



**STATE OF HAWAII
BOARD OF EDUCATION**

P.O. BOX 2360
HONOLULU, HAWAII 96804

January 11, 2011

MEMO TO: The Honorable Garrett Toguchi, Chairperson
Board of Education

FROM: John Penebacker, Chairperson
Committee on Administrative Services

SUBJECT: **RECOMMENDATION FOR BOARD ACTION ON APPROVAL FOR
PUBLIC HEARINGS ON PROPOSED AMENDMENTS TO CHAPTER 38,
CONSOLIDATION OF PUBLIC SCHOOLS, HAWAII ADMINISTRATIVE
RULES**

1. RECOMMENDATION

It is recommended that the Board of Education (Board) approve for public hearings, the proposed amendments of Chapter 38, Consolidation of Public Schools, Hawaii Administrative Rules (Chapter 38), as specified in Attachment A.

2. RECOMMENDED EFFECTIVE DATE

Upon approval by the Governor.

3. RECOMMENDED COMPLIANCE DATE

Upon approval by the Governor.

4. DISCUSSION

a. Conditions leading to the recommendation

Act 144 of the 2010 Legislature, now Chapter 302A-1151.5, Hawaii Revised Statutes (HRS) requires:

- The Department of Education (Department) notify the Charter School Review Panel (CSRP) that a public school may be closed as early as possible, but in any event not later than 30 days after it is determined that a public school will be closed;
- CSRP to solicit applications from charter schools to use all or a portion of the to-be-closed school;
- CSRP to submit to the Department a prioritized list of charter schools interested in the to-be-closed school's facilities;
- The Department to determine which, if any, of the charter schools may use the to-be-closed school's facilities;
- The Department and the selected charter school(s) to enter into the necessary agreements for the use of the to-be-closed school's facilities within 90 days of the Department's decision as to which charter school(s) may use the facilities;
- If no charter schools are interested, or if the Department determines that none are appropriate, the Department is to give reasonable consideration to making all or portions of the facilities of the public school, if closed, available for occupancy and use for other educational purposes; and
- The Department is to adopt administrative rules to carry out the purposes of the foregoing.

The purpose of the proposed amendments is to satisfy the mandate of Chapter 302A-1151.5, HRS.

It should be noted that Chapter 302A-1511.5, HRS, allows the Department to continue to make portions or all of the facilities of a school that is closed. The Department is not required to make such facilities available to charter schools if the Department determines that it has a use for the facilities for its own purposes.

Chapter 302A-1151.5, HRS, is attached to this recommendation as Attachment B.

b. Previous action of the Board on the same or similar matter

On December 4, 2008, the Board approved previously-proposed changes to Chapter 38 for public hearing. The request to the Governor to hold the public hearing has not yet been made.

Since these previous amendments have not yet been adopted, the format of the further amendments proposed by this recommendation has been modified so that the document shows both the previously-proposed amendments as well as the amendments proposed in this recommendation.

c. Other policies affected

None.

d. Arguments in support of the recommendation

The recommended amendments are the Department's response to the requirements of Chapter 302A-1151.5, HRS.

e. Arguments against the recommendation

None.

f. Findings and conclusions of the Board Committee

On January 11, 2011, the Committee on Administrative (Committee) recommended to the full Board, approval to hold public hearings on the proposed amendments of Chapter 38.

g. Other agencies or departments of the State involved in the action

CSRP has obligations under Act 144, now incorporated in Chapter 302B-3.6., HRS, that require CSRP to:

- Adopt policies and procedures for soliciting applications from charter schools for the use of a portion or all of a to-be-closed public school's facilities;
- Develop criteria to use in determining which charter schools to include on the prioritized list to be submitted to the Department; and
- Adopt policies and procedures for notifying charter school applicants that are granted or denied the use of vacant school facilities.

h. Possible reaction of the public, professional organizations, unions, Department staff and/or others to the recommendation

None.

i. Educational implications

None.

j. Personnel implications

None.

k. Facilities implications

None.

l. Financial implications

None.

5. **OTHER SUPPLEMENTAL RECOMMENDATIONS**

None.

Attachments