent with its investigation as to whether a special review of the Commission is warranted, the Board Charter School PIG also proceeded with the development of a special review process, attached as **Exhibit A**. The Board Charter School PIG decided that, regardless of any recommendation to conduct or not conduct a special review, having a special review process in place is important and necessary. In developing a special review process, the Board Charter School PIG applied nationally recognized principles and standards for quality charter authorizing, specifically the National Association of Charter School Authorizers’ *Principles & Standards for Quality Charter School Authorizing, 2015 Edition*, and considered the authorizer performance evaluation system from Minnesota, one of the few states with an accountability system for authorizers. The Board Charter School PIG also ensured that the special review process aligns with the current draft of the proposed new Hawaii Administrative Rules (“HAR”) Chapters 8-515 and 8-517, as approved by the Board for public hearing, because the special review process would be subject to the rules upon their enactment. **Exhibit B** illustrates the alignment between the requirements within proposed HAR §8-515-10(b) and the performance measures within the proposed special review process.

III. FINDINGS

As to the first task assigned to the Board Charter School PIG, the finding of whether or not a special review of the Commission is warranted is thus far inconclusive. In determining whether the complaints heard from charter school leaders are “well-founded,” the Board Charter School PIG does not rely on the accuracy or validity of those complaints. Rather, the Board Charter School PIG is primarily concerned with why there are consistently similar complaints from a large number of charter school leaders and why there is a seeming disconnect between the perceptions of these leaders and those of the Commission.

With that said, the Commission is establishing its own permitted interaction group (“Commission PIG”) to propose a communication process between the Board and the Commission and to study questions raised in the charter school listening tour. Because this is a potentially significant development, the Board Charter School PIG would like an opportunity to meet with the Commission PIG and monitor the progress, findings, and recommendations of the Commission PIG before issuing a determination on a special review being warranted or not. Note that, in the event the Commission PIG’s work does not appear to have a significant impact on the Board Charter School PIG’s tasks, the Board

² There are nine Commission members, but one seat was vacant at the time of the interviews due to the earlier resignation of Peter Tomozawa.

Charter School PIG may issue its findings and recommendations in advance of the Commission PIG's findings and recommendations.

Regardless and as previously mentioned, the Board Charter School PIG finds that the adoption of a special review process is important and necessary, as it is part of the Board's statutory responsibilities in the oversight of authorizers. The special review process adopted by the Board would be used in any instance where the Board determines a special review has been triggered. Further, by adopting a process that is aligned to current law, proposed rules, and national standards, the Board would communicate to the Commission that, if warranted, the Board intends to evaluate the Commission fairly, thus hopefully alleviating some of the Commission's concerns. The Commission, charter school leaders, charter school stakeholders, and the public would all have the opportunity to provide input on the special review process in advance of the Board adopting and applying it through the normal public input process when the Board considers action on the process at a future meeting.

As to the second task assigned to the Board Charter School PIG, it is now moot. Regarding the legislative proposals provided to Board Member Williams and subsequently the Board Charter School PIG, the Legislature did consider a number of measures with similar provisions or concepts, including HB2062, HB2067, HB2214, SB2431, and SB3104. All of those bills were "dead" by mid-February. Therefore, there was no active legislation for the Board Charter School PIG to consider.

IV. RECOMMENDATION

The Board Charter School PIG recommends that the Board approve the special review process, attached as **Exhibit A**, and authorize the Board Charter School PIG to hold in abeyance its recommendation whether to embark on a special review of the Commission pending the monitoring of the Commission PIG's progress, findings, and recommendations.

The Board Charter School PIG does not recommend action relating to the legislative proposals.

Exhibit A

**Board Process for Special Review of the State Public Charter School Commission
(draft)**

BOARD PROCESS FOR SPECIAL REVIEW OF THE STATE PUBLIC CHARTER SCHOOL COMMISSION

PURPOSE OF SPECIAL REVIEW

The Board of Education (“Board”) will determine the purpose of any special review of the State Public Charter School Commission (“Commission”) that is warranted, pursuant Hawaii Revised Statutes §302D-11(c). The reason(s) for and objective(s) of the special review will be described in this section. The Board will also establish a Special Review Investigative Committee (“Committee”) for the purpose of conducting this special review.¹

ROLES AND RESPONSIBILITIES

Board: The Board delegates authority to conduct the special review to the Committee. The Board will provide an opportunity to the public to provide comments on the special review of the Commission. The Board will review the Committee’s report and either adopt, amend, or remand it back to the Committee for reconsideration. The Board will issue a final report to the Commission with its findings and recommendations.

Committee: The Committee conducts the special review, including reviewing and analyzing existing and new data and information. The Committee (through Board staff) will address technical and logistical questions throughout the special review process. The Committee (through Board staff) will work with the Commission to schedule any site visits or interviews and inform the Commission if it plans to attend any formal meetings. The Committee will draft a report with findings and recommendations and provide the Commission with an opportunity to review and comment on the report before the Committee presents it to the Board for review and approval. The Committee will endeavor to follow the review timeline as closely as possible but reserves the right to amend it as needed.

Commission: The Commission ensures all requested documents and information are provided to the Board or Committee in a timely manner as determined by the Board or Committee. The Commission will work with the Committee to schedule and participate in an in depth interview. The interview may involve Commissioners, the Commission Executive Director, and other Commission staff. If requested and schedules allow, the Commission will allow the Committee to observe school site visits, applicant interviews, and/or other key school meetings during the special review process. The Commission will have an opportunity to review and comment on the draft special review report before it is finalized.

Charter Schools: Key school leadership personnel will assist in the special review of the Commission by completing surveys, providing requested information, and/or participating in interviews. Schools may be asked to participate in school site visits and/or other key meetings during the special review process.

¹ The Special Review Investigative Committee is not to be confused with the investigative committee established as the result of complaints gathered through the charter school “listening tour” (also known as the “Charter School Permitted Interaction Group” or “Charter School PIG”) whose purpose was to determine and recommend to the Board whether or not a special review of the Commission is warranted.

Other Stakeholders: Other key stakeholders partnering with or assisting charter schools or the Commission may assist in the special review of the Commission by completing surveys, providing requested information, and/or participating in interviews. Key stakeholders may be asked to participate in meetings during the special review process.

SPECIAL REVIEW PROCESS TIMELINE

The timeframe between activities is illustrated below. The exact dates of any special review will depend on when the special review is triggered and executed.

| Approximate Date | Activity |
|--------------------|--|
| Start date (Day 0) | Board determines a special review is warranted, adopts special review process timeline, and establishes the Committee |
| Day 1 | Board notifies the Commission in writing that a special review will be conducted |
| Day 31 | Committee requests a list of documents and information from the Commission and, if deemed necessary, issues a survey of school leaders and governing board members |
| Day 45 | Commission provides Committee with requested documentation and information |
| Day 45 | Deadline for school leaders and governing board members to complete survey |
| Day 62 – Day 73 | Committee conducts interviews with Commission representatives and group interviews with school stakeholders |
| Day 63 | Committee holds public hearing to allow for public comment on special review |
| Day 87 | Committee sends Commission draft special review report |
| Day 100 | Commission provides Committee with comments on report |
| Day 113 | Committee sends its final report to Commission and posts online with Board general business meeting agenda |
| Day 119 | Board approves final report at general business meeting |
| Day 120 | Board transmits final report to Commission |

SCOPE OF REVIEW

The Committee in its review is to determine whether or not the Commission meets statutory requirements and national principles and standards for quality charter authorizing (as outlined in the National Association of Charter School Authorizers’ *Principles & Standards for Quality Charter School Authorizing, 2015 Edition*) in the following areas:

- A. Organizational capacity and infrastructure; and
- B. Authorizer processes and decision-making, specifically:
 - o Application process and decision-making;
 - o Performance contracting;
 - o Ongoing oversight and evaluation; and
 - o Revocation and renewal decision-making.

A summary of the performance measures for these main performance areas and their respective guiding questions are attached as **Appendix A**. The guiding questions help to define what is being evaluated.

While this process does not include specific evaluation criteria, the Committee uses its discretion to determine answers to each guiding question and formulate ratings based on requirements of law and national principles and standards. The summary also includes measure origins, which identify the source or authority from which each measure originates. These sources are used as reference documents in the special review.

RATINGS AND OUTCOMES

The Committee will assign one of the following ratings to each performance measure:

| Performance Measure Rating | Characteristics |
|-----------------------------------|--|
| Meets | Performance measure meets statutory requirements and satisfies national principles and standards for quality charter school authorizing. |
| Partially Meets | Performance measure meets some but not all aspects of the statutory requirements and/or satisfies some but not all national principles and standards for quality charter school authorizing. |
| Does Not Meet | Performance measure substantially does not meet statutory requirements and/or clearly does not satisfy national principles and standards for quality charter school authorizing. |

After assigning ratings to each performance measure, the Committee will consider those ratings and determine an overall rating for each of the two performance areas: A) organizational capacity and infrastructure; and B) authorizer processes and decision-making.

| Performance Area Rating | Characteristics |
|--------------------------------|--|
| Meets | All or most of the performance measures under the performance area received a rating of “Meets” and no performance measure under the performance area received a rating of “Does Not Meet.” |
| Partially Meets | Most performance measures under the performance area received a rating of “Partially Meets” or most performance measures received a rating of “Meets” but one or more measures received a rating of “Does Not Meet.” |
| Does Not Meet | A significant number of performance measures under the performance area received a rating of “Does Not Meet.” |

The overall ratings of the performance areas will determine the final rating of the Commission through the matrix below:

A. Organizational Capacity and Infrastructure

| | | | |
|----------------------|------------------------|-------------------|------------------------|
| Does Not Meet | Partially Meets | Meets | |
| Partially Meets | Approaching Meets | Meets | Meets |
| Mostly Does Not Meet | Partially Meets | Approaching Meets | Partially Meets |
| Does Not Meet | Mostly Does Not Meet | Partially Meets | Does Not Meet |

B. Authorizer Processes and Decision-Making

The table below describes the outcomes for each final rating:

| Rating | Outcome |
|----------------------|--|
| Meets | The Board takes no further action. The Commission may choose to report quarterly to the Board on the state of charter schools. |
| Approaching Meets | The Board requires the Commission to provide corrective action plans for performance measures receiving “Does Not Meet” ratings, if any. The Board also requires the Commission to include in its annual report to the Board the corrective actions taken on performance measures not receiving a “Meets” rating until the Board determines sufficient progress. The Commission may choose to report quarterly to the Board on the state of charter schools. |
| Partially Meets | The Board requires the Commission to provide corrective action plans for performance measures receiving “Does Not Meet” ratings, if any. The Board also requires the Commission to report to the Board quarterly, as well as include in the Commission’s annual report to the Board, on corrective actions taken on performance measures not receiving a “Meets” rating until the Board determines sufficient progress. |
| Mostly Does Not Meet | The Board requires the Commission to provide corrective action plans for performance measures receiving “Does Not Meet” ratings. The Board also requires the Commission to report to the Board quarterly, as well as include in the Commission’s annual report to the Board, on corrective actions taken on performance measures not receiving a “Meets” rating until the Board determines sufficient progress. The Board may also temporarily suspend the Commission’s authority to approve new charter schools. |
| Does Not Meet | The Board may remove one or more Commissioners from the Commission for cause, pursuant to HRS §302D-3. The Board requires the Commission to provide corrective action plans for performance measures receiving “Does Not Meet” ratings. The Board also requires the Commission to report to the Board quarterly, as well as include in the Commission’s annual report to the Board, on corrective actions taken on performance measures not receiving a “Meets” rating until the Board determines sufficient progress. The Board may also temporarily suspend the Commission’s authority to approve new charter schools. |

Appendix A

Summary of Performance Measures and Guiding Questions

| PERFORMANCE MEASURES A: ORGANIZATIONAL CAPACITY AND INFRASTRUCTURE | | |
|---|--|---|
| Measure | Guiding Question | Origin |
| A.1: Authorizer Mission | Does the authorizer have a clear and compelling mission for charter school authorizing? | HRS §302D-6(1); NACSA Standard #1 – Planning and Commitment to Excellence |
| A.2: Strategic Vision and Organizational Goals | Does the authorizer have a comprehensive long-term strategic vision for Hawaii’s charter schools with clear organizational goals and timeframes for achievement that are aligned with, support, and advance the intent of law? | HRS §§302D-6(1), 302D-3(d); NACSA Standard #1 – Planning and Commitment to Excellence, Advanced Standards |
| A.3: Commitment to Quality Authorizing | To what degree are the authorizer and its leadership and staff committed to maintaining high standards for schools, upholding school autonomy, and protecting student and public interests? | HRS §302D-6(1); NACSA Standard #1 – Planning and Commitment to Excellence |
| A.4: Operational Conflicts of Interest | To what degree does the authorizer implement a clear policy to address conflicts of interest in all decision-making processes concerning the portfolio of charter schools? | HRS §§302D-6(1), 302D-8; NACSA Standard #1 – Planning and Commitment to Excellence |
| A.5: Self-Evaluation of Capacity, Infrastructure, and Practices | To what degree does the authorizer self-evaluate its internal ability (capacity, infrastructure, and practices) to oversee the portfolio of charter schools? | HRS §302D-6(1); NACSA Standard #1 – Planning and Commitment to Excellence |
| A.6: Structure of Operations | To what degree does the authorizer operate with a clear structure of duties and responsibilities, including appropriate lines of authority and delegation of duties between decision-makers and staff, and sufficient resources to effectively oversee its portfolio of charter schools? | HRS §302D-6(1); NACSA Standard #1 – Human Resources |
| A.7: Authorizer Leadership and Staff Expertise | To what degree does the authorizer have appropriate experience, expertise, and skills to sufficiently oversee the portfolio of charter schools? | HRS §302D-6(1); NACSA Standard #1 – Human Resources |
| A.8: Capacity and Skill Development of Leadership and Staff | To what degree does the authorizer build the knowledge and skill base of its authorizing leadership and staff through professional development? Is professional development aligned with its operations, vision, and goals for overseeing its portfolio of charter schools? | HRS §302D-6(1); NACSA Standard #1 – Human Resources |
| A.9: Authorizing Operational Budget | To what degree is the authorizer’s actual resource allocation commensurate with its stated budget, needs, and responsibilities of authorizing the portfolio of charter schools? To what degree are state and federal funds deployed effectively and efficiently with the public’s interest in mind? | HRS §302D-6(1); NACSA Standard #1 – Financial Resources |
| A.10: Compliance to | To what degree does the authorizer comply with reporting requirements and other | HRS §§302D-5, 302D-7 |

| | | |
|----------------------------|---|--|
| Statutory Responsibilities | statutory responsibilities, including the appropriate distribution of state and federal funds to its charter schools? | |
|----------------------------|---|--|

PERFORMANCE MEASURES B: AUTHORIZER PROCESSES AND DECISION-MAKING
Application Process and Decision-Making

| Measure | Guiding Question | Origin |
|--|---|--|
| B.1: Application Process, Timeline, and Guidance | To what degree does the authorizer have a comprehensive and well-publicized application process that includes realistic timelines, fair and transparent procedures, and guidance that clearly describes each stage of the process? | HRS §§302D-5(a)(1), 302D-6(2), 302D-13; NACSA Standard #2 – Fair, Transparent, Quality-Focused Procedures |
| B.2: Request for Proposals | To what degree is the authorizer’s request for proposals clear, comprehensive, and aligned to its vision? To what degree does the authorizer’s request for proposals encourage diverse educational models from both new applicants and existing operators and expansion and replication of successful charter school models? | HRS §§302D-5(a)(1), 302D-6(2), 302D-13; NACSA Standard #2 – Proposal Information, Questions, and Guidance |
| B.3: Approval Criteria for Charter School Applications | To what degree does the authorizer have clear and comprehensive approval criteria to rigorously evaluate new charter school proposals? | HRS §§302D-5(a)(1), 302D-6(2), 302D-13; NACSA Standard #2 – Rigorous Approval Criteria |
| B.4: Evaluation and Decision-Making Process | To what degree does the authorizer have clear and comprehensive process standards to rigorously evaluate new charter school proposals using qualified evaluators? To what degree did the authorizer’s decisions and resulting actions align to its stated approval criteria and process standards? | HRS §§302D-5(a)(1), 302D-5(a)(2), 302D-5(a)(3), 302D-6(2), 302D-13; NACSA Standard #2 – Rigorous Decision Making |

Performance Contracting

| Measure | Guiding Question | Origin |
|---|---|--|
| B.5: Charter Contract Terms, Negotiation, and Execution | To what degree does the authorizer negotiate and execute charter contracts that clearly define material terms and rights and responsibilities of the school and the authorizer? | HRS §§302D-5(a)(4), 302D-6(3); NACSA Standard #3 – Contract Term, Negotiation, and Execution |
| B.6: Charter School Performance Standards | To what degree does the authorizer negotiate and execute charter contracts with clear, measurable, and attainable performance standards? | HRS §§302D-5(a)(4), 302D-6(3), 302D-16; NACSA Standard #3 – Performance Standards |

Ongoing Oversight and Evaluation

| Measure | Guiding Question | Origin |
|---|---|---|
| B.7: Process for Ongoing Oversight of Charter Schools | To what degree does the authorizer monitor and oversee the charter schools in the areas of academics, finances, and operations according to the processes outlined in the charter | HRS §§302D-5(a)(5), 302D-6(4), 302D-17; NACSA Standard #4 – |

| | | |
|--|---|--|
| | contract? | Performance Evaluation and Compliance Monitoring |
| B.8: Communicating Oversight | To what degree does the authorizer regularly communicate with schools and provide guidance to ensure timely compliance with charter contracts and applicable laws, including clearly defining the process and methods of gathering and reporting performance and compliance data and providing timely notice of charter contract violations or performance deficiencies? | HRS §§302D-5(a)(5), 302D-6(4); NACSA Standard #4 – Performance Evaluation and Compliance Monitoring |
| B.9: Protecting School Autonomy | To what degree does the authorizer respect, preserve, and support the essential autonomies of the portfolio of charter schools? | HRS §§302D-5(a)(5), 302D-6(4); NACSA Standard #4 – Respecting School Autonomy |
| B.10: Standards and Processes for Interventions, Corrective Action, and Response to Complaints | To what degree does the authorizer have clear and comprehensive standards and processes to address complaints, intervention, and corrective action? | HRS §§302D-5(a)(5), 302D-6(4), 302D-17; NACSA Standard #4 – Intervention |
| Revocation and Renewal Decision-Making | | |
| Measure | Guiding Question | Origin |
| B.11: Performance Reports and Renewal Application | To what degree do the authorizer’s performance reports of charter schools within its portfolio clearly summarize each school’s performance record and state the authorizer’s findings concerning the school’s performance and its prospects for renewal? To what degree does the authorizer allow, through a renewal application, a meaningful opportunity and reasonable time for a charter school seeking renewal to respond to the performance report, correct the record, and present additional evidence regarding its performance? | HRS §§302D-5(a)(6), 302D-6(5), 302D-18; NACSA Standard #5 – Cumulative Report and Renewal Application |
| B.12: Charter Contract Renewal or Revocation Processes and Decisions | To what degree does the authorizer have clear and comprehensive standards and processes to make high-stakes renewal and revocation decisions? To what degree do the authorizer’s renewal and revocation decisions align to its stated renewal standards and processes and promote the growth of high-quality charter schools? | HRS §§302D-5(a)(6), 302D-6(5), 302D-18; NACSA Standard #5 – Revocation; Renewal Decisions Based on Merit and Inclusive Evidence; Fair, Transparent Process |
| B.13: School Closure Protocol | To what degree does the authorizer, in the event of school closure, work with the school governing board and leadership to employ a closure protocol that ensures timely notification to parents, orderly transition of students and student records, and proper disposition of school funds and assets? | HRS §§302D-5(a)(6), 302D-6(5), 302D-19; NACSA Standard #5 – Closure |

Exhibit B

Alignment of evaluation criteria between proposed Hawaii Administrative Rules (“HAR”) Chapter 8-515 and the proposed special review process performance measures

| Area in HAR section 8-515-10(b) | Performance Measure(s) |
|---|-------------------------------|
| (1) Organizational capacity and infrastructure | A.1 through A.10 |
| (2) Financial capacity to fulfill the responsibilities of a quality authorizer | A.6 and A.9 |
| (3) Authorizer responsibilities relating to charter applications, including: (A) Soliciting and evaluating charter applications; (B) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices; and (C) Declining to approve weak or inadequate charter applications | B.1 through B.4 |
| (4) Performance contracting, including negotiating and executing sound charter contracts with each approved charter applicant and with existing charter schools | B.5 and B.6 |
| (5) Ongoing charter school oversight, evaluation, renewal processes, including: (A) Monitoring, in accordance with charter contract terms, the performance and legal compliance of charter schools; and (B) Determining whether each charter contract merits renewal, nonrenewal, or revocation | B.7 through B.13 |
| (6) Fulfillment of the duties of an authorizer, including: (A) Acting as a point of contact between the department of education and the authorizer's charter schools; (B) Being responsible for and ensuring compliance of the authorizer's charter schools with all applicable state and federal laws, including reporting requirements (C) Being responsible for the receipt of applicable federal funds from the department of education and the distribution of funds to the authorizer's charter schools; and (D) Being responsible for the receipt of per-pupil funding from the department of budget and finance and distribution of the funding to the authorizer's charter schools | A.10 |