

Agenda Item VII.C., Board Action on Investigative Committee (a permitted interaction group pursuant to Hawaii Revised Statutes, Section 92-2.5(b)(1)) investigating Hawaii State Ethics Commission decision, educational travel, and teacher participation findings and recommendations

General Business Meeting

October 20, 2015

At its October 6, 2015 General Business Meeting, the Board of Education (“Board”) was presented with the report of the investigative committee that was tasked with investigating the Hawaii State Ethics Commission decision, educational travel, and teacher participation (“Ethics-Travel Investigative Committee”). The report is attached as **Exhibit A**. In accordance with Hawaii Revised Statutes, Section 92-2.5(b)(1)(C),¹ entitled “Permitted interactions of members,” the Board did not take action on any of the Ethics-Travel Investigative Committee’s recommendations.

Action on the Ethics-Travel Investigative Committee has been placed on a subsequent Board meeting agenda, the October 20, 2015 General Business Meeting agenda.

¹ Section 92-2.5(b)(1), HRS, provides, in pertinent part:

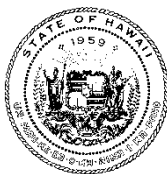
(b) Two or more members of a board, but less than the number of members which would constitute a quorum for the board, may be assigned to:

- (1) Investigate 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;

(Emphasis added).

Exhibit A

Ethics-Travel Investigative Committee Report



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

October 6, 2015

TO: Lance Mizumoto
Chairperson, Board of Education

FROM: Investigative Committee on Ethics, Educational Travel, and
Teacher Participation
Brian De Lima, Vice Chairperson, Board of Education
Hubert Minn, Member, Board of Education
Amy Asselbaye, Member, Board of Education

AGENDA ITEM: Investigative Committee (a permitted interaction group pursuant to Hawaii Revised Statutes, Section 92-2.5(b)(1)) investigating Hawaii State Ethics Commission decision, educational travel, and teacher participation: report on committee's recommendations and findings

This report contains the recommendations and findings of the Board of Education's ("Board") Investigative Committee on Ethics, Educational Travel and Teacher Participation ("Ethics-Travel Investigative Committee").

Background. On September 1, 2015, the Board of Education ("Board") designated three Board members to serve on an investigative committee to investigate the decision by the Hawaii State Ethics Commission ("Ethics Commission") regarding educational travel and teacher participation. Three members, Board Vice Chairperson Brian De Lima, Board Member Hubert Minn, and Board Member Amy Asselbaye were designated to serve on the Ethics-Travel Investigation Committee. The committee members were asked to proactively find a solution to the issues relating to ethics and educational travel. The Ethics-Travel Investigative Committee was further asked to present a report to the Board no later than 60 days from the September 1, 2015 General Business Meeting at which it was formed.

On September 25, 2015, the Ethics-Travel Investigative Committee met and invited representatives from the Department of Education ("Department"), Ethics Commission, Attorney General's office and Hawaii State Teachers Association ("HSTA") to participate. The following individuals participated in the meeting: The attendees of the meeting were: Board Vice Chairperson Brian De Lima, Board Member Hubert Minn, Ethics Commission Executive Director Les Kondo, Ethics Commission Staff Attorney Virginia Chock, Department Superintendent Kathryn Matayoshi, Department Senior Advisor to Superintendent Carla Nishimoto, Deputy Attorney General Gary Sukanuma, Board Executive Director Alison Kunishige, and Board Assistant Regina Pascua.

The Ethics-Travel Investigative Committee objective was to find consensus to ensure that student travel will occur with participation of teachers for whom the travel costs shall be covered to ensure a positive educational experience. The Ethics-Travel Investigative Committee considered the material listed on **Exhibit A** and spoke with stakeholders regarding issues and options. Among other issues, the Ethics-Travel Investigative Committee considered the following:

1. Should travel be under auspices of the DOE, and to what extent?
2. Timetable for setting up a mechanism to allow for establishment of an account for receipt of gifts that may be used to pay for teacher travel.
3. Timetable for procurement to solicit, preapprove, travel companies and what specifications would be required for approval (i.e. providing contribution for fund for every 6-10 students, indemnification of DOE, etc.).
4. Mechanism and prohibitions for soliciting students.
5. Mechanism for approval of trip, collection of funds, payment of teacher travel.

Findings. The Ethics-Travel Investigative Committee finds as follows:

1. Student travel should be encouraged, but the State's liability should be limited and shifted to private tour companies when travel is not clearly school-sponsored.
2. There were concerns about the level of potential liability that the Department and Board would be exposed to for much of the travel that principals and complex area superintendents were approving (for example, trips that did not use state funds, were generally not conducted on state time, and were not clearly connected to the classroom and curriculum).
3. Was unable to ascertain a reason for principals and complex area superintendents to sign forms relating to travel that did not use state funds, were generally not conducted on state time, and were not clearly connected to the classroom and curriculum.
4. There were concerns about the perceptions of students, teachers, and guardians that almost all of the travel occurring was considered to be school-sponsored.
5. Teachers should not solicit students with a suggestion that students' grades will improve if they go on a trip.
6. Teachers should not use their name or the school's name to promote a private business transaction to solicit students' participation.

Recommendations. The Ethics-Travel Investigative Committee has the following recommendations:

1. All trips should either be private or school-sponsored.
2. A School-Sponsored Trip is one where the two following elements are met:

- a. A principal, complex area superintendent, or superintendent approves the trip as a School-Sponsored Trip;
 - b. The participants must be:
 - i. A school athletic team traveling to a competitive event;
 - ii. A school academic team (including, but not limited to, activities like robotics, science fairs, history day competitions) traveling to a competitive event;
 - iii. A school band traveling to a competitive event or performance; or
 - iv. Any other extra-curricular events under the purview of a school;
 - v. An entire class, grade level, or school on an educational trip clearly related to subject matter and curriculum.
3. All trips which do not have both elements of a School-Sponsored Trip are considered private trips.
4. The following applies to a School-Sponsored Trip:
- a. The procurement code and process will apply when determining which tour company will provide travel services;
 - b. Monies from the Department's travel fund will be available to pay for chaperone and student travel, as determined by the Department;
 - c. Other State funds can be used to pay for travel, as determined by the Department;
 - d. Teachers and other Department employees cannot solicit or accept money from students, parents or guardians to pay for a School-Sponsored Trip;
 - e. Teachers and other Department employees cannot solicit or accept money from vendors, businesses, or other organizations that have a business relationship with the school to pay for a School-Sponsored Trip.
5. The following applies to a private trip:
- a. A principal, complex area superintendent, or the superintendent will not approve the trip as a School-Sponsored Trip;
 - b. Teachers and other Department employees cannot plan, arrange, organize, promote, publicize, fundraise, or chaperone a private trip in their capacity as a Department employee. In other words, teachers and other Department employees who engage in those activities must do so in their private capacity.
 - c. No school facilities can be used to plan, organize, solicit participation in, or fundraise for the trip, unless use of the facility is purchased through the ordinary means by which the public uses school facilities;
 - d. No school resources (including school funds, teacher time, or school supplies like paper and printers) can be used to plan, organize, solicit participation in, or fundraiser for the trip;
 - e. The transaction is between the student and guardians and tour company; the school, Department and State are not involved in any way;

- f. The tour company will work directly with teachers or other individuals to chaperone the tours scheduled directly with students and guardians. Compensation for these services are negotiated between the tour company and teacher or other individual without involvement of the school, Department, or State;
 - g. Travel during instructional time is discouraged;
 - h. The tour company and any individual chaperoning the trip must make it clear to students and guardians at all times that the trip is not a School-Sponsored Trip;
 - i. Any teacher or individual associated with a school must make it clear that he or she is not acting in his or her capacity with the school and is acting as a private citizen.
6. The Department must make it clear to students, guardians, and teachers when a trip is a School-Sponsored Trip.
7. For existing trips (which fall into the newly created private trip designation) where solicitation and/or fundraising has already taken place, teachers and the school must make it clear to students, parents, and guardians that the trip is not a School-Sponsored Trip by doing the following:
 - a. Clearly and accurately informing tour companies, teachers and other Department employees, students, parents, and guardians that the trip is a private trip and is not school-sponsored in any way;
 - b. Informing tour companies, teachers and other Department employees, students, parents, and guardians that a parent or guardian that the trip has been cancelled and that the parent or guardian must contact the tour company and affirmatively state that the parent or guardian approves the student's travel even if the trip is not school-sponsored;
 - c. Inform the tour companies, teachers and other Department employees, students, parents, and guardians that any information about reorganizing the trips as private trips must be disseminated outside of school, without using school resources, and in accordance with the requirements relating to private trips as described in Paragraph 5 above regarding private trips.
 - d. And following any other procedures the Department deems necessary after consultation with the Department of the Attorney General.
8. For existing trips, that the Department assist teachers, staff, schools, and tour companies in disseminating information and instructions to students, parents, and guardians regarding the change in status of trips that would be considered private under the Ethics-Travel Investigative Committee's findings.
9. If any existing trips are cancelled because not enough parents or guardians affirmatively approve student travel after being informed of the trip's private status and fundraising

has occurred, the teacher or staff person organizing the trip must contact the Department and Ethics Commission for further guidance regarding the funds collected.¹

10. For School-Sponsored trips, group fundraising (where the group collectively raises funds for everyone to go on a trip) is encouraged and promoted over individual fundraising (where each individual is responsible for raising funds to cover his or her own expenses). The Ethics Commission is looking into the issue of group fundraising and is planning to provide further guidance.
11. The Department should develop and communicate clear guidance regarding when fundraising is allowed on school facilities or using school resources, including online fundraising like crowdfunding.
12. The Department must establish clear guidelines regarding fundraising to pay for teachers' and other Department employees' travel.

Conclusion. If the Board approves the Ethics-Travel Investigative Committee's recommendations, Department will implement and incorporate guidelines into its standard procedures in accordance with Board policy relating to field trips and student travel.

¹ It is not clear at this time whether tour companies will impose fees for cancellations resulting from these recommendations, but the Department and Board is willing to work with tour companies on eliminating the imposition of any fees on students, parents or guardians.

Exhibit A

Listing of material considered by the Ethics-Travel Investigative Committee at
September 25, 2015 meeting

**INVESTIGATIVE COMMITTEE INVESTIGATING HAWAII STATE ETHICS COMMISSION DECISION,
EDUCATIONAL TRAVEL, AND TEACHER PARTICIPATION**
September 25, 2015

	Document	Date	Source
A.	Advisory Opinion No. 2015-1	August 19, 2015	Ethics Commission
B.	Petition for Declaratory Order or Alternatively for a Contested Case	August 26, 2015	HSTA
C.	Spreadsheet with trip information from Department and trips received by Ethics Commission with similar free trip structure as King Intermediate	September 8, 2015	Department, Ethics Commission, Board
D.	Upcoming Trips: Tour Companies Offer Free Travel to Teachers – travel questionnaires	September 8, 2015	Ethics Commission
E.	Status Update from Investigative Committee investigating Hawaii State Ethics Commission decision, educational travel, and teacher participation: announcement of Investigative Committee meeting and timetable for input on issues, concerns, and possible solutions	September 15, 2015	Board
F.	Department Student Travel Policy Proposal	September 18, 2015	Department
G.	Department Student Travel Proposed Policy and Guidelines	September 18, 2015	Department
H.	Responses to Requests for Input: Lane H. Tsuchiyama Larry Dressler Alison Higa Cheri Nakamura HE'E Jessica Wong Hawaii State PTSA Eric Adydan Close Up Foundation Christine Hill Trip Coordinator Chrystn Eads WorldStrides Michelle Dressler Teacher, Kauai High	As of September 23, 2015	Public