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

February 17, 2011

TO: The Honorable Garrett Toguchi, Chairperson
Board of Education

FROM: John Penebacker, Chairperson
Committee on Collective Bargaining, BU 05

SUBJECT: Approval of Waimea High School's School Community Council (SCC) Exception Regarding its Revised Attendance Procedures

1. RECOMMENDATION

That the Board of Education (BOE) approve Waimea High School's SCC Exception request allowing the school to implement revised attendance procedures for the 2011-2012 school year.

Note: By agreement with HSTA, the school's attendance procedures are "incorporated by reference" to the BU 05 Collective Bargaining Agreement. BOE approval of exceptions to the BU05 Collective Bargaining Agreement must include all stipulations agreed upon by its two (2) committee members to the SCC Exception Review Committee. The status quo shall remain should the BOE not agree with its committee members' recommendation(s).

2. RECOMMENDED EFFECTIVE DATE

Upon approval by the BOE.

3. RECOMMENDED COMPLIANCE DATE

Not applicable.

4. DISCUSSION

a. Conditions leading to the recommendation

Section 302A-1124 to 1127, Hawaii Revised Statutes (HRS), authorizes schools to request waivers from existing state agency rules, policies, regulations, and procedures as well as exceptions to collective bargaining agreements as negotiated in accordance with current collective bargaining agreements and the provisions of Chapter 89, HRS.

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

Similar exceptions were approved for Hilo High School, Honokaa High and Intermediate School, Kahuku High and Intermediate School, Kailua High School, Kaiser High School, Kalaheo High School, Kalani High School, Kauai High School, Kohala High School, Leilehua High School, Maui High School, Mililani High School, Waiakea High School, Waialua High School, Waianae High School, and Waipahu High School.

c. Other policies affected

Article VI, Teaching Conditions and Hours, Section R, Evaluation of Students/Grading Preparation

Board Policy 4501, Assessing/Grading Student Performance, Amended 06/03

DOE, School Attendance Procedures, Revised 08/01

Board Policy 2412, School Community Council Waivers and Exceptions Policy

d. Arguments in support of the recommendation

The attendance procedures requested by Waimea High School for 2011-2012 school will allow the school to:

- Change the definition of "Absent" to read: "Absent means the student is not physically present in school for at least half the school day or" absent from each class after fifteen (15) minutes from the ending of the tardy bell, except if the student is on an authorized school activity

- Institute a consequence for students who do not meet the ninety-five percent (95%) attendance benchmarks, meaning having less than ten (10) unexcused absences for the year as a means to stress the importance of being in school for learning to take place.
- Not allow students to participate in any co-curricular activities for the rest of the year once they have ten (10) or more unexcused absences.
- Utilize an appeal process to the principal when necessary for final decision to be made.

e. Arguments against the recommendation

The following concerns/cautions were expressed by the Department of the Attorney General when this request was initially approved and are reiterated as cautions for the implementation of these types of requests:

- If this proposed change is applied to all students, the school must ensure that these procedures do not conflict with the Individuals with Disabilities Education Act (IDEA) as it is applied to Special Education (SPED) students. For example, if applied to a SPED student, it must be a part of the student's Individualized Education Program (IEP). (IDEA, 20 USC, Section 1401).

- Section 504 of the Rehabilitation Act of 1973, (20 USC, Section 794), says that for the persons who require special accommodations because of some disability, "reasonable accommodations" must be made.

- Section 302A-1132, HRS, Attendance, compulsory; exceptions, states that "all children…shall attend either a public or private school…and any parent, guardian…shall send the child to some such school." The statute also delineates when such attendance shall not be compulsory. "The law does not say that schools may determine other exceptions to compulsory attendance such as allowing a number of unquestioned absentee days." Technically, any unexcused absence is a violation of the compulsory education law.

- Goss vs. Lopez, Supreme Court decision (419 US 595-1975) states that a student cannot be excluded from school for more than ten (10) days without a formal due process hearing. If a student stops attending classes because the school has already declared that he/she will not pass or if a teacher remarks to the

student that attending classes is no longer necessary because he/she will fail anyway, this Supreme Court decision would impact that kind of action.

- The attendance procedures (especially Saturday School) perpetuate the mindset that learning is measured by the amount of time spent in class, rather than performance and/or application of what is learned.

- Department staff also expressed concerns that this kind of exception is philosophically contrary to Board policy/directions and to some extent contrary to what the Department has been trying to accomplish with the emphasis on standards-based reform. Data may not show increased learning, i.e., emphasis is being put on "credit for just showing up."

f. Findings and conclusions of the Board committee

The BU 05 Committee on SCC Exception Review agreed to this exception on February 3, 2011.

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

Department of the Attorney General.

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

Positive.

i. Educational implications

As stated in the school's SCC exception request.

j. Personnel implications

None.

k. Facilities implications

None.

l. Financial implications

None.

5. OTHER SUPPLEMENTARY RECOMMENDATIONS

None.

JP:JZ:lt

Attachments

c. Superintendent
Office of Curriculum, Instruction and Student Support

_____New Request

__X__Renewal

SCHOOL COMMUNITY COUNCIL
WAIVER/EXCEPTION REQUEST FORM

(Please use one form for each request)

SCHOOL: Waimea High School

DATE: 11-08-10

DISTRICT: Kauai District

COMPLEX: West Complex

Achieved AYP: ___Yes __X__No

School Proficiency Levels:

Reading	Gr 10	67 %	Gr ___	____	%
Math	Gr 10	36 %	Gr ___	____	%

School Status:
____ In Good Standing, Unconditional
____ In Good Standing, Pending
__X__ Needs improvement Yr. 1
____ Needs improvement Yr. 2
____ Corrective Action
____ Planning for Restructuring
____ Restructuring

*****Attach Trend Report.**

A. List the specific policy, regulation, rule, procedure or the specific article within the collective bargaining agreement from which the school is seeking relief.

BOE Attendance Policy 4145 – The Department of Education shall establish procedures for the admission and attendance of students in the public schools of Hawaii in accordance with laws, rules, policies and administrative regulations.
Revised DOE Attendance Policy September 2008 –
Definition of Absent – Means that the student is not physically present in school or in a scheduled class for at least half of the school day or class period except if the student is on an authorized school activity.

B. Describe 1) the desired change, and 2) what the school hopes to accomplish as it relates to improving student learning and increasing student achievement. Include specific quantitative, qualitative and longitudinal data to support the need for the request.

1. Waimea High School would like to change the definition for our purpose to read "Absent means the student is not physically present in school for at least half of the school day or "absent from each class after 15 minutes from the ending of the tardy bell except if the student is on an authorized school activity.
2. Waimea High School also attaches a consequence for students who do not meet the 95% attendance benchmark, meaning having less than 10 unexcused absences for the year, as a means to stress the importance of being in school for learning to take place. Students are not allowed to participate in any co-curricular activities for the rest of the year once they have 10 or more unexcused absences. There is an appeal process to the Principal, who makes the final decision.

C. If a renewal, describe and evaluate the outcomes of the requested change. Explain what was achieved and the impact on student learning. (Include specific quantitative and/or qualitative data.)

Waimea High School is, presently, on a 79 minute block schedule. A student would miss up to 39.5 minutes of the class period before being marked absent if we adhere to the DOE policy. The faculty voted on implementing 15 minutes because the attendance is taken within that time and the majority of direct instruction is beginning to be presented. Teachers feel that the DOE policy is too lenient and that some of the students will deliberately miss half of the class knowing it would only be counted as a tardy and not as an absence. Missing so much information will lead to probable failure and possibly, more attendance issues. With the present 15 minute policy, the majority of the students are getting to class on time. According to our attendance records and teacher reports, students who are tardy, report to class between 1 to 5 minutes of the tardy bell ringing, still within a reasonable time to be involved. Since SY 2001-2002 Waimea High has been below the DOE's 95% average daily attendance benchmark averaging just 91%, but the data that is important to us is that more than 95% of our students are in class on time and we feel it is because students are aware that they will be marked absent if they do not get to class within 15 minutes of the tardy bell. The faculty understands that implementing the DOE's policy would decrease our daily absentee rate and increase our daily attendance rate because students could not be reported as absent until half of the period is over but, they would rather only allow 15 minutes to send the message that being in class on time is very important. Although tardies are a concern, teachers feel that the present policy holds the students accountable for learning from bell to bell.

The policy to withhold privileges from students when they reach 10 unexcused absences dovetails with the 15 minute absentee policy in stressing to parents and students the importance of attending school. Our attendance records provide accurate account of notes that are turned in and whether they have been designated excused or unexcused according to the criteria stated in our policy. Daily calls are generated to parents when a student misses one or more classes. A letter is sent to parents when their child has received 5 unexcused absences with the attendance policy to alert them. A second letter is sent home when the student reaches the 10 unexcused absences informing them that co-curricular privileges have been suspended for the school year. An appeal notice is also attached. Attendance records indicate that students and parents are more aware of the attendance policy and make efforts to send notes to that attendance clerk. The policy states clearly what constitutes an excused or unexcused absences and parents/students are informed whether the note is accepted as excused. This has made a difference because students are more conscientious to bring the note so they can obtain the make up work from teachers.

D. Please provide additional information **(data and narrative)** for the following type of request applicable:

D1.) Parent-Teacher Conferences:

For a waiver from the DOE Regulation 4510.3 Released Time for Conferences to Report Student Progress, the Superintendent requires that a parent satisfaction survey be conducted and the survey results submitted.

Number of surveys distributed	
Number of surveys returned	
Number of parents in favor	
Number of parents not in favor	
Number of parents undecided	

Summary:

D2.) School Attendance Procedures:

For a waiver from the DOE School Attendance Procedures, Revised August 2001, a comparison of attendance data over a three (3) year period of time is required. Explain the increase or decrease in attendance rates. Provide provisions for allowing students to make-up missed work.

School Year	% of average daily attendance
2009-2010	92
2008-2009	91
2007-2008	90
2006-2007	91
2005-2006	91

Rationale: Our average daily attendance rate has remained fairly constant since SY 2001-2002. We attribute a major portion of it to the fact that we are using 15 minutes as the cut off for absences as opposed to the "half a class period" definition. We feel using the DOE's definition would improve our daily average attendance rate drastically, but it would increase our tardy rates and cause tardy students to miss more time in class, therefore missing more information which may lead to possible failure or other attendance issues. We would rather decrease the time a student has of missing valuable information by enforcing a stricter policy. Thus only allowing 15 minutes before a student is marked as absent. Our tardies still remain a problem but the time missed is minimal compared to half of a period.

Even though students are marked absent after 15 minutes, they are still allowed in class to participate in the daily lesson and makeup what was missed in the first 15 minutes or so. If a student is absent for the day they are allowed to make up work per the DOE's attendance policy. Teachers are allowed 24 hours from the time of request to provide it to our counselors' EA where parents and/or students may pick it up. Students are given make up work from Day 1 of their absences.

D3.) Reporting of Quarterly Grades:

For an exception from the collective bargaining contract for teachers for Reporting Quarterly Grades for Schools, an explanation of the interventions provided and the impact on student learning is required.

Number of students failing	
Number of students who received tutorial assistance/interventions	
Number of students whose grades improved after receiving tutorial assistance/interventions	

Explanation:

D4.) Modified Assessment Schedule:

For an exception from the collective bargaining contract for teachers for a Modified Assessment Schedule, an explanation of the interventions provided and the impact on student learning is required. Describe tutorial opportunities provided for students during the assessment week.

Number of students failing	
Number of students who received tutorial assistance/interventions	
Number of students whose grades improved after receiving tutorial assistance/interventions	

Explanation:

E. **All Other Requests:**

Provide information and explanation as indicated in Sections A, B, and C, and other additional information applicable.

F. Provide a chronology and summary of discussions and activities that document an inclusive, collaborative and consensus-building decision-making process.

Date	Type of Meeting	Summary of Outcome
July 25, 2007	Faculty Opening Day Mtg.	Teachers vote to adopt 15 minute as opposed to half a class period as an absence.
October 1, 2008	Leadership Mtg.	Leadership discussed attendance policy and waiver. Decided would take to departments for discussion.
October 15, 2008	Department Mtg.	Departments discussed attendance policy. Leadership minutes reflect unanimous vote to keep present policy.
November 24, 2008	SCC Mtg.	Attendance policy explained to SCC. Vote taken. Unanimous vote to keep present policy.
November 20, 2009	Faculty / Celebrations Mtg.	Faculty unanimously voted on reapplying for the waiver to the attendance policy.
November 25th – December 3rd 2009	SCC	Members of SCC polled via telephone or in person. Unanimous vote to keep present policy.
November 4, 2010	Faculty Meeting	Faculty voted in favor of continuing the present waiver to the attendance policy. Affirmative votes 37 Negative votes 51 72% in favor 28% against
November 17, 2010	SCC Meeting	Attendance policy explained to SCC. Vote taken.

G. SCC Waiver/Exception Signature Page

WAIVER/EXCEPTION SIGNATURE PAGE

The signatures on this page acknowledge that the decision to request the attached waiver/exception was reached through a collaborative process. If this request is an exception to a collective bargaining agreement, the decision by members of the bargaining unit was achieved through consensus. (Because exceptions to collective bargaining agreements involve the rights of other employees, consensus, specifically by affected unit members, is necessary to waive those rights. It is possible for these unit members to agree on a fallback decision-making option provided that the agreement on the fallback option was reached through consensus.)

Administration _____ Date 11/17/2010

Community Representative(s) _____ Date 11/17/2010

Parent Representative(s) _____ Date 11/17/2010

Student Representative(s) _____ Date 11/17/2010

Noncertificated Staff Representative(s) _____ Date 11/17/2010

Teacher Representative(s) _____ Date 11/17/2010

Complex Area Superintendent (CAS): William N. Arakaki (print name)
This waiver/exception request aligns with the goals and objectives of the school's strategic plan/academic and financial plan.

CAS Signature: _____ Date 12-27-10

HSTA PROCESS CHECK REQUIREMENT:
To ensure that the process to reach the decision for a contract exception request was followed, (the faculty either reached consensus or failing to reach consensus, the faculty held a secret ballot vote that resulted in active faculty members casting a ballot with 66-2/3% or higher affirmative vote), **the Teacher Representative should email the UniServ Director with a cc to Raymond Camacho (rcamacho@hsta.org). Please attach a copy of the email sent to the UniServ Director.**

RETURN FORM TO: School Renewal and Redesign Section
475 22nd Avenue, Building 302, Room 109
Honolulu, Hawaii 96816

Or FAX: 735-8379

FAILURE TO SUBMIT A COMPLETE AND TIMELY WAIVER/EXCEPTION REQUEST MAY RESULT IN THE REQUEST NOT BEING PROCESSED.

Jackie Matsumura/WAIMEAH/HIDOE
11/09/2010 01:59 PM

To rcamacho@hsta.org, tperry@hsta.org
cc Nely Caberto/WAIMEAH/HIDOE@HIDOE, Anne Kane/WAIMEAH/HIDOE
bcc
Subject completed voting

I gave ballots to those who were absent at out faculty meeting and therefore did not vote on teh tardy issue.

Teachers agree to uphold the policy that students who arrive to class 15 minutes after it has begun shall be marked absent.

Yes No

The count now stands at 37 out of 51 elible HSTA members. There were 3 no votes. Two who are still absent. Nine chose not to vote. We have 72% approval .

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Trend Report: Educational and Fiscal Accountability

School Report for School Year 2009-2010

A Guide to Understanding Trend Reports explains the educational and fiscal measures and lists schools in each of the 42 complexes for school year 2009-10. The *Guide* is available on-line at http://arch.k12.hi.us.

Background

Student Enrollment	Total	SPED		ELL		Free & Reduced-Cost Lunch Program		Kindergartners Who Attended Preschool
School Year	#	#	%	#	%	#	%	%
2007-2008	791	81	10.2%	32	4.0%	266	33.6%	na
2008-2009	775	81	10.5%	43	5.5%	268	34.6%	na
2009-2010	729	68	9.3%	32	4.4%	285	39.1%	na

Teachers	Total	Licensed	Years Experience	5+ Years at This School	Classes Taught by Teachers Meeting NCLB Requirements	Advanced Degree	Early Childhood Endorsement (Gr. K teachers)
School Year	#	%	Average	%	%	%	#
2007-2008	51	86.3%	13.0	51%	66%	25.5%	na
2008-2009	53	90.6%	14.2	55%	68%	30.2%	na
2009-2010	48	95.8%	14.5	60%	84%	29.2%	na

Academic Achievement

Hawaii State Assessment Standards-Based	Reading % Proficient by Grade Level							Math % Proficient by Grade Level						
School Year	3	4	5	6	7	8	10	3	4	5	6	7	8	10
2007-2008	na	na	na	na	na	na	71.1	na	na	na	na	na	na	33.5
2008-2009	na	na	na	na	na	na	78.9	na	na	na	na	na	na	30.8
2009-2010	na	na	na	na	na	na	65.9	na	na	na	na	na	na	31.1

Hawaii State Assessment Standards-Based	Science % Proficient by Grade Level					
School Year	4	5	6	7	10	11
2007-2008	na	na	na	na	--	20.6
2008-2009	na	na	na	na	--	20.4
2009-2010	na	na	na	na	16.2	--

TerraNova Assessment National sample scoring at Average & above = 77		Reading % Average & Above							Math % Average & Above						
School Year	Grade Level	3	4	5	6	7	8	10	3	4	5	6	7	8	10
2007-2008		na	na	na	na	na	na	77.0	na	na	na	na	na	na	86.8
2008-2009		na	na	na	na	na	na	77.3	na	na	na	na	na	na	79.2
2009-2010		na	na	na	na	na	na	72.7	na	na	na	na	na	na	74.7

*Results suppressed to protect student identity, in accordance with the Family Educational Rights and Privacy Act (FERPA)

Academic Achievement (continued)

School Year	Proportion Ready for Kindergarten	Retention Rate %			Dropout Rate % (4-year rate)	Graduate On-Time %	Others %
		Elementary	Middle	Grade 9			
2007-2008	na	na	na	4.5%	16.0%	83.4%	0.6%
2008-2009	na	na	na	7.7%	14.0%	84.9%	1.1%
2009-2010	na	na	na	9.4%	10.4%	88.3%	1.3%

Safety and Well-Being

Students	Average Daily Attendance %		Offenses by Type of Incident (number of citations per 1,000 students)					
			Violence		Property		Illicit Substances	
School Year	Elementary	Secondary	Elementary	Secondary	Elementary	Secondary	Elementary	Secondary
2007-2008	na	90.2%	na	24	na	4	na	44
2008-2009	na	91.2%	na	23	na	19	na	45
2009-2010	na	92.1%	na	29	na	10	na	21

School	Facilities Inspection	Persistently Dangerous Schools (NCLB)	Workers' Compensation Claims		Student and Teacher Perceptions on School Quality Survey		Transition from home/preschool to Kindergarten
School Year	Passed?	Yes/No	Total # of claims	% of claims resulting in loss-time	Positive Responses		School mean (range 1-3)
					% of student	% of teacher	
2007-2008	Yes	No	4	25.0%	41.5%	65.8%	na
2008-2009	Yes	No	2	0.0%	32.9%	66.4%	na
2009-2010	Yes	No	--	--	37.6%	52.4%	na

Civic Responsibility

	Young Voter Registration	Kids Voting Hawaii		Students Who Are Not Suspended	Service to School/ Community	Volunteer Hours
School Year	# of students participating	# of students participating	% of students participating	% of Enrollment	# of projects	# of PCNC volunteer hours per 100 students
2007-2008	87	--	--	85.7%	34	165
2008-2009	--	228	29.4%	85.9%	--	470
2009-2010	--	--	--	87.8%	--	16

Fiscal Accountability

	State General Funds				Significant Budget Changes*
School Year	School Salaried Payroll	Allocation Excluding School Salaried Payroll	Expended	Carryover	
2007-2008	$4,778,037	$599,298	$549,923	$49,375	none
2008-2009	$4,988,077	$580,541	$579,681	$860	none
2009-2010	$4,417,053	$434,248	$408,197	$26,051	none

*Explanation of Significant Budget Changes