



Steve Hiramami/HAASPCS/HIDOE

06/01/2016 04:53 PM

To testimony_boe@notes.k12.hi.us
cc
Subject Testimony: Agenda item H: Board
Action on request to Governor to veto
House Bill 2205, House Draft 1,
Senate Draft 2, Conference Draft 1
(Relating to Charter Schools) of the
2016 Legislative Session

Chair Mizumoto and Esteemed Board Members,

I would like to submit supporting testimony on Item H on the BOE General Meeting on June 7, 2016. Understand that I am not supporting HB2205 but I am supporting the BOE recommending to the Governor to VETO the bill. I cannot understand why after repeated opposing testimony from both the Board of Education chair, Lance Mizumoto, and Cheryl Park Kakazu of the Office of Information Practices, why this bill is still alive and about to be signed into law. As you may remember the two most contentious parts of the bill was Section 4 and Section 7. Section 4 stated: (3) Provide charter contract holders with an opportunity to submit documents and give testimony challenging the rationale for closure and supporting the continuation of the school at an orderly proceeding held for that purpose; provided that the proceeding shall be governed by the requirements set forth in this section and not additionally subject to the requirements for an agency hearing under chapter 91; and the second section (7) was to exempt the Commission and its staff from the Sunshine Law. The second section was deleted in conference committee but the first section still remains. If ever there was a more crucial moment in a charter school's existence, it would be when it was facing possible closure by the Commission. This would be a crucial time for a charter school to have the fullest extent of due process. This could be covered under Chapter 91, where the agency (charter) would have the benefit of a contested case hearing. This was not available to Halau Lokahi in its closure, and facts are still being gathered today after two years of losing their charter. I was on the WASC accreditation team doing a school visit just months before it lost its charter. I found a few problems at the administrative and board level but they were totally fixable. What I did find was a great school for the Hawaiian children to learn about its culture and pursuing higher education. The Commission went to the press to proclaim that Halau Lokahi was financially insolvent. That led to a general unrest and uneasiness among students and their parents. Even teachers did not know if they would have a school to teach at. This resulted in a lack of student and parent support and ultimately, the school's enrollment drastically dropped. I am not defending the school or its practices. What I am pointing out is a total lack of professional conduct and lack of due process. It is too late to bring back Halau Lokahi, but not too late to end the lack of due process in school closure. Thank you for allowing me this time to testify.

Steve Hiramami, Director

Hawaii academy of Arts & Science PCS

Catherine H. Payne
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Aiea, Hawaii 96701
808-223-3146
catherinepaynehawaii@gmail.com

June 6, 2016

TO: Lance A. Mizumoto, Board of Education Chair
Members of the Board of Education



FROM: Catherine Payne, Public Charter School Commission Chair

SUBJECT: Testimony on Agenda Item VII H
Board Action on request to Governor to veto House Bill 2205, House Draft 1, Senate Draft 2, Conference Draft 1 (Relating to Charter Schools) of the 2016 Legislative Session

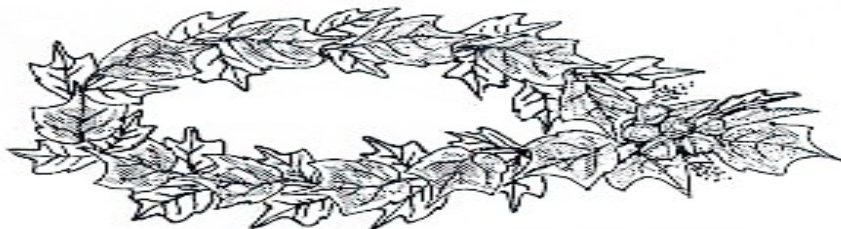
My testimony is in opposition to the request to veto the above bill. While we were not notified of your intent to make this request in time to discuss it at a Commission meeting, I feel it is important for me to express my concerns about this action you are considering.

This bill clarifies a number of things in our charter school law, including legislative intent. The BOE staff was not able to tell the Commission staff what the objections of the BOE include so my comments will touch on several things.

- The first section of the bill clarifies the role of the Commission staff in providing technical support to schools to assure that the support does not impact renewal, revocation, or non-renewal.
- The second section clarifies the reporting requirements of charter school governing boards and was included following audit findings that faulted the timeliness and substance of governing board minutes.
- The third section clarified that non-profit organizations that serve as charter school governing boards are afforded the same protections as all other governing boards.
- The fourth section clarifies the processes for revocation and non-renewal of charter contracts and allows contract holders to have access to representation by counsel in hearings related to these matters.
- The fifth section extends the same authority to conversion charters as is authorized to start-up charters with respect to enrollment policies when they expand the grades they serve. This only affects the expansion grades, not the geographic service area and original grades served.

I am mystified by the opposition to this bill as there were several subsequent hearings after the BOE's initial testimony. The concerns of the BOE and other groups were addressed. In the end, there were very few who opposed the bill in its final form, and there was no further input from the BOE through formal testimony, or through contact with the Charter Commission. Because there was no indication from your agenda or from your staff concerning what exactly you oppose, I am not able to address your concerns in my testimony. However, I will be present at your meeting on June 7, along with our Acting Executive Director, Yvonne Lau, to respond to any concerns you have about this bill.

Thank you.



'A'ole pau ka 'ike i ka hualau ho'okahi

Connections Public Charter School

A Community, Business & Education Learning `Ohana

Chairperson Mizumoto, Vice-Chair De Lima and Members of the Hawai'i Board of Education:

Thank you for this opportunity to testify regarding my strong support for the proposed Board request to the Governor to veto House Bill 2205. This bill is both an assault on the autonomy of our charter schools and another attempt to endow the Commission with powers that undermine the public's ability to scrutinize and participate in decisions that may ultimately affect the very existence of charter schools in Hawai'i.

There are several provisions in this bill that were very troubling. The State Public Charter School Commission is seeking exemptions from key provisions of the law that ensure fairness in applications of the law and the public right to participate in the formation of public policy. This bill is coalesced with provisions that appear beneficial to the charter schools in an attempt to conceal the actual intentions. The provisions in this bill pertaining to meetings by the governing boards of charter schools are an attempt to micromanage the charter schools, thus undermining their statutorily guaranteed autonomy. In light of Board of Education scrutiny of the Commission and its staff, this bill appears to be retaliation for the Board of Education Listening Tour.

I was especially concerned with the Commission's request for an exemption from provisions of the Sunshine Law. The law (§302D-3) says, "Notwithstanding section 302D-25 and any law to the contrary, the commission shall be subject to chapter 92." The Commission's current administrative rules (§8-501-4) say "All meetings shall be conducted in accordance with chapter 92, Hawaii Revised Statutes." During this past legislative session, I questioned the Commission's need for an exemption to provisions of the law (specifically §92-6). This proposed exemption was especially troubling given the fact that there are at least two active Office of Information Practices (OIP) complaints against the Commission. On May 20, 2015, the Executive Director of the Commission received a letter from the OIP. Their staff attorney wrote, "The Office of Information Practices (OIP) has received an appeal from Mr. John Thatcher, concerning the State Public Charter School Commission (SPCSC) meeting held on May 14, 2015. Specifically, Mr. Thatcher asks whether the SPCSC violated Part I of chapter 92, Hawaii Revised Statutes (Sunshine Law), by considering Connections Public Charter School's (Connections) 'use of enrollment form 515-IOW or [Connections's] request for a written decision by the Hawaii State Public Charter School Commission regarding this matter,' even though the item was not on the agenda for the General Business Meeting held on May 14, 2015."

On July 7, 2015, I received an email from a staff attorney with the State of Hawaii Office of Information Practices. It said, "The Office of Information Practices (OIP) is in receipt of your e-mails dated June 20, 2015 and July 1, 2015, requesting a status update regarding S APPEAL 15-

26. On June 5, 2015, OIP received the Department of the Attorney General's (AG) response, on behalf of the State Public Charter School Commission (Commission), to OIP's Notice of Appeal of Sunshine Law Complaint. This Response Letter dated June 3, 2015 indicates that the AG also provided you with a copy of the letter. Currently, OIP is experiencing a backlog of cases and is striving to complete work on the oldest appeals first. It could therefore be quite some time before work on these appeals are completed. For your information, any person may file a lawsuit to require compliance with or to prevent a violation of the Sunshine Law, or to determine the applicability of the Sunshine Law to discussions or decisions of a government board. Hawaii Revised Statutes (HRS) §92-12(c) (2012). The court may order payment of reasonable attorney fees and costs to the prevailing party in such a lawsuit. Where a final action of a board was taken in violation of the open meeting and notice requirements of the Sunshine Law, that action may be voided by the court. HRS §92-11 (2012). A suit to void any final action must be commenced within ninety days of the action."

In his February 8, 2016 testimony before the House Committee on Education, Tom Hutton said, "We request that the provision specifically adding the Commission to the non-exhaustive list of agencies exercising purely adjudicatory functions be revised to limit this authority to matters on which the Commission already has made the decision in a public meeting. The proposal was intended to address a situation in which the Commission was asked to issue a written decision in a matter on which it already had voted multiple times in public meetings and was advised that this adjudicatory function need not necessitate yet another public meeting on the same matter."

Then on February 11, 2016, at the Commission's general meeting, Hutton reported on the Commission Legislative Advocacy for 2016 Legislative Session requesting the following action, "Revise the position on adding the Commission expressly to the non-exhaustive statutory list of agencies that are exempt from on meeting requirements when exercising purely adjudicatory functions, to stipulate that this authority shall be limited to matters on which the Commission already has made the decision in a public meeting. The proposal was intended to address a situation in which the Commission was asked to issue a written decision in a matter on which it already had voted multiple times in public meetings and was advised that this adjudicatory function need not necessitate yet another public meeting on the same question."

Hutton's insinuation that the Commission had previously made a decision concerning the admissions and enrollment policies and practices for Connections Public Charter School is not accurate. No definitive decision was made by the Commission on this matter until a May 14, 2015 meeting attended by seven Commissioners and documented by a letter from Catherine Payne on May 15, 2015. The issue first appeared at the December 11, 2014 general business meeting of the Commission as agenda item III. According to the approved minutes, action on this item was deferred by Commission Chair Payne until the January, 2015 meeting. Connections Public Charter School was not on the agenda for the January 8 or 15, 2015 Commission general meetings. At the March 12, 2015 Commission general meeting conditional approval of Connections' admissions policy and practices was approved, "contingent on the school's use of a modified version of the DOE enrollment form that removes the questions regarding McKinney-Vento eligibility, ethnicity, gender, and language spoken by applicant." Commission staff were directed "to work with the school to ensure that the modified form will be used for its summer admissions cycle and report on this to the Commission no later than its June 2015 general business meeting."

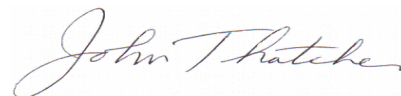
At the June 18, 2015 Commission general meeting Hutton reported, "The approval of the school's admission policy was contingent on the removal of questions regarding McKinney-Vento eligibility, ethnicity, gender, and language spoken in its admissions application. A check of

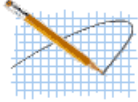
174 Kamehameha Ave., Hilo, Hawai'i - Phone 1-808-961-3664 FAX 1-808-961-2665

Email: john_thatcher@hawaii.rr.com

the school's website confirmed that the school continues to use the Department of Education's enrollment form, which contains the questions that the school has been requested to remove, as its admission application. Staff will continue to seek a resolution to this matter prior to the start of the school's July admissions period." This report was again presented at the July 9, 2015 general business meeting with the following added, "The school's director has filed a complaint with the Office of Information Practices over the Commission's approval in a non-public meeting of its written decision on the school's contract dispute over this matter. When and how staff follows up may depend upon the likely timing of the resolution of that complaint." During the August 13, 2015 general business meeting Hutton reported, "The July Executive Director's Report erroneously reported that the school had continued to use the Department of Education's enrollment form as its admission application, including questions inappropriate for the applications stage concerning the child's characteristics. In fact, the school revised its admission application and enrollment form on June 17, 2015. This revised form removes all the questions the school had been directed to remove, except for a question asking whether the applicant is homeless. The school's director stated that he still was expecting a response to an inquiry from the DOE on asking about an applicant's homeless status. However, the DOE has notified the director that it will not be weighing in on this matter. The Commission continues to work with the school on this issue." The school's admission policy was finally approved at the September 10, 2015 general business meeting through a request by the school to allow for an enrollment preference for educationally disadvantaged students.

Fortunately the Commission's request to be included in the §92-6 list of State entities exercising adjudicatory functions. Unfortunately the Commission's request for an exemption from the requirements for an agency hearing under §91 made it into the conference committee's final draft. There is nothing in this bill that will have a positive impact on charter schools. We do not need changes in the law to collect special fees and charges from students for co-curricular activities. Many in our charter school communities spent hours testifying against this and other malicious bills spawned by the Commission under Hutton's leadership. His departure was celebrated yet his legacy of strife and retaliation continues. A veto of HB 2205 will send a clear message to the Commission and their staff. Again, I ask for your support in seeking a Governor's veto of this bill.

A handwritten signature in cursive script that reads "John Thatcher".



"Sen. Michelle Kidani"
<senkidani@capitol.hawaii.gov>
06/06/2016 04:37 PM

To "testimony_boe@notes.k12.hi.us"
<testimony_boe@notes.k12.hi.us>
cc
Subject Testimony reg. Request to Governor
to veto HB2205

DATE: June 6, 2016

TO: Lance A. Mizumoto, Chair, Board of Education
Members of the Board of Education

FROM: Senator Michele Kidani, Chair, Senate Committee on Education

SUBJECT: BOE General Business Meeting Agenda - Item VII. H. Board Action requesting to
Governor to a veto of House Bill 2205, HD1, SD2, CD1
(Relating to Charter Schools)

POSITON: Comments

I am writing to provide comment regarding Agenda Item VII Action Item H. Board Action on request to Governor to veto House Bill 2205, House Draft 1, Senate Draft 2, Conference Draft 1 (Relating to Charter Schools) of the 2016 Legislative Session.

While our legislative process allows for all to provide input and to share their concerns regarding proposed legislation, as well as giving legislators the opportunity to ask questions about testimony during hearings, I do not recall if any member was present at the hearings for further clarification. I also realize the brief time period between receiving testimony and hearings doesn't give us a lot of time to review and discuss the hundreds of bills which come before our committees. I do believe the various House and Senate Committees passed this bill at the request of the Hawaii State Public Charter School Commission to assist them in carrying out their duties and responsibilities to the students whom they serve as well as to clarify legislative intent.

In order to be more sensitive to the Board's concerns, I am open to meeting with you or members of your Board in the future to discuss issues before the Senate Education Committee.

~~~~~  
*Senator Michelle Kidani*  
18th Senatorial District - (808) 586-7100  
Hawaii State Capitol, Room 228, Honolulu, Hi 96813  
"One kind word can warm three winter months."-old Japanese proverb

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GOVERNING BOARD

June 6, 2016

**Late Testimony**

TO: Lance Mizumoto Chairperson and Members, Board of Education

FROM: Kanu o ka 'Āina NCPCS Governing Board

AGENDA ITEM: Board Action on request to Governor to veto House Bill 2205, House Draft 1, Senate Draft 2, Conference Draft 1 (Relating to Charter Schools) of the 2016 Legislative Session

**PLEASE SUPPORT THE RECOMMENDED MOTION TO VETO HB 2205 CD 1**

Since we requested clarity regarding the vision of the charter school movement in October 2015, circumstances have gotten worse. The Governing Board of Kanu o ka 'Āina New Century Public Charter School and its Administration are experiencing:

1. Breach of contract;
2. Disregard for State and Federal law;
3. Disregard for National Best Practice, Principles and Standards of Charter School Authorizing;
4. Disregard for Generally Accepted Accounting Standards;
5. Disregard for due process;
6. Commission advice and mandates contrary to the charter contract and state law resulting in potential liabilities and/or fines for the school;
5. Reprisal against the school for requesting BOE intervention
6. Reprisal through the issuance of unwarranted Notices of Concern/Deficiency which impact contract renewal;
7. Reprisal against the school by providing misinformation to other State agencies causing unwarranted inquiries;
8. Reprisal against the school for questioning the commissions annual audit report, resulting in inappropriate per pupil funding distribution, and delayed federal funding and fringe benefits reimbursement distributions;
9. Attempts by commission staff to undermine and control philanthropic grant funding to charters. Kanu feels it is being singled out because of its community support to the Hawaiian focused charter schools and the additional funding it brings the charter movement;
10. Inaccurate and misrepresented official commission documentation memorializing their position but not the position of school, and;
11. Breach of public trust regarding the per-pupil allocation distribution for students as outlined in state law.

The actions of the commission directly impact Kanu's future 2017 - contract renewal, philanthropic funding, our credibility and potentially the school's very existence. To the best of our knowledge, Kanu has complied with all State and Federal laws and requirements including the charter contract accurately, and in a timely manner. The commission is discrediting Kanu as

well as other charter schools in an effort to close several schools as declared by commission staff in the legislative briefing in January 2016, to achieve its charter movement vision of “DOE overflow” and “top 10%” of Hawaii’s public schools.

Provisions in HB 2205 CD 1, would allow the Commission to make certain high-stakes decisions about charter schools in private, by characterizing such decisions as an exercise of its “adjudicatory functions” undermining the due process rights of school communities. The Hawai‘i State Office of Information Practices’ testimony opined that this measure is contradictory and will lead to problems with interpretation. Please do all you can to ensure this does not happen.

Thank you for this opportunity to testify and your public service!

Nā Lei Na'auao  
Ph #: 808-887-1117  
Fax #: 808-887-0030  
NLN@kalo.org

**NĀ LEI NA'AUAO**  
**Alliance for Native Hawaiian Education**

Hakipu'u Learning Center  
Kāne'ohe, O'ahu

June 6, 2016

**Late Testimony**

Hālau Kū Māna  
Honolulu, O'ahu

Hawaii Board of Education  
P.O. Box 2360  
Honolulu, Hawaii 96804

Ka 'Umeke Kā'eo  
Keaukaha, Hawai'i

Aloha Chair Mizumoto, Vice-Chair De Lima and BOE Members:

Ka Waihona o ka Na'auao  
Wai'anae, O'ahu

Re: Support Board Action on request to Governor to veto House Bill 2205

Kamaile Academy  
Wai'anae, O'ahu

Kanu o ka 'Āina  
Kamuela, Hawai'i

KanuikaPono  
Anahola, Kaua'i

Kawaikini PCS  
Līhue, Kaua'i

Ke Ana La'ahana  
keaukaha, hawaii'i

A BOE Listening tour took place in November-December 2015, 28 of 35 or 80% of the school communities took time and testified against the commission. That is a group representing approximately 8338 families. Private and public interests in the Commission's adjudicatory actions must remain in public forum. Maintaining the current public due process rights of the schools and communities they serve are critical at this time. In light of the listening tour comments and overwhelming testimony during the session against HB 2205, please request the Governor Veto the Bill.

It is imperative that there be oversight of the Commission office by the BOE, due process NOT be undermined and public accountability and transparency be maintained.

Ke Kula Ni'ihau 'o Kekaha  
Kekaha, Kaua'i

We humbly request the BOE do all it can to ensure transparency and due process as the Commission conducts their official business.

Ke Kula 'o Nāwahīokalani'opu'u  
Kea'au, Hawai'i

Ke Kula 'o Samuel M. Kamakau  
Kāne'ohe, O'ahu

Mahalo nui,

Kua o ka Lā  
Pāhoa, Hawai'i

Ka'iulani Pahio, Coordinator for Na Lei Na'auao

Kualapu'u Elementary  
Kualapu'u, Molokai

Kula Aupuni Niihau A Kahaelani  
Aloha  
Makaweli, Kaua'i

Mālama Hōnua  
Waimānalo, O'ahu

Waimea middle  
Kamuela, hawaii'i