



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

December 3, 2020

TO: Board of Education

FROM: Catherine Payne  
Chairperson, Board of Education

AGENDA ITEM: Action on designation of Board members to an investigative committee (a permitted interaction group pursuant to Hawaii Revised Statutes Section 92-2.5(b)(1)), concerning: (1) considering proposing changes to Component 1, Professional Standards, of Superintendent evaluation process to take into account leadership during crises, (2) considering and proposing Strategic Plan Indicators and Targets for the 2020-2021 School Year, including consideration of indicators that do not rely on data from the annual statewide Smarter Balanced Assessment; and (3) proposing Superintendent's Priorities for the 2020-2021 School Year

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**I. EXECUTIVE SUMMARY**

- The Board of Education ("Board") can consider changes to its evaluation process and review Superintendent Priorities using an investigative committee.
- An investigative committee must bring any findings and recommendations to the full Board, and the investigative committee mechanism does not automatically exclude Board Members or the public from the committee's discussions.
- The Board and Superintendent Kishimoto can mutually agree to change the evaluation process at any time, but should consider whether it makes sense to make significant changes in the middle of the year.
- The Board has not adopted strategic plan indicators or mutually agreed with Superintendent on indicator targets.

## II. BACKGROUND

The Board established a superintendent evaluation system in 2017 with three primary purposes and four secondary purposes, which have remained unchanged throughout the years.

“The primary purposes of the superintendent evaluation are to:

1. Establish a record of annual performance by assessing the Superintendent’s past performance and progress toward annual priorities;
2. Promote leader effectiveness and professional growth by creating a safe learning environment with a feedback process that encourages conversations around individual professional development and improving performance; and
3. Focus on the future and, in conjunction with the Board’s annual strategic priority setting process, set clear expectations through the annual review and revision of Superintendent Priorities.

While not a primary purpose of the evaluation, the Board may use the record of performance that it establishes to determine compensation adjustments or bonuses for the Superintendent or renewal, nonrenewal, or termination of the Superintendent’s employment contract. The evaluation also serves to:

- Create an opportunity for the Board and Superintendent to periodically reexamine their roles and responsibilities for themselves, the school community, the Department, and the community at-large;
- Create and establish a HĀ-based climate of trust and collaboration and enhance the working relationship between the Board and Superintendent;
- Provide an avenue for the Board to partner and communicate with the Superintendent the intended implementation of their collective vision, priorities, and policies; and
- Communicate and provide assurance to the school community and community at-large as to how leadership is holding itself accountable for addressing priorities.”<sup>1</sup>

The Superintendent Evaluation Process establishes steps in an annual process, timeline, and an instrument used to evaluate the superintendent of the Hawaii Department of Education (“Department”). Under the Superintendent Evaluation Process timeline, the first action the Board and superintendent complete in June is to review, revise (if necessary), and mutually

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<sup>1</sup> Revised Superintendent Evaluation System, p. 1, available at: [http://boe.hawaii.gov/About/Documents/Superintendent%20Evaluation%20Process%20\(revised%202020-06-18\).pdf](http://boe.hawaii.gov/About/Documents/Superintendent%20Evaluation%20Process%20(revised%202020-06-18).pdf)

agree upon the evaluation system and superintendent job description.<sup>2</sup> In June, before the meeting where the Board considered revisions to the Superintendent Evaluation Process, Board members and the superintendent are asked to provide comments on the previous year's evaluation process and propose changes. These comments and proposals are compiled and considered by the Board at its June public meeting. In June, Superintendent Christina Kishimoto did not provide any comments regarding accounting for leadership during crises in Component 1, Professional Standards or regarding indicators to replace any strategic plan indicators with those that do not rely on data from the annual statewide Smarter Balanced Assessment.

Since 2018, the Board has only considered making changes to the Superintendent Evaluation Process in June, at the beginning of the Superintendent Evaluation Process. Any comments or suggestions to revise the process made during the year were collected and raised when the Board considered revisions to the next evaluation process.

Under the Superintendent Evaluation Process timeline, the Board and superintendent complete a second action to mutually agree on and set the strategic plan indicator targets and Superintendent Priorities.<sup>3</sup> At its June 18, 2020 general business meeting, the Board adopted revisions to its superintendent evaluation system.<sup>4</sup> The revisions to the superintendent evaluation system included a third major component that evaluates the superintendent on progress on strategic plan indicator targets.<sup>5</sup>

The third component was described in Board Chairperson Payne's June 18, 2020 memorandum, page 2, as follows:

"Superintendent and Board would agree upon annual targets in advance, which would be based on the targets in the Department's current strategic plan. As a part of the end-of-year evaluation, the Board would review a snapshot of the progress made on the strategic plan indicator targets and determine whether the progress made makes it likely the Department will meet the targets in its strategic plan or not. The goal would be to be on-target for at least half of the indicators, so an effective rating would require at least 50% of the indicators to be on-target."

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<sup>2</sup> Revised Superintendent Evaluation System, p. 10, available at: [http://boe.hawaii.gov/About/Documents/Superintendent%20Evaluation%20Process%20\(revised%202020-06-18\).pdf](http://boe.hawaii.gov/About/Documents/Superintendent%20Evaluation%20Process%20(revised%202020-06-18).pdf)

<sup>3</sup> Revised Superintendent Evaluation System, p. 10, available at: [http://boe.hawaii.gov/About/Documents/Superintendent%20Evaluation%20Process%20\(revised%202020-06-18\).pdf](http://boe.hawaii.gov/About/Documents/Superintendent%20Evaluation%20Process%20(revised%202020-06-18).pdf)

<sup>4</sup> The Board's revised Superintendent Evaluation System is available here: [http://boe.hawaii.gov/About/Documents/Superintendent%20Evaluation%20Process%20\(revised%202020-06-18\).pdf](http://boe.hawaii.gov/About/Documents/Superintendent%20Evaluation%20Process%20(revised%202020-06-18).pdf).

<sup>5</sup> For more information on the revisions, see my memorandum dated June 18, 2020, available here: [http://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/GBM\\_20200618\\_Action%20on%20Superintendent%20Evaluation%20and%20Job%20Description.pdf](http://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/GBM_20200618_Action%20on%20Superintendent%20Evaluation%20and%20Job%20Description.pdf).

The memorandum included a table with possible indicators and annual targets for illustrative and discussion purposes. The table used the 14 indicators from the 2017-2020 Strategic Plan and the 2023-2024 target from the proposed Promise Plan to provide an example of what annual targets would look like. The Superintendent Evaluation Process adopted by the Board does not list specific indicators or targets for the third component.<sup>6</sup>

In accordance with the revised evaluation process timeline, the Board and Superintendent Kishimoto were to “mutually agree on and set the strategic plan indicator targets and Superintendent Priorities” in July. At the Board’s July 23, 2020 general business meeting, Superintendent Kishimoto proposed Superintendent Priorities and strategic plan indicator targets for the 2020-2021 school year.<sup>7</sup> While the Board had a robust discussion on Superintendent Kishimoto’s proposal, the Board decided not to take action at this meeting due to concerns with the proposal.<sup>8</sup>

At the Board’s November 19, 2020 general business meeting, Superintendent Kishimoto brought a new proposal for her Superintendent Priorities to the Board for consideration, but did not propose any strategic plan indicator targets.<sup>9</sup> Board members provided feedback but again decided not to take action until Superintendent Kishimoto incorporated their feedback. Board members generally agreed with the concepts in Superintendent Kishimoto’s first and second

<sup>6</sup> The Superintendent Evaluation Process, available at: [http://boe.hawaii.gov/About/Documents/Superintendent%20Evaluation%20Process%20\(revised%202020-06-18\).pdf](http://boe.hawaii.gov/About/Documents/Superintendent%20Evaluation%20Process%20(revised%202020-06-18).pdf), p. 8 provides, in pertinent part:

“The annual strategic plan indicator targets are the annual targets that the Department should meet in order to meet the longer term targets in its strategic plan. The Board and Superintendent mutually agree, in advance, on the annual targets for each indicator. The annual targets should be set at a level that will make it likely that the Department will meet the targets it set out in its most current strategic plan. The Board will determine whether the Department is on-track or not on-track to reach each of the indicator targets in the Department’s most current strategic plan. The Board will provide the Superintendent with a rating based on the table below.”

<b>RATING</b>	<b>CHARACTERISTICS</b>
<b>Highly Effective</b>	100% of the indicators on-track
<b>Effective</b>	50-99% of the indicators on-track
<b>Marginal</b>	30-49% of the indicators on-track
<b>Unsatisfactory</b>	Less than 30% of the indicators on-track

<sup>7</sup> Superintendent Kishimoto’s first proposal is available in her memorandum dated July 23, 2020, available here: [http://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/GBM\\_07232020\\_Board%20Action%20on%20Supt%20Eval%20for%20the%202020-21%20SY%20-%20Supt%27s%20Priorities.pdf](http://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/GBM_07232020_Board%20Action%20on%20Supt%20Eval%20for%20the%202020-21%20SY%20-%20Supt%27s%20Priorities.pdf).

<sup>8</sup> The Board’s discussion is captured in its July 23, 2020 General Business Meeting minutes, available here: <https://alala1.k12.hi.us/STATE/BOE/Minutes.nsf/ebb43af14ca5cdb30a2565cb006622a8/8767541e6beb2e200a2585d6007da970?OpenDocument>.

<sup>9</sup> Superintendent Kishimoto’s second proposal is available in her memorandum dated November 19, 2020, available here: [http://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/GBM\\_11192020\\_Board%20Action%20on%20Supt%27s%20Eval%20for%202020-21%20SY%20-%20Supt%27s%20Priorities.pdf](http://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/GBM_11192020_Board%20Action%20on%20Supt%27s%20Eval%20for%202020-21%20SY%20-%20Supt%27s%20Priorities.pdf).

proposed Superintendent Priorities relating to the Department’s digital transformation and promotion of innovative strategies for improving literacy. However, they asked Superintendent Kishimoto to revise the indicators for both priorities to reflect SMART criteria (specific, measurable, achievable, relevant, and time-based), in accordance with the superintendent evaluation system. Superintendent Kishimoto asked the Board to form an investigative committee (a permitted interaction group pursuant to Hawaii Revised Statutes Section 92-2.5(b)(1), a Sunshine Law provision) to discuss the Superintendent Priorities, the strategic plan indicator targets, and how to account for crisis leadership. The Board did not take action on this request because the formation of an investigative committee was not on the November 19, 2020 agenda.

Sunshine Law allows two or more Board Members to investigate a matter relating to the official business of the board, provided that the scope of the investigation and each member’s authority are defined at a board meeting, all findings and recommendations are presented at a board meeting, and deliberation and decision-making occurs at a meeting subsequent to the meeting where the investigative committee’s findings and recommendations are presented to the Board.<sup>10</sup> The Board’s bylaws allow the Board to designate two or more Board members to investigate matters concerning Board business; the committee must report their resulting findings and recommendations to the entire Board at a properly noticed meeting.<sup>11</sup>

### **III. DISCUSSION**

The evaluation system establishes steps in a process, but it does not detail how the Board will accomplish these steps. The Board can establish for itself how it will accomplish the steps in the Superintendent Evaluation Process. For example, regarding Superintendent Priorities, the evaluation process provides, “[t]he Board and Superintendent mutually agree on at least two,

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<sup>10</sup> HRS Section 92-2.5(b)(1) provides as follows: “[t]wo or more members of a board, but less than the number of members which would constitute a quorum for the board, may be assigned to . . . [i]nvestigate a matter relating to the official business of their board; provided that:

- (A) The scope of the investigation and the scope of each member's authority are defined at a meeting of the board;
- (B) All resulting findings and recommendations are presented to the board at a meeting of the board; and
- (C) Deliberation and decision[-]making on the matter investigated, if any, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the findings and recommendations of the investigation were presented to the board[.]”

<sup>11</sup> By-Laws of the Hawaii State Board of Education, Article V, Section 5.6, provides:

“Investigative Committees. The Board, as provided by law, may designate two or more Board members, but less than the number of members that would constitute a quorum of the Board, to investigate matters concerning Board business. The Board members designated by the Board are required to report their resulting findings and recommendations to the entire Board at a properly noticed meeting.”

but no more than five, Superintendent Priorities each year.”<sup>12</sup> It further provides a number of elements required when establishing Superintendent Priorities, specifically, that “the Board also:

- Involves all Board members and the Superintendent;
- Decides on desired results;
- Ensures each Superintendent Priority has measurable performance indicators;
- Identifies supporting documentation, evidence, or data sources;
- Reviews and approves final Superintendent Priorities, indicators, and evidence; and
- Monitors progress during the mid-year review.”<sup>13</sup>

As such, it is up to the Board to determine whether it wants to propose and discuss changes to its evaluation process and review Superintendent Priorities in a public meeting or designate an investigative committee to perform these tasks. The Board has reviewed Superintendent Kishimoto’s proposed Superintendent Priorities at two public meetings already (July 23 and November 19, 2020) and has not approved them, so I believe that the Board should considering using a different approach. An investigative committee can assist the Board by doing some of the necessary legwork in advance of another public meeting.

I believe that the Board will fulfill all of the Superintendent Priorities requirements, above, whether it does so at a public meeting or by designating an investigative committee. An investigative committee cannot approve Superintendent Priorities; it must bring its findings and recommendations to the Board at a public meeting. When the Board considers taking action on an investigative committee’s findings and recommendations regarding Superintendent’s Priorities at a public meeting, all of the Board members and Superintendent Kishimoto will be involved and the full Board will decide on the desired results, ensure each Superintendent Priority has measureable performance indicators, identify supporting documentation, evidence, or data sources, review and approve final Superintendent Priorities, indicators, and evidence. The primary difference between the two options, public meeting or investigative committee, is that with the committee, the discussion can happen with a smaller group of Board members, but at the end of the day, the full Board will have the ability to discuss and weigh in.

Furthermore, creating an investigative committee does not automatically exclude Board members or the public from the committee’s discussions with Superintendent Kishimoto. An investigative committee can provide the public and full Board with any information it sees fit. Sunshine Law permits the investigative committee (as a permitted interaction group) to have discussions with Superintendent Kishimoto without adhering to Sunshine Law’s public meeting

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<sup>12</sup> Revised Superintendent Evaluation System, p. 6, available at: [http://boe.hawaii.gov/About/Documents/Superintendent%20Evaluation%20Process%20\(revised%202020-06-18\).pdf](http://boe.hawaii.gov/About/Documents/Superintendent%20Evaluation%20Process%20(revised%202020-06-18).pdf)

<sup>13</sup> Revised Superintendent Evaluation System, p. 7, available at: [http://boe.hawaii.gov/About/Documents/Superintendent%20Evaluation%20Process%20\(revised%202020-06-18\).pdf](http://boe.hawaii.gov/About/Documents/Superintendent%20Evaluation%20Process%20(revised%202020-06-18).pdf)

and notice requirements. An investigative committee, however, can proceed in whatever way it sees fit, including electing to make its discussions with Superintendent Kishimoto public or publicly releasing notes of its discussions with Superintendent Kishimoto.

While there is a specified step in the evaluation process for considering and making changes to the evaluation process, there is nothing in the process that prohibits the Board and Superintendent Kishimoto from mutually agreeing to change its evaluation process at any time. I believe that the Board should consider granting Superintendent Kishimoto's request for a permitted interaction group if this would create, in her eyes, "a safe learning environment with a feedback process that encourages conversations around individual professional development and improving performance," one of the primary purposes of the superintendent evaluation.<sup>14</sup> I am assuming that this primary purpose is the reason for Superintendent Kishimoto's request, but she should confirm whether this is the case at this meeting or provide the Board with any other reason or justification for her request for an investigative committee.

This being said, as part of its deliberations, the Board and Superintendent Kishimoto should also consider whether it makes sense to make significant changes to the evaluation process almost halfway through the process and the public perception implications of such a change, especially since this would be the first time that the Board would consider making substantive changes to its evaluation process in the middle of an evaluation process. One of the secondary purposes of the evaluation is to "[c]ommunicate and provide assurances to the school community and community at-large as to how leadership is holding itself accountable for addressing priorities."<sup>15</sup> When making this decision, the Board and Superintendent Kishimoto should discuss whether changing the evaluation process in the middle of the year will provide these assurances to the school community and community at-large.

Because the Superintendent Evaluation Process adopted by the Board in June 2020 does not list specific indicators or targets for the third component, the Board has not, to date, adopted any strategic plan indicators to use for Component 3. The Board and Superintendent have not mutually agreed on targets for each indicator and Superintendent Kishimoto has asked for consideration of indicators and targets that do not rely on data from the annual statewide Smarter Balanced Assessment. Consequently, both indicators and targets have not been adopted by the Board and should be tasked to the investigative committee.

I believe that it would make the most sense for this investigative committee to be made up of the chairpersons of each of the standing committees (Student Achievement Committee ("SAC"), Human Resources ("HR") Committee, and Finance and Infrastructure Committee ("FIC")) and me as Board Chairperson to ensure that each of the substantive areas are represented in discussions with the Superintendent.

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<sup>14</sup> Revised Superintendent Evaluation System, p. 1, available at: [http://boe.hawaii.gov/About/Documents/Superintendent%20Evaluation%20Process%20\(revised%202020-06-18\).pdf](http://boe.hawaii.gov/About/Documents/Superintendent%20Evaluation%20Process%20(revised%202020-06-18).pdf)

<sup>15</sup> Revised Superintendent Evaluation System, p. 2, available at: [http://boe.hawaii.gov/About/Documents/Superintendent%20Evaluation%20Process%20\(revised%202020-06-18\).pdf](http://boe.hawaii.gov/About/Documents/Superintendent%20Evaluation%20Process%20(revised%202020-06-18).pdf)

#### **IV. RECOMMENDATION**

I recommend the Board establish an investigative committee tasked with considering whether to propose changes to Component 1, Professional Standards of the Superintendent evaluation process to take into account leadership during crises, proposing strategic plan indicators and targets for the 2020-2021 SY that do not rely on data from the annual statewide Smarter Balanced Assessment, and Superintendent's Priorities for the 2020-2021 SY. I recommend assigning me as Board chairperson and the chairpersons of the Board's standing committees, SAC Chairperson Margaret Cox, HR Chairperson Dwight Takeno, FIC Chairperson Kenneth Uemura and myself to the investigative committee, with me serving as committee chairperson.

#### **Proposed Motion**

**Move to:**

- 1. Establish an investigative committee (a permitted interaction group pursuant to Hawaii Revised Statutes Section 92-2.5(b)(1)) tasked with:
  - a. Considering proposing changes to Component 1, Professional Standards, of Superintendent evaluation process to take into account leadership during crises,**
  - b. Considering and proposing Strategic Plan Indicators and Targets for the 2020-2021 School Year, including consideration of indicators that do not rely on data from the annual statewide Smarter Balanced Assessment; and**
  - c. Proposing Superintendent's Priorities for the 2020-2021 School Year****
- 2. Designate Board Chairperson Catherine Payne and SAC Chairperson Margaret Cox, HR Chairperson Dwight Takeno, and FIC Chairperson Kenneth Uemura to serve on the investigative committee, with Board Chairperson Payne serving as chairperson.**