

**STATE OF HAWAII
BOARD OF EDUCATION**

P.O. BOX 2360
HONOLULU, HAWAII 96804

April 5, 2018

TO: Student Achievement Committee

FROM: Margaret Cox
Chairperson, Student Achievement Committee

AGENDA ITEM: Committee Action on charter school support structure for multiple charter school authorizer system

I. BACKGROUND

At its August 2, 2016 general business meeting, the Board of Education (“Board”) adopted a general timeline as guidance for the promulgation of the administrative rules for multiple charter school authorizers and the development of the multiple authorizer system.¹ The Board also authorized the Student Achievement Committee Chairperson to adjust the timeline as necessary and provide notification as appropriate.

The Board’s new administrative rules for a multiple authorizer system—Chapter 8-515, Hawaii Administrative Rules (“HAR”), entitled “Establishment and Oversight of Charter School Authorizers,”² and Chapter 8-517, HAR, entitled “Charter Contract Transfers”³—became effective on February 18, 2017, on track with the Board’s timeline. The rules require the Board to develop, among other things, the following:

- An application form, process, and processing schedule for eligible entities to apply to become authorizers, including policies, criteria, or guidelines for evaluating applications for chartering authority (HAR §8-515-5);
- An authorizing contract that shall be executed with each entity the Board approves for chartering authority (HAR §8-515-6); and

¹ The approved timeline is attached as Exhibit A to Board Member Jim Williams’ memorandum dated August 2, 2016, available here: http://boe.hawaii.gov/Meetings/Notices/Documents/2016-08-02%20SAC/SAC_20160802_Action%20on%20multiple%20charter%20school%20authorizers%20timeline.pdf.

² Chapter 8-515, HAR, is available here: <http://boe.hawaii.gov/policies/AdminRules/Pages/Chapter515.aspx>.

³ Chapter 8-517, HAR, is available here: <http://boe.hawaii.gov/policies/AdminRules/Pages/Chapter517.aspx>.

- A performance evaluation system to assess the effectiveness of all authorizers (HAR §8-515-10).

The Board's August 2016 timeline projected that Board staff would develop and bring these important multiple authorizer system documents to the Board for adoption by June 2017. Board staff have made some progress in developing draft documents, but they have had to delay completion due to other Board priorities taking precedent. Further, Board staff have run into some complications in developing the system for multiple authorizers due to the current structure of the charter school system.

II. UPDATE

It is important to emphasize that the Board has a legal obligation to establish a system that permits the creation of multiple charter school authorizers. In addition to the administrative rules requirements, state statute requires the Board to release information on the application for chartering authority by June 30 of each year.⁴ Even though the Board has other priorities and issues to address, it should continue to make a good-faith effort to meet its obligations related to the oversight of multiple charter school authorizers.

Notwithstanding the need for demonstrable progress in complying with law, issues in the current structure of the charter school system complicate how governance and operations will work if Board approves the establishment of another authorizer. These complications have slowed the development of the necessary multiple authorizer documents.

The most glaring issue is the lack of centralized support for charter schools provided by a non-authorizing entity. Currently, the State Public Charter School Commission ("Commission"), the sole authorizer in the state, provides some support to charter schools, either by law or voluntarily. This arrangement is less problematic in the present situation with the Commission serving as the authorizer for all charter schools in the state. However, if the Commission ceases to have oversight over every charter school with the introduction of another authorizer, the added complexity exposes the system to potential conflicts of interests, fairness and equity issues, and unnecessary inefficiencies.

The following figures illustrate some of the complexity and provide some general examples the current structure presents when adding another authorizer. Figure 1 shows the current circumstances. The Board has broad authority over public education, including charter school authorizers, such as the Commission, and the Department of Education ("Department"). As the only authorizer, the Commission has oversight authority over all charter schools and also provides various administrative and support functions to them, such as distributing state and federal funds, providing technical assistance for federal programs, and interfacing with state agencies and vendors for employee benefits and payroll purposes. The Department communicates with and provides federal programs

⁴ Hawaii Revised Statutes ("HRS") §302D-4(e) states, in pertinent part, "By June 30 of each year, the board shall make available information and guidelines for all eligible entities concerning the opportunity to apply for chartering authority under this chapter."

support and resources to charter schools through the Commission. The Department also provides special education resources to charter schools directly.

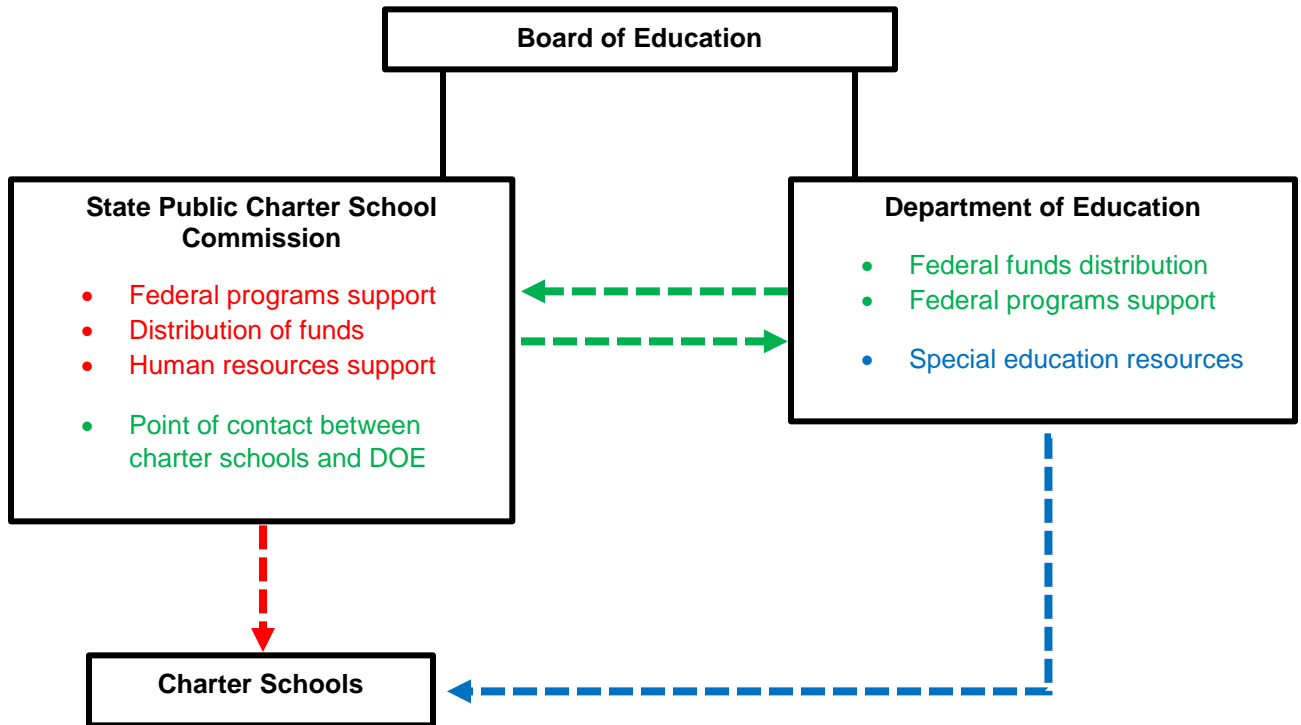


Figure 1

Figure 2 illustrates what would happen, generally, if the Board approved another authorizer within the current structure. The Commission would no longer oversee all charter schools. Each authorizer, including the Commission, would be responsible for distributing state and federal funds to the charter schools within their respective portfolios, which means the Department would need to distribute federal funds to each authorizer in the appropriate amounts. The Department would also need to communicate with charter schools through each authorizer rather than a central source. It is unclear whether the Department would provide federal programs support to charter schools through each authorizer, through just the Commission, or directly. It is also unclear whether the Commission would continue providing payroll and benefits support to all charter schools, even those it does not oversee, or if each authorizer would be responsible.

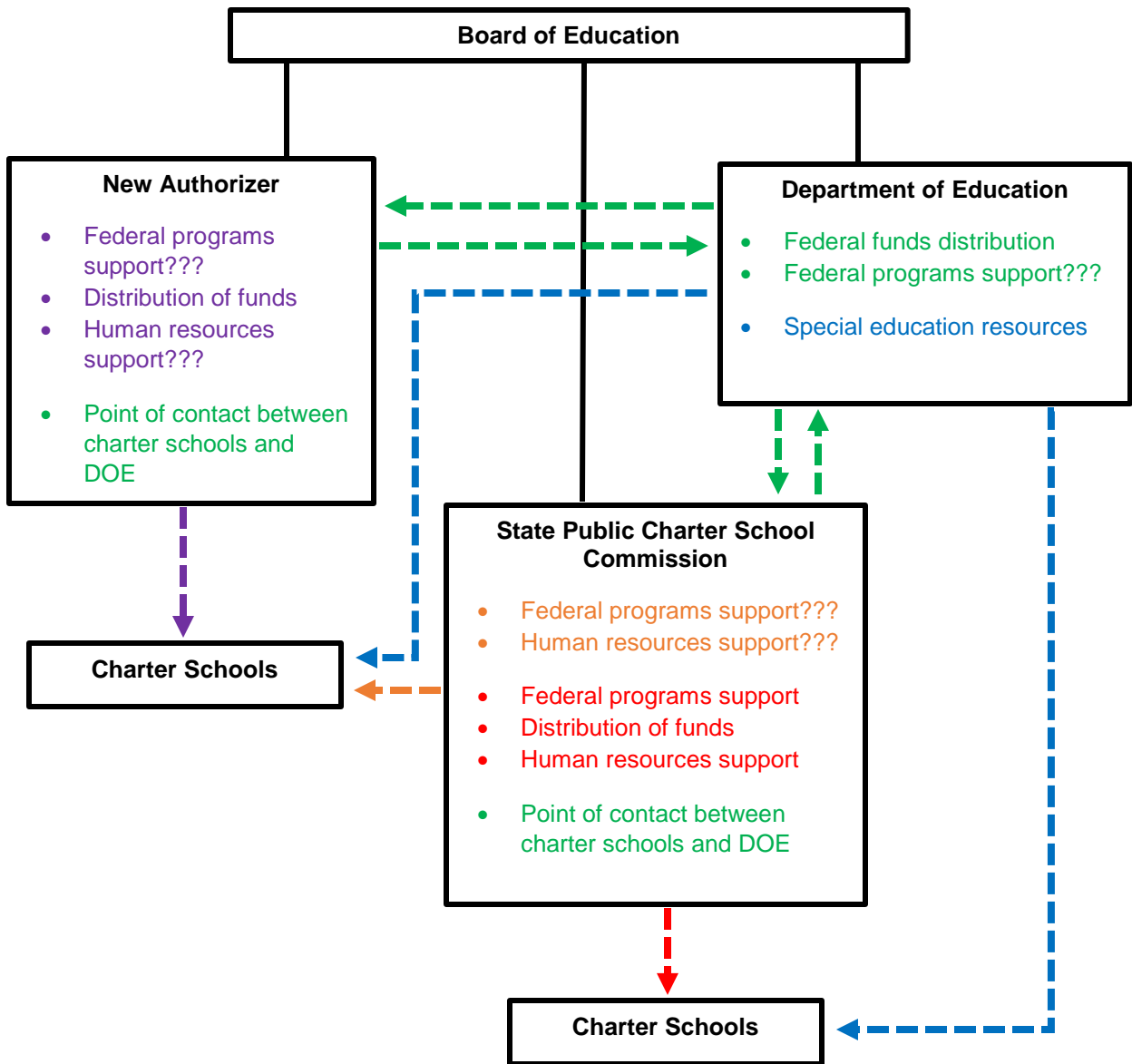


Figure 2

The example above raises questions about who should be responsible for various administrative and support functions and the appropriateness of the Commission delivering services or assistance to charter schools, especially those not within its portfolio.

Even as the sole authorizer, there are downsides to the Commission retaining responsibility for administrative and support functions, including the statutory limitations on the level of support and assistance an authorizer can provide.⁵ The Commission has assumed more responsibility than required by law, and the Board should commend it for attempting to fill in

⁵ HRS §302D-5(g) states, in pertinent part, “An authorizer shall not provide technical support to a prospective charter school applicant, an applicant governing board, or a charter school it authorizes in cases in which the technical support will directly and substantially impact any authorizer decision related to the approval or denial of the charter application or the renewal, revocation, or nonrenewal of the charter contract.”

gaps in the system and going beyond its role as an authorizer. This structure, however, is not ideal and does not necessarily provide Hawaii's charter schools with the supports their counterparts may receive in other states. Nor does this structure allow the Commission to focus solely on its primary function of authorizing.

III. RECOMMENDATION

The issues outlined in this memorandum require more research and discussions with key stakeholders. Therefore, I am recommending that the Committee direct Board staff to look into the issues and propose a charter school support structure that make sense for a system with multiple charter school authorizers. However, I am not yet recommending an adjusted timeline for the overall development and adoption of the multiple charter school authorizer system because a new timeline is dependent upon when and how the Board addresses some of the structural issues that currently inhibit the charter school system from effectively integrating any other authorizers besides the Commission.

Proposed Motion: Move that the Student Achievement Committee direct Board staff to research solutions to the issues outlined in Committee Chairperson Margaret Cox's memorandum, dated April 5, 2018, and propose an organizational structure that provides appropriate centralized support to charter schools.