



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

June 21, 2016

TO: Lance A. Mizumoto  
Chairperson, Board of Education

FROM: Jim Williams  
Investigative Committee Chairperson, Board of Education

AGENDA ITEM: Investigative Committee (a permitted interaction group pursuant to Hawaii Revised Statutes, Section 92-2.5(b)(1)) investigating special review of State Public Charter School Commission and legislative proposals relating to charter schools: status report

---

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 me and Board Members 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);<sup>1</sup> and
- 2) Review the legislative proposals, as attached to my memorandum dated January 19, 2016, and develop a recommendation to the Board of whether to formally support them through written testimony to the Legislature.

---

<sup>1</sup> 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 me 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).

At the Board’s April 19, 2016 general business meeting, the Board Charter School PIG provided a status report on its findings and recommendations. The Board Charter School PIG reported that the finding of whether or not a special review of the Commission is warranted was inconclusive at the time and noted that the Commission was 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 was a potentially significant development, the Board Charter School PIG reported that it wanted an opportunity to meet with the Commission PIG before issuing a determination on a special review being warranted or not. As a result, the Board Charter School PIG recommended that the Board authorize it 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.

In addition, the Board Charter School PIG reported that the adoption of a special review process is important and necessary because it is part of the Board’s statutory responsibilities in the oversight of authorizers and may be used in any instance where the Board determines a special review has been triggered, and it would communicate to the Commission that, if warranted, the Board intends to evaluate the Commission fairly. Thus, the Board Charter School PIG recommended that the Board approve the special review process presented in its report.

The Board Charter School PIG reported no findings or recommendations on its second task because the legislative proposals assigned to it for review were no longer active in the legislative process.

At its subsequent general business meeting on May 3, 2016, the Board approved the Board Charter School PIG’s recommendations with amendments to the special review process, as attached as **Exhibit A**.

Therefore, the purpose of this report is to provide an update to the Board Charter School PIG’s previous findings and recommendations on whether a special review of the Commission is warranted or not, based on the developments since its April 19, 2016 report.

## II. STATUS

Subsequent to the Board approving the recommendations in the Board Charter School PIG’s April 19, 2016 report, the Board Charter School PIG first met with the Commission PIG on May 17, 2016, to discuss the Commission PIG’s purpose and plan of action and the options for resolving the concerns the charter school listening tour brought to light. The two groups agreed to allow the Commission PIG to complete its initial investigation and report back to the Board Charter School PIG before the Board Charter School PIG made its recommendations to the Board, provided the initial investigation was completed in a timely manner.

While the Commission PIG conducted its initial investigation, the Board Charter School PIG continues to meet to determine if there is a pattern of well-founded complaints about the Commission or other objective circumstances that may warrant a special review. 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.

The Board Charter School PIG is currently awaiting a report from the Commission PIG before moving forward.

**Exhibit A**

**Board Process for Special Review of the State Public Charter School Commission  
(Approved as of May 3, 2016)**

# 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.<sup>1</sup>*

## 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.

---

<sup>1</sup> 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:

<b>Performance Measure Rating</b>	<b>Characteristics</b>
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.

<b>Performance Area Rating</b>	<b>Characteristics</b>
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**

<b>Does Not Meet</b>	<b>Partially Meets</b>	<b>Meets</b>	
Partially Meets	Approaching Meets	Meets	<b>Meets</b>
Mostly Does Not Meet	Partially Meets	Approaching Meets	<b>Partially Meets</b>
<b>Does Not Meet</b>	Mostly Does Not Meet	Partially Meets	<b>Does Not Meet</b>

**B. Authorizer Processes and Decision-Making**

The table below describes the outcomes for each final rating:

<b>Rating</b>	<b>Outcome</b>
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 direct the Commission to not approve new charter schools until the Board determines sufficient progress.
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 direct the Commission to not approve new charter schools until the Board determines sufficient progress.



## Appendix A

### Summary of Performance Measures and Guiding Questions

<b>PERFORMANCE MEASURES A: ORGANIZATIONAL CAPACITY AND INFRASTRUCTURE</b>		
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
<b>Revocation and Renewal Decision-Making</b>		
<b>Measure</b>	<b>Guiding Question</b>	<b>Origin</b>
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